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JUDICIARY

HOUSE FILE 2519

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

**A BILL FOR**

1 An Act expanding the penalty provisions for first-time offenders  
 2 and for repeat offenders 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 2519

1 Section 1. Section 236.8, Code 2001, is amended to read as  
2 follows:

3 236.8 VIOLATION OF ORDER -- CONTEMPT -- PENALTIES --  
4 HEARINGS.

5 1. a. A person commits a simple misdemeanor or the court  
6 may hold a person in contempt for a violation of an order,  
7 modified no-contact order, or court-approved consent agreement  
8 entered under this chapter, for violation of a temporary or  
9 permanent protective order or order to vacate the homestead  
10 under chapter 598, for violation of a no-contact order or  
11 modified no-contact order under chapter 708, for violation of  
12 any order that establishes conditions of release or is a  
13 protective order or sentencing order in a criminal prosecution  
14 arising from a domestic abuse assault, or for violation by an  
15 adult of a protective order under chapter 232. If convicted  
16 or held in contempt, the defendant shall serve a jail  
17 sentence.--Any jail sentence of more than one day imposed  
18 under this section shall be confined in the county jail for a  
19 minimum of two days, to be served on consecutive days. A  
20 defendant who is held in contempt or convicted may be ordered  
21 by the court to pay the plaintiff's attorney fees and court  
22 costs incurred in the proceedings under this section.

23 b. A hearing in a contempt proceeding brought pursuant to  
24 this section shall be held not less than five and not more  
25 than fifteen days after the issuance of a rule to show cause,  
26 as set by the court. If held in contempt for violation of a  
27 no-contact order or modified no-contact order, the person  
28 shall be confined in the county jail for a minimum of seven  
29 days, to be served on consecutive days.

30 c. A person shall not be convicted of and held in contempt  
31 for the same violation of an order or court-approved consent  
32 agreement entered under this chapter, for the same violation  
33 of a temporary or permanent protective order or order to  
34 vacate the homestead under chapter 598, for violation of any  
35 order that establishes conditions of release or is a

1 protective order or sentencing order in a criminal prosecution  
2 arising from a domestic abuse assault, or for violation of a  
3 protective order under chapter 232.

4 2. a. A person convicted of a second offense for a  
5 violation set out in subsection 1 commits a serious  
6 misdemeanor, and shall be confined in the county jail for a  
7 minimum of seven days, to be served on consecutive days.

8 b. A person convicted of a third or subsequent offense for  
9 a violation set out in subsection 1 commits an aggravated  
10 misdemeanor, and shall be imprisoned for a minimum of thirty  
11 days, to be served on consecutive days.

12 c. No portion of the mandatory minimum terms of  
13 confinement imposed by this section shall be deferred or  
14 suspended. A deferred judgment, deferred sentence, or  
15 suspended sentence shall not be entered for violation of a no-  
16 contact order or a modified no-contact order, and the court  
17 shall not impose a fine in lieu of the minimum sentence,  
18 although a fine may be imposed in addition to the minimum  
19 sentence.

20 d. In determining if a violation charged under this  
21 section is a second or subsequent offense, the following shall  
22 be considered previous offenses if occurring prior to a  
23 person's conviction of the violation charged:

24 (1) Prior convictions or deferred judgments entered for  
25 violations of this section.

26 (2) Prior convictions, deferred judgments, or the  
27 equivalent of deferred judgments in other jurisdictions for  
28 offenses substantially similar to the offenses described in  
29 this section. The court shall judicially notice the statutes  
30 of other jurisdictions which define offenses substantially  
31 similar to the ones defined in this section and can therefore  
32 be considered corresponding statutes.

33 3. A person shall not be convicted and sentenced for more  
34 than one violation of this section for actions arising out of  
35 the same event or occurrence.

1 Sec. 2. Section 236.14, subsection 2, Code 2001, is  
2 amended to read as follows:

3 2. a. When a person arrested for a domestic abuse  
4 assault, or taken into custody ~~for-contempt-proceedings~~  
5 pursuant to section 236.11, is brought before a magistrate and  
6 the magistrate finds probable cause to believe that domestic  
7 abuse or a violation of an order or consent agreement has  
8 occurred and that the presence of the alleged abuser in the  
9 victim's residence poses a threat to the safety of the alleged  
10 victim, persons residing with the alleged victim, or members  
11 of the alleged victim's immediate family, the magistrate shall  
12 enter an order which shall require the alleged abuser to have  
13 no contact with the alleged victim, persons residing with the  
14 alleged victim, or members of the alleged victim's immediate  
15 family, and to refrain from harassing the alleged victim,  
16 persons residing with the alleged victim, or members of the  
17 alleged victim's immediate family, in addition to any other  
18 conditions of release determined and imposed by the magistrate  
19 under section 811.2. A no-contact order requiring the alleged  
20 abuser to have no contact with the alleged victim's children  
21 shall prevail over any existing order awarding custody or  
22 visitation rights, which may be in conflict with the no-  
23 contact order.

24 b. The court order shall contain the court's directives  
25 restricting the defendant from having contact with the victim  
26 or the victim's relatives.

27 c. The clerk of the court or other person designated by  
28 the court shall provide a copy of this order to the victim  
29 pursuant to chapter 915. The order has force and effect until  
30 it is modified or terminated by subsequent court action in the  
31 contempt proceeding or the criminal or juvenile court action  
32 and is reviewable in the manner prescribed in section 811.2.  
33 If a defendant is convicted for, receives a deferred judgment  
34 for, or pleads guilty to a violation of section 708.2A, the  
35 court shall modify the no-contact order issued by the

1 magistrate to provide that the no-contact order shall continue  
2 in effect for a period of one year from the date that the  
3 judgment is entered or the deferred judgment is granted,  
4 regardless of whether the defendant is placed on probation.  
5 Upon an application by the state which is filed within ninety  
6 days prior to the expiration of the modified no-contact order,  
7 the court shall modify and extend the no-contact order for an  
8 additional period of one year, if the court finds that the  
9 defendant continues to pose a threat to the safety of the  
10 victim, persons residing with the victim, or members of the  
11 victim's immediate family. The number of modifications  
12 extending the no-contact order permitted by this subsection is  
13 not limited.

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

21 ~~Violation of this no-contact order, including modified no-~~  
22 ~~contact orders, is punishable by summary contempt proceedings.~~  
23 ~~A hearing in a contempt proceeding brought pursuant to this~~  
24 ~~section shall be held not less than five and not more than~~  
25 ~~fifteen days after the issuance of a rule to show cause, as~~  
26 ~~set by the court.---If held in contempt for violation of a no-~~  
27 ~~contact order or a modified no-contact order, the person shall~~  
28 ~~be confined in the county jail for a minimum of seven days.---A~~  
29 ~~jail sentence imposed pursuant to this paragraph shall be~~  
30 ~~served on consecutive days.---No portion of the mandatory~~  
31 ~~minimum term of confinement imposed by this section shall be~~  
32 ~~deferred or suspended.---A deferred judgment, deferred~~  
33 ~~sentence, or suspended sentence shall not be entered for~~  
34 ~~violation of a no-contact order or a modified no-contact~~  
35 ~~order, and the court shall not impose a fine in lieu of the~~

~~1 minimum-sentence, although a fine may be imposed in addition  
2 to the minimum sentence.~~

3 Sec. 3. Section 708.12, subsection 4, Code 2001, is  
4 amended by striking the subsection.

5 Sec. 4. IMPLEMENTATION OF ACT. Section 25B.2, subsection  
6 3, shall not apply to this Act.

7 EXPLANATION

8 This bill expands the penalty provisions for first-time  
9 offenders and for repeat offenders of certain civil protective  
10 orders and criminal no-contact orders.

11 The bill provides that a person commits a simple  
12 misdemeanor or the court may hold a person in contempt for a  
13 first violation of an order, modified no-contact order, or  
14 court-approved consent agreement entered under Code chapter  
15 236, for violation of a temporary or permanent protective  
16 order or order to vacate the homestead under Code chapter 598,  
17 for violation of a no-contact order or modified no-contact  
18 order under Code chapter 708, for violation of any order that  
19 establishes conditions of release or is a protective order or  
20 sentencing order in a criminal prosecution arising from a  
21 domestic abuse assault, or for violation by an adult of a  
22 protective order under Code chapter 232. If convicted of a  
23 simple misdemeanor, the defendant shall be confined in the  
24 county jail for a minimum of two days, to be served on  
25 consecutive days. A simple misdemeanor is punishable by  
26 confinement for no more than 30 days or a fine of at least \$50  
27 but no more than \$500, or both. If held in contempt for  
28 violation of a no-contact order or modified no-contact order,  
29 the person shall be confined in the county jail for a minimum  
30 of seven days, to be served on consecutive days.

31 The bill provides that a person convicted of a second  
32 offense for such a violation of an order commits a serious  
33 misdemeanor, and shall be confined in the county jail for a  
34 minimum of seven days, to be served on consecutive days. A  
35 serious misdemeanor is punishable by confinement for no more

1 than one year and a fine of at least \$250 but not more than  
2 \$1,500.

3 The bill provides that a person convicted of a third or  
4 subsequent offense for such a violation of an order commits an  
5 aggravated misdemeanor, and shall be imprisoned for a minimum  
6 of 30 days, to be served on consecutive days. An aggravated  
7 misdemeanor is punishable by confinement for no more than two  
8 years and a fine of at least \$500 but not more than \$5,000.

9 The bill further provides that the court shall not defer or  
10 suspend any portion of the mandatory minimum terms of  
11 confinement and shall not enter a deferred judgment, deferred  
12 sentence, or suspended sentence for violation of a no-contact  
13 order or a modified no-contact order. In addition, the court  
14 shall not impose a fine in lieu of the minimum sentence,  
15 although a fine may be imposed in addition to the minimum  
16 sentence.

17 The bill further provides that in determining if a  
18 violation charged is a second or subsequent offense for  
19 purposes of criminal sentencing, a deferred judgment or prior  
20 conviction for any of the offenses set forth in the bill shall  
21 be counted. The bill further provides that a prior  
22 conviction, deferred judgment, or the equivalent of a deferred  
23 judgment in other jurisdictions for offenses substantially  
24 similar to the offenses set forth in the bill shall be counted  
25 as previous offenses.

26 The bill may include a state mandate as defined in Code  
27 section 25B.3. The bill makes inapplicable Code section  
28 25B.2, subsection 3, which would relieve a political  
29 subdivision from complying with a state mandate if funding for  
30 the cost of the state mandate is not provided or specified.  
31 Therefore, political subdivisions are required to comply with  
32 any state mandate included in the bill.

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