

CHAPTER 229

TERMINATION OF GUARDIANSHIP

H. F. 12

AN ACT to amend chapter five hundred thirty-nine (539), code, 1939, authorizing guardians to petition for termination of guardianships whenever the assets thereof are exhausted, or where only personal property remains in the guardianship and the value of said personal property does not exceed two hundred dollars, and authorizing guardians under order of court to pay and distribute such personal property to the parents or natural guardian of a minor or incompetent, or to the person with whom such minor or incompetent resides, and to accept the receipt of such person therefor.

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

1 SECTION 1. Chapter five hundred thirty-nine (539), Code, 1939,
2 is amended by adding at the end thereof the following section:
3 "Whenever the assets in charge of a guardian are exhausted, or
4 whenever the property remaining in charge of a guardian of a minor
5 or an incompetent consists of personal property only, and the value
6 thereof does not exceed two hundred dollars, the district court hav-
7 ing jurisdiction of said guardianship may, in its discretion, upon the
8 application of the guardian or ward or upon its own motion, enter
9 an order terminating such guardianship and, where property re-
10 mains, authorizing the guardian to pay and distribute the remaining
11 personal property to the parents or natural guardian of such minor
12 or incompetent, less expenses of administration as approved by the
13 court, or to the person with whom such minor or incompetent resides,
14 for the use of such minor or incompetent, and the receipt of such
15 person or persons therefor, when presented to the court or filed with
16 the report of distribution of any such guardian, shall have the same
17 force and effect as though such payment had been made to the ward
18 after attaining his majority or regaining his competency."

Approved February 14, 1945.

CHAPTER 230

GUARDIANSHIP OF VETERANS

S. F. 19

AN ACT to repeal chapter five hundred forty-two and one-tenth (542.1), code, 1939, and to enact a substitute therefor, relating to the guardianship of incompetent veterans and other incompetents and minor beneficiaries of the veterans administration and to make uniform the law relative thereto.

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

1 SECTION 1. Chapter five hundred forty-two and one-tenth (542.1),
2 Code, 1939, is repealed, and the following enacted in lieu thereof:
3 1. **Definitions.** As used in this act, "person" means an individual,
4 a partnership, a corporation or an association; "Veterans Adminis-
5 tration" means the Veterans Bureau, its predecessors or successors;
6 "income" means moneys received from the Veterans Administration
7 and revenue or profit from any property wholly or partially acquired

8 therewith; "estate" means income on hand and assets acquired par-
9 tially or wholly with "income"; "benefits" means all moneys paid
10 or payable by the United States through the Veterans Administra-
11 tion; "administrator" means the Administrator of Veterans Affairs
12 of the United States or his successor; "ward" means a beneficiary
13 of the Veterans Administration; "guardian" means any fiduciary
14 for the person or estate of a ward.

15 2. **Applicability of chapter.** Whenever pursuant to any law of
16 the United States or regulation of the Veterans Administration, the
17 administrator requires, prior to payment of benefits, that a guardian
18 be appointed for a ward, such appointment shall be made in the
19 manner hereinafter provided.

20 3. **Petition.** A petition for the appointment of a guardian for an
21 incompetent ward may be filed in the district court of the county of
22 which he is a resident. The petition shall set forth:

23 A. The name, age, and place of residence of the ward, and the
24 name and address of the person or institution, if any, having actual
25 custody of the ward.

26 B. The name and place of residence of the nearest known relative
27 of the ward.

28 C. The fact that the ward is entitled to receive moneys payable
29 by or through the Veterans Administration, and the amount thereof
30 then due and the amount of probable future payments.

31 D. The fact that the ward has been rated incompetent on exami-
32 nation by the Veterans Administration in accordance with the laws
33 and regulations governing the Veterans Administration.

34 4. **Notice—service.** Notice of the commencement of the action
35 shall be served in the time, manner, and form as prescribed by the
36 rules of civil procedure of the state of Iowa and amendments thereto.

37 5. **Temporary guardian.** A temporary guardian may be appointed
38 as provided by section twelve thousand six hundred twenty (12620).

39 6. **Trial.** Trial shall be had as provided by section twelve thou-
40 sand six hundred twenty-one (12621).

41 7. **Certificate of incompetency.** Upon trial of an issue arising
42 upon a prayer for the appointment of either a temporary or perma-
43 nent guardian, a certificate of the administrator, of Veterans Ad-
44 ministration or his representative, setting forth the fact that the
45 defendant ward has been rated incompetent by the Veterans Admin-
46 istration on examination in accordance with the laws and regula-
47 tions governing the Veterans Administration; and that the appoint-
48 ment of a guardian is a condition precedent to the payment of any
49 moneys due such person by the Veterans Administration, shall be
50 prima facie evidence of the necessity for such appointment, and the
51 court may appoint a guardian for the property of such person.

52 8. **Appointment of guardian.** Guardians for the estate of minor
53 wards may be appointed as provided by chapter five hundred thirty-
54 nine (539).

55 9. **Bond.** Upon appointment the guardian shall execute and file
56 a bond as provided in the case of guardians of minors in sections
57 twelve thousand five hundred seventy-seven (12577) and twelve
58 thousand five hundred seventy-eight (12578), and chapter five hun-
59 dred fifty-one (551). The court shall have power from time to time
60 to require the guardian to file an additional bond.

61 10. **Limitation on appointment.** Except as hereinafter provided,
62 it shall be unlawful for any person to accept appointment as guardian
63 of any ward if such proposed guardian shall at that time be acting
64 as guardian for ten wards. In any case, upon presentation of a peti-
65 tion by an attorney of the Veterans Administration under this section
66 alleging that a guardian is acting in a fiduciary capacity for more
67 than ten wards and requesting his discharge for that reason, the
68 court, upon proof substantiating the petition, shall require a final
69 accounting forthwith from such guardian and shall discharge such
70 guardian in said case. The limitations of this section shall not apply
71 where the guardian is a bank or trust company acting for the estate
72 only and not for the person of the ward. An individual may be
73 guardian of more than ten wards if they are all members of the same
74 family.

75 11. **Reports—hearings.** Every guardian who shall receive on
76 account of his ward any moneys from the Veterans Administration
77 shall file with the court annually, in addition to such other accounts
78 as may be required by the court, a full, true and accurate account
79 under oath of all moneys so received by him, of all disbursements
80 thereof, and showing the balance thereof in his hands at the date of
81 such account and how invested. The court, or a judge thereof, shall
82 fix a time and place for the hearing on such account not less than fif-
83 teen and not more than thirty days from the date of filing same, and
84 notice thereof by registered mail shall be given by the guardian to the
85 proper office of the Veterans Administration not less than fifteen
86 days prior to the date fixed for the hearing, which notice shall include
87 a true copy of the accounting. And a like notice shall be given to the
88 surety on such guardian bonds upon the filing of the final report by
89 said guardian.

90 12. **Failure to report—effect.** If any guardian shall fail to file an
91 account of the moneys received by him from the Veterans Adminis-
92 tration on account of his ward within thirty days after such account
93 is required by either the court or the Veterans Administration, or
94 shall fail to furnish the Veterans Administration a copy of his ac-
95 counts as required by this chapter, such failure shall be grounds for
96 removal and forfeiture of such guardian's commission as said guar-
97 dian would otherwise be entitled to receive; provided that the court
98 shall have in addition hereto the same authority to impose penalties
99 and to remove guardians for cause as provided in the general guar-
100 dianship laws of this state.

101 13. Compensation payable to guardians for ordinary services shall
102 not exceed five per cent (5%) of the income of the ward during any
103 accounting year, provided, however, that the court may grant com-
104 pensation to such guardian not to exceed Twenty-five Dollars
105 (\$25.00) where five per cent (5%) of the income of the ward during
106 the accounting year will not adequately compensate the guardian
107 for services performed. In the event of extraordinary services,
108 however, the court may upon petition and after hearing thereon allow
109 the guardian additional compensation. Such petition shall set out
110 the extraordinary services rendered by the guardian and a copy of
111 said petition together with a copy of the notice of hearing thereon
112 shall be served upon the Veterans Administration as provided in
113 section twelve thousand six hundred forty-four and eleven hun-

114 dredths (12644.11). Compensation as guardian and a fee as attorney
115 shall not be allowed to the same person. No compensation shall be
116 allowed on the corpus of an estate received from the preceding
117 guardian.

118 14. A guardian may without prior authority of the court invest
119 in bonds or other interest bearing obligations of the United States,
120 the State of Iowa, or those issued by the cities or counties of Iowa,
121 for the payment of which the faith and credit of the issuing instru-
122 mentality of government is pledged. All other investment shall be
123 under orders of the court in such securities in which the guardian has
124 no interest as authorized by section twelve thousand seven hundred
125 seventy-two (12772) provided that said investments shall be made
126 under order of the court after notice to the proper office of the Vet-
127 erans Administration in the manner provided in section twelve thou-
128 sand six hundred forty-four and eleven hundredths (12644.11).

129 15. **Use of funds.** A guardian shall not apply any portion of the
130 estate of his ward for the support and maintenance of any person
131 other than his ward, except upon order of the court after a hearing,
132 notice of which has been given the proper office of the Veterans Ad-
133 ministration in the manner provided in section twelve thousand six
134 hundred forty-four and eleven hundredths (12644.11).

135 16. **Construction of chapter.** This chapter shall be construed
136 liberally to secure the beneficial intent and purpose thereof, and shall
137 apply only to beneficiaries of the Veterans Administration.

138 17. **How chapter cited.** This chapter may be cited as the "Uniform
139 Veterans Guardianship Act".

140 18. **Interpretation.** This chapter shall be so interpreted and con-
141 strued as to effectuate its general purpose to make uniform the law
142 of those states which enact it.

143 19. **Repeal—scope of chapter.** All laws or parts of laws relating
144 to beneficiaries of the Veterans Administration inconsistent with this
145 chapter are hereby repealed. Guardians appointed under this chap-
146 ter shall be subject to the general guardianship law of the state except
147 insofar as the same is modified by this chapter. Insofar as it may be
148 applicable, this chapter shall apply to guardians of Veterans Admin-
149 istration beneficiaries heretofore or hereafter appointed under the
150 general laws of the state.

151 20. **Dual guardianship.** This chapter shall not be construed to
152 require dual guardianship proceedings of the property of the same
153 person, but when a guardian is such both as to moneys paid by the
154 United States through the Veterans Administration and to other
155 property of the ward, the accounts of the moneys received through
156 the Veterans Administration shall be kept separate and apart from
157 the accounts of other property.

158 21. **Discharge of guardian and release of sureties.** In addition to
159 any other provisions of law relating to judicial restoration and dis-
160 charge of guardian, a certificate by the Veterans Administration
161 showing that a minor ward has attained majority, or that an incom-
162 petent ward has been rated competent by the Veterans Administration
163 upon examination in accordance with law shall be prima facie
164 evidence that the ward has attained majority, or has recovered his
165 competency. Upon hearing after notice as provided by this act and
166 the determination by the court that the ward has attained majority

167 or has recovered his competency, an order shall be entered to that
 168 effect, and the guardian shall file a final accounting. Upon hearing
 169 after notice to the former ward and to the Veterans Administration
 170 as in case of other accounts, upon approval of the final accounting,
 171 and upon delivery to the ward of the assets due him from the guar-
 172 dian, the guardian shall be discharged and his sureties released.

173 22. Nothing contained in this act shall be construed to abrogate,
 174 modify or in any manner affect pending proceedings under chapter
 175 five hundred forty-two and one-tenth (542.1), Code, 1939, and all
 176 such pending proceedings shall continue under the provisions of this
 177 act.

Approved February 20, 1945.

CHAPTER 231

EMBEZZLEMENT

S. F. 218

AN ACT to amend section thirteen thousand twenty-seven (13027), code, 1939, and to repeal section thirteen thousand twenty-nine (13029), code, 1939, relating to embezzlement and the penalty therefor.

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

1 SECTION 1. Section thirteen thousand twenty-seven (13027), Code,
 2 1939, is hereby amended by changing the period (.) at the end of line
 3 eight (8), subsection four (4), to a semi-colon (;) and adding there-
 4 to the following: "and an offer to return and account for, or the actual
 5 return and accounting for, such funds or property so embezzled as
 6 herein defined shall not relieve such defaulting officer from the crime
 7 of larceny by embezzlement or the punishment therefor as fixed in
 8 section 13028, Code, 1939."

1 SEC. 2. Section thirteen thousand twenty-nine (13029), Code, 1939,
 2 is hereby repealed.

1 SEC. 3. Section thirteen thousand twenty-seven (13,027), Code,
 2 1939, is further amended by inserting after the word "of" in line four
 3 (4) of subsection four (4) thereof, the following: "larceny by".

Approved April 10, 1945.