

MAR 22 2005
PUBLIC SAFETY

HOUSE FILE 817
BY T. TAYLOR

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 harassment or stalking and
3 providing a penalty.

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

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HF 817

1 Section 1. NEW SECTION. 708.11A HARASSMENT AND STALKING
2 -- RESTRAINING ORDER.

3 1. A person, including a parent or guardian of a minor,
4 who is the victim of harassment or stalking may seek relief by
5 filing a petition in the district court. Venue shall lie
6 where either party resides. The petition must allege facts
7 sufficient to show the following:

8 a. The name of the alleged harassment or stalking victim.

9 b. The name of the respondent.

10 c. That the respondent has engaged in harassment or
11 stalking.

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 violation of section
20 708.7 or 708.11. The clerk of court, the sheriff of any
21 county in this state, and other law enforcement and
22 corrections officers shall perform their duties relating to
23 service of process without charge to the petitioner. The
24 court may direct a respondent to pay to the clerk of court the
25 fees for the filing of the petition and reasonable costs of
26 service of process if the court determines the respondent has
27 the ability to pay the petitioner's fees and costs.

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

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 harassment or stalking of the
17 petitioner or to have no contact with the petitioner if all of
18 the following 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 engaged
26 in harassment or stalking.

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.

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EXPLANATION

33 This bill relates to the issuance of a restraining order on
34 behalf of a person who is the victim of harassment or
35 stalking.

1 The bill provides that a person, including a parent or
2 guardian of a minor, who is the victim of harassment pursuant
3 to Code section 708.7 or stalking pursuant to Code section
4 708.11 may seek relief by filing a petition in the district
5 court, accompanied by an affidavit prepared under oath stating
6 the specific facts and circumstances from which relief is
7 sought. The filing fees for a restraining order under this
8 section shall be waived for the petitioner if the petition
9 alleges acts that would constitute a violation of Code section
10 708.7 or 708.11.

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

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