

FEB 24 2006  
PUBLIC SAFETY

HOUSE FILE 2531  
BY SCHUELLER

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the issuance of a restraining order on behalf  
2 of a person who is the victim of sexual assault and providing  
3 a penalty.

4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2531

1 Section 1. NEW SECTION. 709.18A SEXUAL ASSAULT --  
2 RESTRAINING ORDER.

3 1. A person who is the victim of sexual assault as defined  
4 in section 915.40, including a parent or guardian of such a  
5 person who is a minor, may seek relief by filing a petition in  
6 the district court for a restraining order. Venue shall lie  
7 where either party resides. The petition must allege facts  
8 sufficient to show the following:

- 9 a. The name of the alleged sexual assault victim.
- 10 b. The name of the respondent.
- 11 c. That the respondent has committed a sexual assault.

12 The petition shall be accompanied by an affidavit prepared  
13 under oath stating the specific facts and circumstances from  
14 which relief is sought. The court shall provide standard  
15 forms and clerical assistance to help with the writing and  
16 filing of a petition under this section.

17 2. The filing fees for a restraining order under this  
18 section shall be waived for the petitioner if the petition  
19 alleges acts that would constitute a sexual assault as defined  
20 in section 915.40. The clerk of the district court, the  
21 sheriff of any county in this state, and other law enforcement  
22 and corrections officers shall perform their duties relating  
23 to service of process without charge to the petitioner. The  
24 court may direct a respondent to pay to the clerk of the  
25 district court the fees for the filing of the petition and  
26 reasonable costs of service of process if the court determines  
27 the respondent has the ability to pay the petitioner's fees  
28 and costs.

29 3. a. The court may issue a temporary restraining order  
30 ordering the respondent to cease or avoid the sexual assault  
31 of the victim or to have no contact with the victim if the  
32 petitioner files a petition in compliance with subsection 1  
33 and if the court finds reasonable grounds to believe that the  
34 respondent has committed a sexual assault against the victim.

35 b. Notice need not be given to the respondent before the

1 court issues a temporary restraining order under this  
2 subsection. A copy of the temporary restraining order shall  
3 be served on the respondent along with the petition and an  
4 order for hearing.

5 c. The temporary restraining order shall be in effect  
6 until a hearing is held on the issuance of the restraining  
7 order pursuant to subsection 4. The court shall hold a  
8 hearing on the issuance of a restraining order if the  
9 petitioner requests a hearing. If a temporary restraining  
10 order has been issued and the respondent requests a hearing,  
11 the hearing shall be scheduled by the court upon receipt of  
12 the respondent's request. A request for a hearing must be  
13 made within forty-five days after the temporary restraining  
14 order has been issued.

15 4. The court may grant a restraining order ordering the  
16 respondent to cease or avoid the sexual assault of the victim  
17 or to have no contact with the victim if all of the following  
18 occur:

19 a. The petitioner has filed a petition.

20 b. The sheriff has served the respondent with a copy of  
21 the temporary restraining order obtained pursuant to  
22 subsection 3 and a notice of the right to request a hearing,  
23 or service has been made by publication.

24 c. The court finds at the hearing that there are  
25 reasonable grounds to believe that the respondent has  
26 committed a sexual assault against the victim.

27 Relief granted by the restraining order shall be for a  
28 period not to exceed two years.

29 5. Violation of a restraining or no-contact order issued  
30 under this section constitutes contempt of court and may be  
31 punished by contempt proceedings.

32 Sec. 2. Section 709.22, subsection 3, paragraph c,  
33 unnumbered paragraph 1, Code Supplement 2005, is amended to  
34 read as follows:

35 The right to seek a restraining order under section 709.18A

1 ~~or a no-contact order under section 709.20 or 915.22,--if-your~~  
2 ~~attacker-is-arrested-for-sexual-assault.~~

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EXPLANATION

4 This bill relates to the issuance of a restraining order on  
5 behalf of a person who is the victim of sexual assault.

6 The bill provides that a person, including a parent or  
7 guardian of a minor, who is the victim of sexual assault as  
8 defined in Code section 915.40, may seek relief by filing a  
9 petition in the district court, accompanied by an affidavit  
10 prepared under oath stating the specific facts and  
11 circumstances from which relief is sought. The filing fees  
12 for a restraining order under this section shall be waived for  
13 the petitioner if the petition alleges acts that would  
14 constitute a violation of Code section 915.40.

15 The bill provides that a court may issue a temporary  
16 restraining order ordering the respondent to cease or avoid  
17 the sexual assault of the victim or to have no contact with  
18 the victim if the petitioner files a petition in compliance  
19 with provisions of the bill and if the court finds reasonable  
20 grounds to believe that the respondent has committed a sexual  
21 assault. Upon hearing, the court may grant a permanent  
22 restraining order ordering the respondent to cease or avoid  
23 the sexual assault of the victim or to have no contact with  
24 the victim if the petitioner has filed a petition, proper  
25 notice of service has occurred, including a copy of the  
26 temporary restraining order, and the court finds at the  
27 hearing that there are reasonable grounds to believe that the  
28 respondent has committed a sexual assault against the victim.  
29 Violation of a restraining or no-contact order issued under  
30 the bill constitutes contempt of court and may be punished by  
31 contempt proceedings. A person held in contempt of court is  
32 subject to a fine and imprisonment in a county jail.

33 The bill also provides that if a peace officer has reason  
34 to believe a sexual assault has occurred, the officer shall  
35 include information relating to the victim's right to seek a

1 restraining order pursuant to the bill.

2 "Sexual assault" means sexual abuse as defined in Code  
3 section 709.1, or any other sexual offense by which a victim  
4 has allegedly had sufficient contact with a convicted or an  
5 alleged offender to be deemed a significant exposure.

6 "Significant exposure", as defined in Code section 915.40,  
7 means contact of the victim's ruptured or broken skin or  
8 mucous membranes with the blood or bodily fluids, other than  
9 tears, saliva, or perspiration, of the convicted or alleged  
10 offender.

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