

MAR 6 2006
Place On Calendar

HOUSE FILE 2652
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 718)

Passed House, Date 3-20-06 Passed Senate, Date 4-4-06
Vote: Ayes 95 Nays 0 Vote: Ayes 50 Nays 0
Approved April 26, 2006

A BILL FOR

1 An Act relating to civil and criminal procedure including the
2 issuance of and violations of certain civil protective orders
3 and criminal no-contact orders.

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

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HF 2652

1 Section 1. Section 236.7, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. A proceeding under this chapter shall be held in
4 accordance with the rules of civil procedure, except as
5 otherwise set forth in this chapter and in chapter 664A, and
6 is in addition to any other civil or criminal remedy.

7 Sec. 2. Section 562A.27A, subsection 3, paragraph a, Code
8 2005, is amended to read as follows:

9 a. The tenant seeks a protective order, restraining order,
10 order to vacate the homestead, or other similar relief
11 pursuant to chapter 236, 598, 664A, or 915, or any other
12 applicable provision which would apply to the person
13 conducting the activities causing the clear and present
14 danger.

15 Sec. 3. Section 562B.25A, subsection 3, paragraph a, Code
16 2005, is amended to read as follows:

17 a. The tenant seeks a protective order, restraining order,
18 order to vacate the homestead, or other similar relief
19 pursuant to chapter 236, 598, 664A, or 915, or any other
20 applicable provision which would apply to the person
21 conducting the activities causing the clear and present
22 danger.

23 Sec. 4. Section 598.41, subsection 3, paragraph j, Code
24 Supplement 2005, is amended to read as follows:

25 j. Whether a history of domestic abuse, as defined in
26 section 236.2, exists. In determining whether a history of
27 domestic abuse exists, the court's consideration shall
28 include, but is not limited to, commencement of an action
29 pursuant to section 236.3, the issuance of a protective order
30 against the parent or the issuance of a court order or consent
31 agreement pursuant to section 236.5, the issuance of an
32 emergency order pursuant to section 236.6, the holding of a
33 parent in contempt pursuant to section ~~236.8~~ 664A.7, the
34 response of a peace officer to the scene of alleged domestic
35 abuse or the arrest of a parent following response to a report

1 of alleged domestic abuse, or a conviction for domestic abuse
2 assault pursuant to section 708.2A.

3 Sec. 5. NEW SECTION. 664A.1 DEFINITIONS.

4 1. For purposes of this chapter:

5 a. "No-contact order" means a court order issued in a
6 criminal proceeding requiring the defendant to have no contact
7 with the alleged victim, persons residing with the alleged
8 victim, or members of the alleged victim's immediate family,
9 and to refrain from harassing the alleged victim, persons
10 residing with the alleged victim, or members of the alleged
11 victim's family.

12 b. "Protective order" means a protective order issued
13 pursuant to chapter 232, a court order or court-approved
14 consent agreement entered pursuant to chapter 236, including a
15 valid foreign protective order under section 236.19,
16 subsection 3, a temporary or permanent protective order or
17 order to vacate the homestead under chapter 598, and an order
18 that establishes conditions of release or is a protective
19 order or sentencing order in a criminal prosecution arising
20 from a domestic abuse assault under section 708.2A.

21 c. "Victim" means a person who has suffered physical,
22 emotional, or financial harm as a result of a public offense,
23 as defined in section 701.2, committed in this state.

24 Sec. 6. NEW SECTION. 664A.2 APPLICABILITY.

25 1. This chapter applies to no-contact orders issued for
26 violations or alleged violations of sections 708.2A, 708.7,
27 708.11, 709.2, 709.3, and 709.4, and any other public offense
28 for which there is a victim.

29 2. A protective order issued in a civil proceeding shall
30 be issued pursuant to chapter 232, 236, or 598. Punishment
31 for a violation of a protective order shall be imposed
32 pursuant to section 664A.7.

33 Sec. 7. NEW SECTION. 664A.3 ENTRY OF TEMPORARY NO-
34 CONTACT ORDER.

35 1. When a person is taken into custody for contempt

1 proceedings pursuant to section 236.11 or arrested for any
2 public offense referred to in section 664A.2, subsection 1,
3 and the person is brought before a magistrate for initial
4 appearance, the magistrate shall enter a no-contact order if
5 the magistrate finds both of the following:

6 a. Probable cause exists to believe that any public
7 offense referred to in section 664A.2, subsection 1, or a
8 violation of a no-contact order, protective order, or consent
9 agreement has occurred.

10 b. The presence of or contact with the defendant poses a
11 threat to the safety of the alleged victim, persons residing
12 with the alleged victim, or members of the alleged victim's
13 family.

14 2. A no-contact order issued pursuant to this section
15 shall be issued in addition to any other conditions of release
16 imposed by a magistrate pursuant to section 811.2. The no-
17 contact order has force and effect until it is modified or
18 terminated by subsequent court action in a contempt proceeding
19 or criminal or juvenile court action and is reviewable in the
20 manner prescribed in section 811.2. Upon final disposition of
21 the criminal or juvenile court action, the court shall
22 terminate or modify the no-contact order pursuant to section
23 664A.5.

24 3. A no-contact order requiring the defendant to have no
25 contact with the alleged victim's children shall prevail over
26 any existing order which may be in conflict with the no-
27 contact order.

28 4. A no-contact order issued pursuant to this section
29 shall restrict the defendant from having contact with the
30 victim, persons residing with the victim, or the victim's
31 immediate family.

32 Sec. 8. NEW SECTION. 664A.4 NOTICE OF NO-CONTACT ORDER.

33 1. The clerk of the district court or other person
34 designated by the court shall provide a copy of the no-contact
35 order to the victim pursuant to this chapter and chapter 915.

1 2. The clerk of the district court shall provide a notice
2 and copy of the no-contact order to the appropriate law
3 enforcement agencies and the twenty-four-hour dispatcher for
4 the law enforcement agencies in the same manner as provided in
5 section 236.5. The clerk of the district court shall provide
6 a notice and copy of a modification or vacation of a no-
7 contact order in the same manner.

8 Sec. 9. NEW SECTION. 664A.5 MODIFICATION -- ENTRY OF
9 PERMANENT NO-CONTACT ORDER.

10 If a defendant is convicted of, receives a deferred
11 judgment for, or pleads guilty to a public offense referred to
12 in section 664A.2, subsection 1, or is held in contempt for a
13 violation of a no-contact order issued under section 664A.3 or
14 for a violation of a protective order issued pursuant to
15 chapter 232, 236, or 598, the court shall either terminate or
16 modify the temporary no-contact order issued by the
17 magistrate. The court may continue the no-contact order in
18 effect for a period of five years from the date the judgment
19 is entered or the deferred judgment is granted, regardless of
20 whether the defendant is placed on probation.

21 Sec. 10. NEW SECTION. 664A.6 MANDATORY ARREST FOR
22 VIOLATION OF NO-CONTACT ORDER.

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

29 2. If the peace officer is investigating a domestic abuse
30 assault pursuant to section 708.2A, the officer shall also
31 comply with sections 236.11 and 236.12.

32 Sec. 11. NEW SECTION. 664A.7 VIOLATION OF NO-CONTACT
33 ORDER OR PROTECTIVE ORDER -- CONTEMPT OR SIMPLE MISDEMEANOR
34 PENALTIES.

35 1. Violation of a no-contact order issued under this

1 chapter or a protective order issued pursuant to chapter 232,
2 236, or 598, including a modified no-contact order, is
3 punishable by summary contempt proceedings.

4 2. A hearing in a contempt proceeding brought pursuant to
5 this section shall be held not less than five and not more
6 than fifteen days after the issuance of a rule to show cause,
7 as determined by the court.

8 3. If held in contempt for a violation of a no-contact
9 order or a modified no-contact order for a public offense
10 referred to in section 664A.2, subsection 1, or held in
11 contempt of a no-contact order issued during a contempt
12 proceeding brought pursuant to section 236.11, the person
13 shall be confined in the county jail for a minimum of seven
14 days. A jail sentence imposed pursuant to this subsection
15 shall be served on consecutive days. No portion of the
16 mandatory minimum term of confinement imposed by this
17 subsection shall be deferred or suspended. A deferred
18 judgment, deferred sentence, or suspended sentence shall not
19 be entered for a violation of a no-contact order or modified
20 no-contact order and the court shall not impose a fine in lieu
21 of the minimum sentence, although a fine may be imposed in
22 addition to the minimum sentence.

23 4. Violation of a no-contact order entered for the offense
24 or alleged offense of domestic abuse assault in violation of
25 section 708.2A or a violation of a protective order issued
26 pursuant to chapter 232, 236, or 598 constitutes a public
27 offense and is punishable as a simple misdemeanor.
28 Alternatively, the court may hold a person in contempt of
29 court for such a violation, as provided in subsection 3.

30 5. A person shall not be held in contempt or convicted of
31 violations under multiple no-contact orders, protective
32 orders, or consent agreements, for the same set of facts and
33 circumstances that constitute a single violation.

34 Sec. 12. NEW SECTION. 664A.8 EXTENSION OF NO-CONTACT
35 ORDER.

1 Upon the filing of an application by the state which is
2 filed within ninety days prior to the expiration of a modified
3 no-contact order, the court shall modify and extend the no-
4 contact order for an additional period of five years, unless
5 the court finds that the defendant no longer poses a threat to
6 the safety of the victim, persons residing with the victim, or
7 members of the victim's family. The number of modifications
8 extending the no-contact order permitted by this section is
9 not limited.

10 Sec. 13. Section 708.2A, subsection 5, paragraph a, Code
11 2005, is amended to read as follows:

12 a. A conviction for, deferred judgment for, or plea of
13 guilty to, a violation of this section which occurred more
14 than ~~six~~ twelve years prior to the date of the violation
15 charged shall not be considered in determining that the
16 violation charged is a second or subsequent offense.

17 Sec. 14. Section 708.2A, subsection 7, Code 2005, is
18 amended to read as follows:

19 7. If a person is convicted for, receives a deferred
20 judgment for, or pleads guilty to a violation of this section,
21 the court shall modify the no-contact order issued upon
22 initial appearance in the manner provided in section ~~236-14~~
23 664A.5, regardless of whether the person is placed on
24 probation.

25 Sec. 15. Section 709.22, subsection 3, paragraph c,
26 unnumbered paragraph 1, Code Supplement 2005, is amended to
27 read as follows:

28 The right to seek a no-contact order under section ~~709-20~~
29 664A.3 or 915.22, if your attacker is arrested for sexual
30 assault.

31 Sec. 16. Section 901.5, subsection 7A, Code Supplement
32 2005, is amended by striking the subsection.

33 Sec. 17. Section 907.3, subsection 1, paragraph i, Code
34 Supplement 2005, is amended to read as follows:

35 i. The offense is a conviction for or plea of guilty to a

1 violation of section ~~236.8~~ 664A.7 or a finding of contempt
2 pursuant to section ~~236.8-or-236.14~~ 664A.7.

3 Sec. 18. Section 907.3, subsection 2, paragraph b, Code
4 Supplement 2005, is amended to read as follows:

5 b. Section ~~236.8~~ 664A.7 or for contempt pursuant to
6 section ~~236.8-or-236.14~~ 664A.7.

7 Sec. 19. Section 907.3, subsection 3, paragraph b, Code
8 Supplement 2005, is amended to read as follows:

9 b. A sentence imposed pursuant to section ~~236.8-or-236.14~~
10 664A.7 for contempt.

11 Sec. 20. Section 915.50, subsection 3, Code 2005, is
12 amended to read as follows:

13 3. The right to receive a criminal no-contact order upon a
14 finding of probable cause, pursuant to section ~~236.14~~ 664A.3.

15 Sec. 21. Sections 236.8, 236.14, 708.12, and 709.20, Code
16 2005, are repealed.

17 EXPLANATION

18 This bill relates to civil and criminal procedure,
19 including the issuance of and violations of civil protective
20 orders and criminal no-contact orders.

21 The bill consolidates certain provisions relating to civil
22 protective orders and criminal no-contact orders into new Code
23 chapter 664A.

24 The bill provides that a protective order issued pursuant
25 to Code chapters 232, 236, and 598 shall continue to be issued
26 in such cases; however, violations of such orders and consent
27 agreements shall be enforced under the provisions of new Code
28 section 664A.7, which consolidates current Code sections 236.8
29 and 236.14 relating to violations of such protective orders.

30 The bill further consolidates current Code sections 708.2A,
31 subsection 7, 708.12, 709.20, and 901.5, subsection 7A,
32 relating to the issuance of and violations of both temporary
33 and permanent no-contact orders in criminal cases in which a
34 defendant has been arrested for the crimes of harassment in
35 violation of Code section 708.7, stalking in violation of Code

1 section 708.11, sexual abuse in the first degree, sexual abuse
2 in the second degree, and sexual abuse in the third degree in
3 violation of Code sections 709.2, 709.3, and 709.4, and
4 domestic abuse assault in violation of Code section 708.2A.

5 The bill defines a "no-contact order" to mean a court order
6 issued in a criminal proceeding which shall require the
7 defendant to have no contact with the alleged victim, persons
8 residing with the alleged victim, or members of the alleged
9 victim's immediate family, and to refrain from harassing the
10 alleged victim, persons residing with the alleged victim, or
11 members of the alleged victim's family. The bill defines a
12 "protective order" to mean a protective order issued pursuant
13 to Code chapter 232, a court order or court-approved consent
14 agreement entered pursuant to Code chapter 236, including a
15 valid foreign protective order under Code section 236.19,
16 subsection 3, a temporary or permanent protective order or
17 order to vacate the homestead under Code chapter 598, and an
18 order that establishes conditions of release or is a
19 protective order or sentencing order in a criminal prosecution
20 arising from a domestic abuse assault.

21 The bill provides that a conviction for, deferred judgment
22 for, or plea of guilty to a violation of the crime of domestic
23 abuse assault in violation of Code section 708.2A which
24 occurred more than 12 years prior to the date of the domestic
25 abuse assault shall not be considered in determining that the
26 violation charged is a second or subsequent offense. Current
27 law does not allow consideration of such offenses which
28 occurred more than six years prior to the date of the domestic
29 abuse assault.

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HSB 718

JUDICIARY

ed By

HOUSE FILE SF 2652
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON PAULSEN)

Bush-oh
Anderson
Olson, R.

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to civil and criminal procedure including the
2 issuance of and violations of certain civil protective orders
3 and criminal no-contact orders.

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

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1 Section 1. Section 236.7, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. A proceeding under this chapter shall be held in
4 accordance with the rules of civil procedure, except as
5 otherwise set forth in this chapter and in chapter 664A, and
6 is in addition to any other civil or criminal remedy.

7 Sec. 2. Section 562A.27A, subsection 3, paragraph a, Code
8 2005, is amended to read as follows:

9 a. The tenant seeks a protective order, restraining order,
10 order to vacate the homestead, or other similar relief
11 pursuant to chapter 236, 598, 664A, or 915, or any other
12 applicable provision which would apply to the person
13 conducting the activities causing the clear and present
14 danger.

15 Sec. 3. Section 562B.25A, subsection 3, paragraph a, Code
16 2005, is amended to read as follows:

17 a. The tenant seeks a protective order, restraining order,
18 order to vacate the homestead, or other similar relief
19 pursuant to chapter 236, 598, 664A, or 915, or any other
20 applicable provision which would apply to the person
21 conducting the activities causing the clear and present
22 danger.

23 Sec. 4. Section 598.41, subsection 3, paragraph j, Code
24 Supplement 2005, is amended to read as follows:

25 j. Whether a history of domestic abuse, as defined in
26 section 236.2, exists. In determining whether a history of
27 domestic abuse exists, the court's consideration shall
28 include, but is not limited to, commencement of an action
29 pursuant to section 236.3, the issuance of a protective order
30 against the parent or the issuance of a court order or consent
31 agreement pursuant to section 236.5, the issuance of an
32 emergency order pursuant to section 236.6, the holding of a
33 parent in contempt pursuant to section ~~236.8~~ 664A.7, the
34 response of a peace officer to the scene of alleged domestic
35 abuse or the arrest of a parent following response to a report

1 of alleged domestic abuse, or a conviction for domestic abuse
2 assault pursuant to section 708.2A.

3 Sec. 5. NEW SECTION. 664A.1 DEFINITIONS.

4 1. For purposes of this chapter:

5 a. "No-contact order" means a court order issued in a
6 criminal proceeding requiring the defendant to have no contact
7 with the alleged victim, persons residing with the alleged
8 victim, or members of the alleged victim's immediate family,
9 and to refrain from harassing the alleged victim, persons
10 residing with the alleged victim, or members of the alleged
11 victim's family.

12 b. "Protective order" means a protective order issued
13 pursuant to chapter 232, a court order or court-approved
14 consent agreement entered pursuant to chapter 236, including a
15 valid foreign protective order under section 236.19,
16 subsection 3, a temporary or permanent protective order or
17 order to vacate the homestead under chapter 598, and an order
18 that establishes conditions of release or is a protective
19 order or sentencing order in a criminal prosecution arising
20 from a domestic abuse assault under section 708.2A.

21 c. "Victim" means a person who has suffered physical,
22 emotional, or financial harm as a result of a public offense,
23 as defined in section 701.2, committed in this state.

24 Sec. 6. NEW SECTION. 664A.2 APPLICABILITY.

25 1. This chapter applies to no-contact orders issued for
26 violations or alleged violations of sections 708.2A, 708.7,
27 708.11, 709.2, 709.3, and 709.4, and any other public offense
28 for which there is a victim.

29 2. A protective order issued in a civil proceeding shall
30 be issued pursuant to chapter 232, 236, or 598. Punishment
31 for a violation of a protective order shall be imposed
32 pursuant to section 664A.7.

33 Sec. 7. NEW SECTION. 664A.3 ENTRY OF TEMPORARY NO-
34 CONTACT ORDER.

35 1. When a person is taken into custody for contempt

1 proceedings pursuant to section 236.11 or arrested for any
2 public offense referred to in section 664A.2, subsection 1,
3 and the person is brought before a magistrate for initial
4 appearance, the magistrate shall enter a no-contact order if
5 the magistrate finds both of the following:

6 a. Probable cause exists to believe that any public
7 offense referred to in section 664A.2, subsection 1, or a
8 violation of a no-contact order, protective order, or consent
9 agreement has occurred.

10 b. The presence of or contact with the defendant poses a
11 threat to the safety of the alleged victim, persons residing
12 with the alleged victim, or members of the alleged victim's
13 family.

14 2. A no-contact order issued pursuant to this section
15 shall be issued in addition to any other conditions of release
16 imposed by a magistrate pursuant to section 811.2. The no-
17 contact order has force and effect until it is modified or
18 terminated by subsequent court action in a contempt proceeding
19 or criminal or juvenile court action and is reviewable in the
20 manner prescribed in section 811.2. Upon final disposition of
21 the criminal or juvenile court action, the court shall
22 terminate or modify the no-contact order pursuant to section
23 664A.5.

24 3. A no-contact order requiring the defendant to have no
25 contact with the alleged victim's children shall prevail over
26 any existing order which may be in conflict with the no-
27 contact order.

28 4. A no-contact order issued pursuant to this section
29 shall restrict the defendant from having contact with the
30 victim, persons residing with the victim, or the victim's
31 immediate family.

32 Sec. 8. NEW SECTION. 664A.4 NOTICE OF NO-CONTACT ORDER.

33 1. The clerk of the district court or other person
34 designated by the court shall provide a copy of the no-contact
35 order to the victim pursuant to this chapter and chapter 915.

1 2. The clerk of the district court shall provide a notice
2 and copy of the no-contact order to the appropriate law
3 enforcement agencies and the twenty-four-hour dispatcher for
4 the law enforcement agencies in the same manner as provided in
5 section 236.5. The clerk of the district court shall provide
6 a notice and copy of a modification or vacation of a no-
7 contact order in the same manner.

8 Sec. 9. NEW SECTION. 664A.5 MODIFICATION -- ENTRY OF
9 PERMANENT NO-CONTACT ORDER.

10 If a defendant is convicted of, receives a deferred
11 judgment for, or pleads guilty to a public offense referred to
12 in section 664A.2, subsection 1, or is held in contempt for a
13 violation of a no-contact order issued under section 664A.3 or
14 for a violation of a protective order issued pursuant to
15 chapter 232, 236, or 598, the court shall either terminate or
16 modify the temporary no-contact order issued by the
17 magistrate. The court may continue the no-contact order in
18 effect for a period of five years from the date the judgment
19 is entered or the deferred judgment is granted, regardless of
20 whether the defendant is placed on probation.

21 Sec. 10. NEW SECTION. 664A.6 MANDATORY ARREST FOR
22 VIOLATION OF NO-CONTACT ORDER.

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

29 2. If the peace officer is investigating a domestic abuse
30 assault pursuant to section 708.2A, the officer shall also
31 comply with sections 236.11 and 236.12.

32 Sec. 11. NEW SECTION. 664A.7 VIOLATION OF NO-CONTACT
33 ORDER OR PROTECTIVE ORDER -- CONTEMPT OR SIMPLE MISDEMEANOR
34 PENALTIES.

35 1. Violation of a no-contact order issued under this

1 chapter or a protective order issued pursuant to chapter 232,
2 236, or 598, including a modified no-contact order, is
3 punishable by summary contempt proceedings.

4 2. A hearing in a contempt proceeding brought pursuant to
5 this section shall be held not less than five and not more
6 than fifteen days after the issuance of a rule to show cause,
7 as determined by the court.

8 3. If held in contempt for a violation of a no-contact
9 order or a modified no-contact order for a public offense
10 referred to in section 664A.2, subsection 1, or held in
11 contempt of a no-contact order issued during a contempt
12 proceeding brought pursuant to section 236.11, the person
13 shall be confined in the county jail for a minimum of seven
14 days. A jail sentence imposed pursuant to this subsection
15 shall be served on consecutive days. No portion of the
16 mandatory minimum term of confinement imposed by this
17 subsection shall be deferred or suspended. A deferred
18 judgment, deferred sentence, or suspended sentence shall not
19 be entered for a violation of a no-contact order or modified
20 no-contact order and the court shall not impose a fine in lieu
21 of the minimum sentence, although a fine may be imposed in
22 addition to the minimum sentence.

23 4. Violation of a no-contact order entered for the offense
24 or alleged offense of domestic abuse assault in violation of
25 section 708.2A or a violation of a protective order issued
26 pursuant to chapter 232, 236, or 598 constitutes a public
27 offense and is punishable as a simple misdemeanor.
28 Alternatively, the court may hold a person in contempt of
29 court for such a violation, as provided in subsection 3.

30 5. A person shall not be held in contempt or convicted of
31 violations under multiple no-contact orders, protective
32 orders, or consent agreements, for the same set of facts and
33 circumstances that constitute a single violation.

34 Sec. 12. NEW SECTION. 664A.8 EXTENSION OF NO-CONTACT
35 ORDER.

1 Upon the filing of an application by the state which is
2 filed within ninety days prior to the expiration of a modified
3 no-contact order, the court shall modify and extend the no-
4 contact order for an additional period of five years, unless
5 the court finds that the defendant no longer poses a threat to
6 the safety of the victim, persons residing with the victim, or
7 members of the victim's family. The number of modifications
8 extending the no-contact order permitted by this section is
9 not limited.

10 Sec. 13. Section 708.2A, subsection 5, paragraph a, Code
11 2005, is amended to read as follows:

12 a. A conviction for, deferred judgment for, or plea of
13 guilty to, a violation of this section which occurred more
14 ~~than six years~~ prior to the ~~date of the violation charged~~ July
15 1, 1987, shall not be considered in determining that the
16 violation charged is a second or subsequent offense.

17 Sec. 14. Section 708.2A, subsection 7, Code 2005, is
18 amended to read as follows:

19 7. If a person is convicted for, receives a deferred
20 judgment for, or pleads guilty to a violation of this section,
21 the court shall modify the no-contact order issued upon
22 initial appearance in the manner provided in section ~~236-14~~
23 664A.5, regardless of whether the person is placed on
24 probation.

25 Sec. 15. Section 709.22, subsection 3, paragraph c,
26 unnumbered paragraph 1, Code Supplement 2005, is amended to
27 read as follows:

28 The right to seek a no-contact order under section ~~709-20~~
29 664A.3 or 915.22, if your attacker is arrested for sexual
30 assault.

31 Sec. 16. Section 901.5, subsection 7A, Code Supplement
32 2005, is amended by striking the subsection.

33 Sec. 17. Section 907.3, subsection 1, paragraph i, Code
34 Supplement 2005, is amended to read as follows:

35 i. The offense is a conviction for or plea of guilty to a

1 violation of section ~~236-8~~ 664A.7 or a finding of contempt
2 pursuant to section ~~236-8-or-236-14~~ 664A.7.

3 Sec. 18. Section 907.3, subsection 2, paragraph b, Code
4 Supplement 2005, is amended to read as follows:

5 b. Section ~~236-8~~ 664A.7 or for contempt pursuant to
6 section ~~236-8-or-236-14~~ 664A.7.

7 Sec. 19. Section 907.3, subsection 3, paragraph b, Code
8 Supplement 2005, is amended to read as follows:

9 b. A sentence imposed pursuant to section ~~236-8-or-236-14~~
10 664A.7 for contempt.

11 Sec. 20. Section 915.50, subsection 3, Code 2005, is
12 amended to read as follows:

13 3. The right to receive a criminal no-contact order upon a
14 finding of probable cause, pursuant to section ~~236-14~~ 664A.3.

15 Sec. 21. Sections 236.8, 236.14, 708.12, and 709.20, Code
16 2005, are repealed.

17 EXPLANATION

18 This bill relates to civil and criminal procedure,
19 including the issuance of and violations of civil protective
20 orders and criminal no-contact orders.

21 The bill consolidates certain provisions relating to civil
22 protective orders and criminal no-contact orders into new Code
23 chapter 664A.

24 The bill provides that a protective order issued pursuant
25 to Code chapters 232, 236, and 598 shall continue to be issued
26 in such cases; however, violations of such orders and consent
27 agreements shall be enforced under the provisions of new Code
28 section 664A.7, which consolidates current Code sections 236.8
29 and 236.14 relating to violations of such protective orders.

30 The bill further consolidates current Code sections 708.2A,
31 subsection 7, 708.12, 709.20, and 901.5, subsection 7A,
32 relating to the issuance of and violations of both temporary
33 and permanent no-contact orders in criminal cases in which a
34 defendant has been arrested for the crimes of harassment in
35 violation of Code section 708.7, stalking in violation of Code

1 section 708.11, sexual abuse in the first degree, sexual abuse
2 in the second degree, and sexual abuse in the third degree in
3 violation of Code sections 709.2, 709.3, and 709.4, and
4 domestic abuse assault in violation of Code section 708.2A.

5 The bill defines a "no-contact order" to mean a court order
6 issued in a criminal proceeding which shall require the
7 defendant to have no contact with the alleged victim, persons
8 residing with the alleged victim, or members of the alleged
9 victim's immediate family, and to refrain from harassing the
10 alleged victim, persons residing with the alleged victim, or
11 members of the alleged victim's family. The bill defines a
12 "protective order" to mean a protective order issued pursuant
13 to Code chapter 232, a court order or court-approved consent
14 agreement entered pursuant to Code chapter 236, including a
15 valid foreign protective order under Code section 236.19,
16 subsection 3, a temporary or permanent protective order or
17 order to vacate the homestead under Code chapter 598, and an
18 order that establishes conditions of release or is a
19 protective order or sentencing order in a criminal prosecution
20 arising from a domestic abuse assault.

21 The bill provides that a conviction for, deferred judgment
22 for, or plea of guilty to a violation of the crime of domestic
23 abuse assault in violation of Code section 708.2A which
24 occurred prior to July 1, 1987, shall not be considered in
25 determining that the violation charged is a second or
26 subsequent offense. Current law does not allow consideration
27 of such offenses which occurred more than six years prior to
28 the date of the domestic abuse assault.

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HOUSE FILE 2652

AN ACT

RELATING TO CIVIL AND CRIMINAL PROCEDURE INCLUDING THE ISSUANCE
OF AND VIOLATIONS OF CERTAIN CIVIL PROTECTIVE ORDERS AND
CRIMINAL NO-CONTACT ORDERS.

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

Section 1. Section 236.7, subsection 1, Code 2005, is amended to read as follows:

1. A proceeding under this chapter shall be held in accordance with the rules of civil procedure, except as otherwise set forth in this chapter and in chapter 664A, and is in addition to any other civil or criminal remedy.

Sec. 2. Section 562A.27A, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, 664A, or 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

Sec. 3. Section 562B.25A, subsection 3, paragraph a, Code 2005, is amended to read as follows:

a. The tenant seeks a protective order, restraining order, order to vacate the homestead, or other similar relief pursuant to chapter 236, 598, 664A, or 915, or any other applicable provision which would apply to the person conducting the activities causing the clear and present danger.

Sec. 4. Section 598.41, subsection 3, paragraph j, Code Supplement 2005, is amended to read as follows:

j. Whether a history of domestic abuse, as defined in section 236.2, exists. In determining whether a history of domestic abuse exists, the court's consideration shall include, but is not limited to, commencement of an action pursuant to section 236.3, the issuance of a protective order against the parent or the issuance of a court order or consent agreement pursuant to section 236.5, the issuance of an emergency order pursuant to section 236.6, the holding of a parent in contempt pursuant to section 236-8 664A.7, the response of a peace officer to the scene of alleged domestic abuse or the arrest of a parent following response to a report of alleged domestic abuse, or a conviction for domestic abuse assault pursuant to section 708.2A.

Sec. 5. NEW SECTION. 664A.1 DEFINITIONS.

For purposes of this chapter:

1. "No-contact order" means a court order issued in a criminal proceeding requiring 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 family.

2. "Protective order" means a protective order issued pursuant to chapter 232, a court order or court-approved consent agreement entered pursuant to chapter 236, including a

valid foreign protective order under section 236.19, subsection 3, a temporary or permanent protective order or order to vacate the homestead under chapter 598, and an order that establishes conditions of release or is a protective order or sentencing order in a criminal prosecution arising from a domestic abuse assault under section 708.2A.

3. "Victim" means a person who has suffered physical, emotional, or financial harm as a result of a public offense, as defined in section 701.2, committed in this state.

Sec. 6. NEW SECTION. 664A.2 APPLICABILITY.

1. This chapter applies to no-contact orders issued for violations or alleged violations of sections 708.2A, 708.7, 708.11, 709.2, 709.3, and 709.4, and any other public offense for which there is a victim.

2. A protective order issued in a civil proceeding shall be issued pursuant to chapter 232, 236, or 598. Punishment for a violation of a protective order shall be imposed pursuant to section 664A.7.

Sec. 7. NEW SECTION. 664A.3 ENTRY OF TEMPORARY NO-CONTACT ORDER.

1. When a person is taken into custody for contempt proceedings pursuant to section 236.11 or arrested for any public offense referred to in section 664A.2, subsection 1, and the person is brought before a magistrate for initial appearance, the magistrate shall enter a no-contact order if the magistrate finds both of the following:

a. Probable cause exists to believe that any public offense referred to in section 664A.2, subsection 1, or a violation of a no-contact order, protective order, or consent agreement has occurred.

b. 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 family.

2. A no-contact order issued pursuant to this section shall be issued in addition to any other conditions of release imposed by a magistrate pursuant to section 811.2. The no-contact order has force and effect until it is modified or terminated by subsequent court action in a contempt proceeding or 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 terminate or modify the no-contact order pursuant to section 664A.5.

3. 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.

4. A no-contact order issued pursuant to this section shall restrict the defendant from having contact with the victim, persons residing with the victim, or the victim's immediate family.

Sec. 8. NEW SECTION. 664A.4 NOTICE OF NO-CONTACT ORDER.

1. The clerk of the district court or other person designated by the court shall provide a copy of the no-contact order to the victim pursuant to this chapter and chapter 915.

2. The clerk of the district court shall provide a notice and copy of the no-contact order to the appropriate law enforcement agencies and the twenty-four-hour dispatcher for the law enforcement agencies in the same manner as provided in section 236.5. The clerk of the district court shall provide a notice and copy of a modification or vacation of a no-contact order in the same manner.

Sec. 9. NEW SECTION. 664A.5 MODIFICATION -- ENTRY OF PERMANENT NO-CONTACT ORDER.

If a defendant is convicted of, receives a deferred judgment for, or pleads guilty to a public offense referred to in section 664A.2, subsection 1, or is held in contempt for a

violation of a no-contact order issued under section 664A.3 or for a violation of a protective order issued pursuant to chapter 232, 236, or 598, the court shall either terminate or modify the temporary no-contact order issued by the magistrate. The court may continue the no-contact order in effect for a period of five years from the date the judgment is entered or the deferred judgment is granted, regardless of whether the defendant is placed on probation.

Sec. 10. NEW SECTION. 664A.6 MANDATORY ARREST FOR VIOLATION OF NO-CONTACT ORDER.

1. If a peace officer has probable cause to believe that a person has violated a no-contact order issued under this chapter, 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.

2. If the peace officer is investigating a domestic abuse assault pursuant to section 708.2A, the officer shall also comply with sections 236.11 and 236.12.

Sec. 11. NEW SECTION. 664A.7 VIOLATION OF NO-CONTACT ORDER OR PROTECTIVE ORDER -- CONTEMPT OR SIMPLE MISDEMEANOR PENALTIES.

1. Violation of a no-contact order issued under this chapter or a protective order issued pursuant to chapter 232, 236, or 598, including a modified no-contact order, is punishable by summary contempt proceedings.

2. 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 determined by the court.

3. If held in contempt for a violation of a no-contact order or a modified no-contact order for a public offense referred to in section 664A.2, subsection 1, or held in contempt of a no-contact order issued during a contempt proceeding brought pursuant to section 236.11, the person

shall be confined in the county jail for a minimum of seven days. A jail sentence imposed pursuant to this subsection shall be served on consecutive days. No portion of the mandatory minimum term of confinement imposed by this subsection shall be deferred or suspended. A deferred judgment, deferred sentence, or suspended sentence shall not be entered for a violation of a no-contact order or 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.

4. Violation of a no-contact order entered for the offense or alleged offense of domestic abuse assault in violation of section 708.2A or a violation of a protective order issued pursuant to chapter 232, 236, or 598 constitutes a public offense and is punishable as a simple misdemeanor. Alternatively, the court may hold a person in contempt of court for such a violation, as provided in subsection 3.

5. A person shall not be held in contempt or convicted of violations under multiple no-contact orders, protective orders, or consent agreements, for the same set of facts and circumstances that constitute a single violation.

Sec. 12. NEW SECTION. 664A.8 EXTENSION OF NO-CONTACT ORDER.

Upon the filing of an application by the state which is filed within ninety days prior to the expiration of a 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 family. The number of modifications extending the no-contact order permitted by this section is not limited.

Sec. 13. Section 708.2A, subsection 5, paragraph a, Code 2005, is amended to read as follows:

a. A conviction for, deferred judgment for, or plea of guilty to, a violation of this section which occurred more than ~~six~~ twelve years prior to the date of the violation charged shall not be considered in determining that the violation charged is a second or subsequent offense.

Sec. 14. Section 708.2A, subsection 7, Code 2005, is amended to read as follows:

7. If a person 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~~ 664A.5, regardless of whether the person is placed on probation.

Sec. 15. Section 709.22, subsection 3, paragraph c, unnumbered paragraph 1, Code Supplement 2005, is amended to read as follows:

The right to seek a no-contact order under section ~~709-20~~ 664A.3 or 915.22, if your attacker is arrested for sexual assault.

Sec. 16. Section 901.5, subsection 7A, Code Supplement 2005, is amended by striking the subsection.

Sec. 17. Section 907.3, subsection 1, paragraph i, Code Supplement 2005, is amended to read as follows:

i. The offense is a conviction for or plea of guilty to a violation of section ~~236-8~~ 664A.7 or a finding of contempt pursuant to section ~~236-8-or-236-14~~ 664A.7.

Sec. 18. Section 907.3, subsection 2, paragraph b, Code Supplement 2005, is amended to read as follows:

b. Section ~~236-8~~ 664A.7 or for contempt pursuant to section ~~236-8-or-236-14~~ 664A.7.

Sec. 19. Section 907.3, subsection 3, paragraph b, Code Supplement 2005, is amended to read as follows:

b. A sentence imposed pursuant to section ~~236-8-or-236-14~~ 664A.7 for contempt.

Sec. 20. Section 915.50, subsection 3, Code 2005, is amended to read as follows:

3. The right to receive a criminal no-contact order upon a finding of probable cause, pursuant to section ~~236-14~~ 664A.3.

Sec. 21. Sections 236.8, 236.14, 708.12, and 709.20, Code 2005, are repealed.

CHRISTOPHER C. RANTS
Speaker of the House

JEFFREY M. LAMBERTI
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2652, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved April 26, 2006

THOMAS J. VILSACK
Governor