

## CHAPTER 1021

### STALKING AND HARASSMENT — CRIMINAL HISTORY DATA AND NO-CONTACT ORDERS

S.F. 2373

**AN ACT** relating to certain crimes against persons, by permitting the retention as criminal history data of acquittals, dismissals, or adjudications based on mental condition if the charge involved injury to another, by providing for the collection and dissemination of information on the offense of stalking, by providing for the application of enhanced stalking penalties for persons who are the subject of certain restraining or protective orders and providing for the issuance of no-contact orders against persons who are arrested for the crimes of harassment or stalking and providing penalties.

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

Section 1. Section 692.2, subsection 1, paragraph b, Code 1997, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (6) Records of acquittals or dismissals by reason of insanity and records of adjudications of mental incompetence to stand trial in cases in which physical or mental injury or an attempt to commit physical or mental injury to another was alleged shall not be disseminated to persons or agencies other than criminal or juvenile justice agencies or persons employed in or by those agencies.

Sec. 2. Section 692.17, unnumbered paragraph 1, Code 1997, is amended to read as follows:

Criminal history data in a computer data storage system shall not include arrest or disposition data or custody or adjudication data after the person has been acquitted or the charges dismissed, except that records of acquittals or dismissals by reason of insanity and records of adjudications of mental incompetence to stand trial in cases in which physical or mental injury or an attempt to commit physical or mental injury to another was alleged may be included. Criminal history data shall not include custody or adjudication data after the juvenile has reached twenty-one years of age, unless the juvenile was convicted of or pled guilty to a serious or aggravated misdemeanor or felony between age eighteen and age twenty-one.

Sec. 3. NEW SECTION. 692.22 STALKING INFORMATION.

Criminal or juvenile justice agencies, as defined in section 692.1, shall collect and maintain information on incidents involving stalking, as defined in section 708.11, and shall provide the information to the department of public safety in the manner prescribed by the department of public safety.

The department of public safety may compile statistics and issue reports on stalking in Iowa, provided individual identifying details of the stalking are deleted. The statistics and reports may include nonidentifying information on the personal characteristics of perpetrators and victims. The department of public safety may request the cooperation of the department of justice in compiling the statistics and issuing the reports. The department of public safety may provide nonidentifying information on individual incidents of stalking to persons conducting bona fide research, including but not limited to personnel of the department of justice.

Sec. 4. Section 708.11, subsection 3, paragraph b, subparagraph (1), Code 1997, is amended to read as follows:

(1) The person commits stalking ~~in violation of~~ while subject to restrictions contained in a criminal or civil protective order or injunction, or any other court order which prohibits contact between the person and the victim, or while subject to restrictions contained in a criminal or civil protective order or injunction or other court order which prohibits contact

between the person and another person against whom the person has committed a public offense.

Sec. 5. NEW SECTION. 910A.11A HARASSMENT AND NO-CONTACT.

1. When a person arrested for harassment in violation of section 708.7 or stalking in violation of section 708.11, is brought before a magistrate for initial appearance under section 804.21, 804.22, or 804.24, and the magistrate finds probable cause to believe that a violation of section 708.7 or 708.11 has occurred and that the presence of or contact with the defendant poses a threat to the safety of the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, the magistrate shall enter an order which shall require the defendant to have no contact with the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, and to refrain from harassing the alleged victim, persons residing with the alleged victim, or members of the alleged victim's immediate family, in addition to any other conditions of release determined and imposed by the magistrate under section 811.2. A no-contact order requiring the defendant to have no contact with the alleged victim's children shall prevail over any existing order which may be in conflict with the no-contact order.

The court order shall contain the court's directives restricting the defendant from having contact with the victim, persons residing with the victim, or the victim's immediate family. The order shall state whether a person is to be taken into custody by a peace officer for a violation of the terms stated in the order.

2. The clerk of the district court or other person designated by the court shall provide a copy of this order to the victim pursuant to this chapter. The order has force and effect until it is modified or terminated by subsequent court action in a contempt proceeding or the criminal or juvenile court action and is reviewable in the manner prescribed in section 811.2. Upon final disposition of the criminal or juvenile court action, the court shall make a determination whether the no-contact order should be modified or terminated. If a defendant is convicted for, receives a deferred judgment for, or pleads guilty to a violation of section 708.7 or 708.11, 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 five years from the date that the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation. Upon the filing of an affidavit by the victim which states 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 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 five years, unless the court finds that the defendant no longer poses 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.

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 same manner as 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.

3. If a peace officer has probable cause to believe that a person has violated a no-contact order issued under this section, the peace officer shall take the person into custody and shall take the person without unnecessary delay before the nearest or most accessible magistrate in the judicial district in which the person was taken into custody.

4. Violation of a no-contact order issued under this section, 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 defendant 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.

5. This section shall not be construed to limit a pretrial release order issued pursuant to chapter 811.

Approved March 31, 1998

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## CHAPTER 1022

### PERSONNEL FILES — FEES FOR EMPLOYEE COPIES

H.F. 58

AN ACT relating to fees charged by an employer for copies of items in an employee's personnel file.

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

Section 1. Section 91B.1, subsection 3, Code 1997, is amended to read as follows:

3. An employer may charge a reasonable fee for each page of a copy made by the employer for an employee of an item in the employee's personnel file, ~~except that the total amount charged for all copies made cannot exceed five dollars.~~ For purposes of this subsection, "reasonable fee" means an amount equivalent to an amount charged per page for copies made by a commercial copying business.

Approved March 31, 1998

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## CHAPTER 1023

### STATE FLAG DAY

H.F. 2146

AN ACT establishing Iowa State Flag Day.

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

Section 1. NEW SECTION. 1C.11 IOWA STATE FLAG DAY.

The governor of this state is hereby requested and authorized to issue annually a proclamation designating the twenty-ninth day of March as "Iowa State Flag Day" and to urge that schools, civic organizations, governmental departments, and all citizens and groups display the Iowa state flag on that day and to reflect on and consider the heritage of the state flag.

Approved March 31, 1998