

CHAPTER 1093**HARASSMENT – STALKING – NO-CONTACT ORDERS***S.F. 2265*

AN ACT relating to the offenses of harassment and stalking, providing for the extension of certain no-contact orders, and providing for penalties and other related matters.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 236.14, subsection 2, unnumbered paragraphs 3 and 4, Code Supplement 1993, are amended to read as follows:

The clerk of the court or other person designated by the court shall provide a copy of this order to the victim pursuant to chapter 910A. The order has force and effect until it is modified or terminated by subsequent court action in the contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of section 708.2A, the court shall modify the no-contact order issued by the magistrate to provide that the no-contact order shall continue in effect for a period of one year from the date that the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation. Upon an application by the state which is filed within ninety days prior to the expiration of the modified no-contact order, the court shall modify and extend the no-contact order for an additional period of one year, if the court finds that the defendant continues to pose a threat to the safety of the victim, persons residing with the victim, or members of the victim's immediate family. The number of modifications extending the no-contact order permitted by this subsection is not limited.

PARAGRAPH DIVIDED. The clerk of the district court shall also provide notice and copies of the no-contact order to the applicable law enforcement agencies and the twenty-four hour dispatcher for the law enforcement agencies, in the manner provided for protective orders under section 236.5. The clerk shall provide notice and copies of modifications or vacations of these orders in the same manner.

Violation of this no-contact order, including modified no-contact orders, is punishable by summary contempt proceedings. A hearing in a contempt proceeding brought pursuant to this section shall be held not less than five and not more than fifteen days after the issuance of a rule to show cause, as set by the court. If held in contempt for violation of a no-contact order or a modified no-contact order, the person shall be confined in the county jail for a minimum of seven days. A jail sentence imposed pursuant to this paragraph shall be served on consecutive days. No portion of the mandatory minimum term of confinement imposed by this section shall be deferred or suspended. A deferred judgment, deferred sentence, or suspended sentence shall not be entered for violation of a no-contact order or a modified no-contact order, and the court shall not impose a fine in lieu of the minimum sentence, although a fine may be imposed in addition to the minimum sentence.

Sec. 2. Section 708.2A, Code Supplement 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 4A. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of this section, the court shall modify the no-contact order issued upon initial appearance in the manner provided in section 236.14, regardless of whether the defendant is placed on probation.

Sec. 3. Section 708.7, subsection 1, Code 1993, is amended to read as follows:

1. a. A person commits harassment when, with intent to intimidate, annoy, or alarm another person, the person does any of the following:

a. (1) Communicates with another by telephone, telegraph, or writing without legitimate purpose and in a manner likely to cause the other person annoyance or harm.

b. (2) Places a simulated explosive or simulated incendiary device in or near a building, vehicle, airplane, railroad engine or railroad car, or boat occupied by another person.

e. (3) Orders merchandise or services in the name of another, or to be delivered to another, without the other person's knowledge or consent.

d. (4) Reports or causes to be reported false information to a law enforcement authority implicating another in some criminal activity, knowing that the information is false, or reports the alleged occurrence of a criminal act, knowing the act did not occur.

b. A person commits harassment when the person, purposefully and without legitimate purpose, has personal contact with another person, with the intent to threaten, intimidate, or alarm that other person. As used in this section, unless the context otherwise requires, "personal contact" means an encounter in which two or more people are in visual or physical proximity to each other. "Personal contact" does not require a physical touching or oral communication, although it may include these types of contacts.

Sec. 4. Section 708.11, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

708.11 STALKING.

1. As used in this section, unless the context otherwise requires:

a. "Accompanying offense" means any public offense committed as part of the course of conduct engaged in while committing the offense of stalking.

b. "Course of conduct" means repeatedly maintaining a visual or physical proximity to a person without legitimate purpose or repeatedly conveying oral or written threats, threats implied by conduct, or a combination thereof, directed at or toward a person.

c. "Immediate family member" means a spouse, parent, child, sibling, or any other person who regularly resides in the household of a specific person, or who within the prior six months regularly resided in the household of a specific person.

d. "Repeatedly" means on two or more occasions.

2. A person commits stalking when all of the following occur:

a. The person purposefully engages in a course of conduct directed at a specific person that would cause a reasonable person to fear bodily injury to, or the death of, that specific person or a member of the specific person's immediate family.

b. The person has knowledge or should have knowledge that the specific person will be placed in reasonable fear of bodily injury to, or the death of, that specific person or a member of the specific person's immediate family by the course of conduct.

c. The person's course of conduct induces fear in the specific person of bodily injury to, or the death of, the specific person or a member of the specific person's immediate family.

3. a. A person who commits stalking in violation of this section commits a class "C" felony for a third or subsequent offense.

b. A person who commits stalking in violation of this section commits a class "D" felony if any of the following apply:

(1) The person commits stalking in violation of a criminal or civil protective order or injunction, or any other court order.

(2) The person commits stalking while in possession of a dangerous weapon, as defined in section 702.7.

(3) The person commits stalking by directing a course of conduct at a specific person who is under eighteen years of age.

(4) The offense is a second offense.

c. A person who commits stalking in violation of this section commits an aggravated misdemeanor if the offense is a first offense which is not included in paragraph "b".

4. Violations of this section and accompanying offenses shall be considered prior offenses for the purpose of determining whether an offense is a second or subsequent offense. A conviction for, deferred judgment for, or plea of guilty to a violation of this section or an accompanying offense which occurred at any time prior to the date of the violation charged shall be considered in determining that the violation charged is a second or subsequent offense. Deferred judgments pursuant to section 907.3 for violations of this section or accompanying offenses and convictions or the equivalent of deferred judgments for violations in any

other states under statutes substantially corresponding to this section or accompanying offenses shall be counted as previous offenses. The courts shall judicially notice the statutes of other states which define offenses substantially equivalent to the offenses defined in this section and its accompanying offenses and can therefore be considered corresponding statutes. Each previous violation of this section or an accompanying offense on which conviction or deferral of judgment was entered prior to the date of the violation charged shall be considered and counted as a separate previous offense. In addition, however, accompanying offenses committed as part of the course of conduct engaged in while committing the violation of stalking charged shall be considered prior offenses for the purpose of that violation, even though the accompanying offenses occurred at approximately the same time. An offense shall be considered a second or subsequent offense regardless of whether it was committed upon the same person who was the victim of any other previous offense.

5. Notwithstanding section 804.1, R.Cr.P. 7, Ia. Ct. Rules, 3d ed., or any other provision of law to the contrary, upon the filing of a complaint and a finding of probable cause to believe an offense has been committed in violation of this section, or after the filing of an indictment or information alleging a violation of this section, the court shall issue an arrest warrant, rather than a citation or summons. A peace officer shall not issue a citation in lieu of arrest for a violation of this section. Notwithstanding section 804.21 or any other provision of law to the contrary, a person arrested for stalking shall be immediately taken into custody and shall not be released pursuant to pretrial release guidelines, a bond schedule, or any similar device, until after the initial appearance before a magistrate. In establishing the conditions of release, the magistrate may consider the defendant's prior criminal history, in addition to the other factors provided in section 811.2.

Sec. 5. Section 805.1, subsection 1, Code 1993, is amended to read as follows:

1. Except for an offense for which an accused would not be eligible for bail under section 811.1 or a violation of section 708.11, a peace officer having grounds to make an arrest may issue a citation in lieu of making an arrest without a warrant or, if a warrantless arrest has been made, a citation may be issued in lieu of continued custody.

Sec. 6. Section 811.1, subsection 3, Code 1993, is amended to read as follows:

3. Notwithstanding subsections 1 and 2, a defendant awaiting judgment of conviction and sentencing following either a plea or verdict of guilty of, or appealing a conviction of, a felony offense under chapter 124 not provided for in subsection 1 or 2 or a violation punishable under section 708.11, subsection 2, paragraph "a", is presumed to be ineligible to be admitted to bail unless the court determines that such release reasonably will not result in the person failing to appear as required and will not jeopardize the personal safety of another person or persons. While the presumption of ineligibility for bail established in this subsection shall not apply to a violation punishable under section 708.11, subsection 2, paragraph "b" or "c", in considering bail for a defendant awaiting judgment of conviction and sentencing following a plea or verdict of guilty of, or appealing a conviction of, a violation punishable pursuant to section 708.11, subsection 2, paragraph "b" or "c", the court shall consider the likelihood of the defendant reestablishing contact with the victim of the violation.

Approved April 19, 1994

CHAPTER 1094**UNCLAIMED DRY CLEANING***H.F. 403*

AN ACT relating to the disposition of property left unclaimed at a dry cleaning establishment.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. **NEW SECTION. 556F.1 UNCLAIMED PERSONAL PROPERTY HELD BY A DRY CLEANING ESTABLISHMENT.**

All property deposited with a dry cleaning establishment which remains unclaimed for a period of four months after the establishment has attempted to contact the owner of the property by ordinary mail one time at the property owner's last known mailing address, may be presumed abandoned and disposed of by delivering the property to a local nonprofit charitable organization.

Approved April 19, 1994

CHAPTER 1095**MOTOR CARRIER CERTIFICATES AND PERMITS***H.F. 545*

AN ACT relating to motor carrier certificates and permits and providing penalties.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 325.33, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. A carrier whose certificate has been suspended or revoked shall not operate within the state until the department has reissued the certificate or issued a new certificate.

Sec. 2. Section 325.34, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

325.34 SCHEDULED VIOLATIONS — PENALTY.

An owner, officer, agent or employee of a motor carrier or other person who violates this chapter or a rule adopted pursuant to this chapter, or who aids or abets a person in a failure to comply with this chapter or a rule adopted pursuant to this chapter shall be subject to a fine of two hundred fifty dollars. If a second violation occurs within twelve months of the first violation the fine shall be five hundred dollars. If a third or subsequent violation occurs within the same twelve-month time period in which the first and second violations occurred, the fine shall be one thousand dollars.

Sec. 3. Section 327.22, Code 1993, is amended by striking the section and inserting in lieu thereof the following:

327.22 SCHEDULED VIOLATIONS — PENALTY.

An owner, officer, agent or employee of a truck operator or other person who violates this chapter or a rule adopted pursuant to this chapter, or who aids or abets a person in a failure to comply with this chapter or a rule adopted pursuant to this chapter shall be subject to a fine of two hundred fifty dollars. If a second violation occurs within twelve months of the first violation the fine shall be five hundred dollars. If a third or subsequent violation occurs within the same twelve-month time period in which the first and second violations occurred, the fine shall be one thousand dollars.