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MELVIN D. SYNHORST, *Secretary of State*

CHAPTER 1240

CONSERVATORS FOR VETERANS

H. F. 1026

AN ACT relating to the appointment of conservators for veterans.

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

- 1 SECTION 1. Chapter six hundred thirty-three (633), Division XIII (thirteen),
2 part six (6), Code 1975, is amended by adding the following new section:
3 NEW SECTION. **Ward rated incompetent by veterans administration.** Upon the
4 trial of an issue arising upon a prayer for the appointment of either a temporary
5 or a permanent conservator, a certificate of the administrator of veterans
6 administration, or his representative, setting forth the fact that the defendant
7 veteran has been rated incompetent by the veterans administration upon
8 examination in accordance with the laws and regulations governing the veterans
9 administration, shall be prima-facie evidence of the necessity for such
10 appointment, and the court may appoint a conservator for the property of such
11 person.

Approved June 23, 1976

CHAPTER 1241

IOWA COURT OF APPEALS

S. F. 1092

AN ACT creating a court of appeals and providing for the jurisdiction of the court, the personnel and administration of the court, and the procedures to be followed for appeal and review.

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

DIVISION I

GENERAL PROVISIONS

- 1 SECTION 1. NEW SECTION. **Court of appeals created.** There is established an
2 intermediate court of appeals which is a court of record and which shall be
3 known as the Iowa Court of Appeals.

1 **SEC. 2. NEW SECTION. Term of court.** The court of appeals shall hold
 2 annual terms commencing on the second Tuesday in January of each year, and
 3 the court always shall be in session. The expiration of a term shall not affect the
 4 power of the court to do any act or assume jurisdiction of any proceeding, and
 5 pending matters shall be continued from term to term.

1 **SEC. 3. NEW SECTION. Sessions—location.** The court of appeals shall hold
 2 sessions at the seat of state government at the times specified by order of the
 3 supreme court. Sessions shall be held in the courtroom of the supreme court at
 4 the statehouse.

1 **SEC. 4. NEW SECTION. Number of judges—quorum—chief judge.**

2 1. The court of appeals shall consist of a chief judge and four associate judges,
 3 any three of whom shall constitute a quorum.

4 2. a. At the first meeting after initial appointment of judges to the court of
 5 appeals, and at the first meeting in each odd-numbered year the judges by
 6 majority vote shall designate one of their members to serve as chief judge for a
 7 two-year term. A vacancy in the office of chief judge shall be filled by majority
 8 vote of the judges of the court of appeals, after any actual vacancy has been
 9 filled, and for the remainder of the unexpired term.

10 b. In the absence of the chief judge the duties of the chief judge shall be
 11 exercised by the judge next in precedence.

12 c. The chief judge shall supervise the affairs of the court and shall preside at
 13 any session of the court at which the chief judge is in attendance.

14 d. If the chief judge desires to be relieved of the duties of chief judge while
 15 retaining the status of judge of the court of appeals, the chief judge shall notify
 16 the chief justice of the supreme court and the other judges of the court of appeals.
 17 The office of chief judge shall be deemed vacant, and shall be filled as provided
 18 in this subsection.

19 3. Judges of the court of appeals other than the chief judge shall have
 20 precedence according to the length of time served on that court. Of several judges
 21 having equal periods of time served, the eldest shall have precedence.

1 **SEC. 5. NEW SECTION. Appellate jurisdiction.** The jurisdiction of the court
 2 of appeals is coextensive with the state. The court of appeals shall have appellate
 3 jurisdiction only in cases in chancery, and shall constitute a court for the
 4 correction of errors at law.

5 The court of appeals shall have subject matter jurisdiction to review the
 6 following matters:

7 1. All civil actions and special civil proceedings, whether at law or in equity.

8 2. All criminal actions.

9 3. All post-conviction remedy proceedings.

10 4. A judgment of a district judge in a small claims action.

11 The jurisdiction of the court of appeals with respect to actions and parties shall
 12 be limited to those matters for which an appeal or review proceeding properly has
 13 been brought before the supreme court, and for which the supreme court
 14 pursuant to section seventy-seven (77) of this Act has entered an order
 15 transferring the matter to the court of appeals.

16 The court of appeals and judges of the court are empowered to issue writs and
 17 other process necessary for the exercise and enforcement of its jurisdiction, but a
 18 writ, order or other process issued in any matter not before the court pursuant to
 19 an order of transfer issued by the supreme court shall be void.

1 **SEC. 6. NEW SECTION. Decisions of the court—finality.**

2 1. The court of appeals may affirm, modify, vacate, set aside or reverse any
 3 judgment, order or decree of the district court or other tribunal which is under
 4 the jurisdiction of the court, and may remand the cause and direct the entry of an
 5 appropriate judgment, order or decree, or require further proceedings to be had as
 6 may be just. If the judges are equally divided on the ultimate decision, the

7 judgment, order or decree being reviewed shall be affirmed.

8 2. A decision of the court of appeals is final and shall not be reviewed by any
9 other court except upon the granting by the supreme court of an application for
10 further review as provided in section seventy-seven (77) of this Act. Upon the
11 filing of the application, the judgment and mandate of the court of appeals shall
12 be stayed pending action of the supreme court or until the expiration of the time
13 specified in subsection four (4) of section seventy-seven (77) of this Act.

1 SEC. 7. NEW SECTION. **Rules.** The supreme court, and the court of appeals
2 subject to the approval of the supreme court, may from time to time prescribe
3 rules of appellate procedure and other rules for the conduct of business of the
4 court of appeals. Rules prescribed shall not abridge, enlarge, or modify a
5 substantive right, and shall be subject to section six hundred eighty-four point
6 eighteen (684.18) of the Code.

7 The rules of civil procedure and supreme court rules which are in effect on the
8 effective date of this Act, or which become effective subsequent to the effective
9 date of this Act, shall apply to and govern, until July 1, 1977, all matters
10 transferred to the court of appeals pursuant to section seventy-seven (77) of this
11 Act, to the extent that those rules are not inconsistent with the provisions of this
12 Act. The supreme court shall have the power to prescribe temporary rules of
13 appellate procedure on or after the effective date of this Act which relate to the
14 methods and procedures to be used in determining whether or not a matter shall
15 be transferred to the court of appeals, or which relate to the conditions and
16 procedures for further review by the supreme court of a decision of a court of
17 appeals, and each of those temporary rules shall be effective, anything in section
18 six hundred eighty-four point nineteen (684.19) of the Code to the contrary
19 notwithstanding, from the date specified by the supreme court in the respective
20 temporary rules until July 1, 1977.

1 SEC. 8. NEW SECTION. **When decisions effective.** A decision of the court of
2 appeals shall be in writing, and shall be effective, except as provided in subsection
3 two (2) of section six (6) of this Act, when the decision of the court has been filed
4 with the clerk of the supreme court.

1 SEC. 9. NEW SECTION. **Process—style—seal.**

2 1. Process of the court of appeals shall be styled: "In the Court of Appeals of
3 Iowa".

4 2. The supreme court may adopt a seal for the court of appeals. Upon
5 adoption, the clerk of the supreme court shall file a facsimile and description of
6 the design in the office of the secretary of state. Judicial notice shall be taken of
7 the official seal of the court of appeals.

1 SEC. 10. NEW SECTION. **Records.** The records of the court of appeals shall
2 be kept by the clerk of the supreme court, and at the same place as, but
3 segregated from the records of the supreme court. Records of the court of appeals
4 shall be maintained in the same manner as records of the supreme court are
5 required by law to be maintained.

1 SEC. 11. NEW SECTION. **Publication of opinions.** The court administrator
2 shall cause the publication of opinions of the judges of the court of appeals in
3 accordance with rules issued by the supreme court. Sections six hundred eighty-
4 four point thirteen (684.13), six hundred eighty-four point fourteen (684.14), and
5 six hundred eighty-four point fifteen (684.15) of the Code shall apply to decisions
6 of the court of appeals. The court administrator shall cause the publication of
7 abstracts of all decisions for which written opinions are not published.

1 SEC. 12. NEW SECTION. **Fees—costs.** Costs to be collected and awarded in
2 the court of appeals shall be as prescribed from time to time by the supreme
3 court. Fees and costs may be awarded to a party to the appeal in the discretion of
4 the court of appeals. A fee shall not be charged for the docketing of any matter in

5 the court of appeals upon transfer from the supreme court.

6 DIVISION II

7 JUDGES

1 SEC. 13. NEW SECTION. **Appointment—term.** Judges of the court of appeals
2 shall be nominated and appointed and shall stand for retention in office as
3 provided in chapter forty-six (46) of the Code. The term of office of a judge of the
4 court of appeals shall be as provided in section forty-six point sixteen (46.16) of
5 the Code.

1 SEC. 14. NEW SECTION. **Qualification for office.** A person appointed as
2 judge of the court of appeals must satisfy all requirements for a judge of the
3 supreme court, and shall qualify for and take office in the same manner as a
4 judge of the supreme court.

1 SEC. 15. NEW SECTION. **Salary—expenses—retirement.** A judge of the
2 court of appeals shall receive a salary as provided by law, and shall be reimbursed
3 for expenses reasonably incurred in the performance of official duties. A judge of
4 the court of appeals may elect to participate in the judicial retirement system as
5 provided in chapter six hundred five A (605A) of the Code.

6 Each judge of the court of appeals shall be provided personal office space and
7 equipment, and facilities for a secretary and law clerk at the seat of state
8 government only. Each judge may choose to reside at the seat of government as
9 he or she may elect, but a judge of the court of appeals shall not be entitled to
10 receive reimbursement for any expenses incurred as a result of residing or
11 maintaining a residence elsewhere than at the seat of government.

1 SEC. 16. NEW SECTION. **Prohibited acts.** A judge of the court of appeals
2 shall not do any of the following:

3 1. Hear or participate in an appeal from the decision of a case or issue tried
4 before him or her.

5 2. Participate in an appeal in which he or she has a substantial interest, has
6 been of counsel, has been a material witness, or is so related to or connected with
7 any party or attorney so as to render it improper for him or her to participate.

1 SEC. 17. NEW SECTION. **Judicial qualifications—impeachment.** A judge of
2 the court of appeals shall be subject to the jurisdiction and procedures of the
3 commission on judicial qualifications as provided in chapter six hundred five
4 (605) of the Code, and may be impeached as provided in chapter sixty-eight (68)
5 of the Code.

6 DIVISION III

7 ADMINISTRATION

1 SEC. 18. NEW SECTION. **Clerk of court.** The clerk of the supreme court also
2 shall act as clerk of the court of appeals. The clerk of the court of appeals shall
3 keep a complete record of the proceedings of that court, shall collect the fees and
4 costs prescribed by the supreme court, and shall account for and report to the
5 court administrator all receipts and disbursements of the court of appeals. The
6 clerk of the supreme court shall not receive any additional compensation for
7 acting as clerk of the court of appeals.

1 SEC. 19. NEW SECTION. **Deputy clerk—personnel.** The clerk of the supreme
2 court, subject to the approval of the supreme court, may employ a deputy clerk
3 for the performance of duties relating to the court of appeals. The deputy clerk
4 shall receive a salary as prescribed by the court administrator, and shall be
5 reimbursed for expenses reasonably incurred in the performance of official duties.
6 The deputy clerk shall give bond to the state as provided in chapter sixty-four
7 (64) of the Code for the clerk of the supreme court.

1 SEC. 20. NEW SECTION. **Secretary to judge.** Each judge of the court of
2 appeals may employ one personal secretary at a salary as prescribed by the court
3 administrator.

1 SEC. 21. NEW SECTION. **Law clerks.** The court of appeals may employ not
2 more than five attorneys or graduates of a reputable law school as defined in
3 section six hundred ten point two (610.2) of the Code, to act as legal assistants to
4 the court. Salaries shall be as prescribed by the court administrator.

1 SEC. 22. NEW SECTION. **Practice of law prohibited.** The deputy clerk and
2 other persons employed by the court of appeals shall not practice as an attorney
3 or counselor of law.

1 SEC. 23. NEW SECTION. **Payment of salaries and expenses.** The salaries and
2 expenses of the court of appeals and its judges and other employees shall be paid
3 from funds appropriated for such purposes, and shall be accounted for by the
4 court administrator. Salaries and other expenditures shall not be incurred, except
5 upon approval of the court administrator. The court administrator shall not
6 approve for reimbursement any expenditure incurred as a result of an officer's or
7 employee's residing or maintaining a residence elsewhere than at the seat of state
8 government.

1 SEC. 24. NEW SECTION. **Physical facilities.** The court administrator shall
2 obtain for the court of appeals suitable facilities for the conduct of court business
3 at the seat of state government. To the extent practicable, the court administrator
4 shall utilize existing supreme court facilities. State funds shall not be utilized for
5 securing or maintaining facilities for any court personnel elsewhere than at the
6 seat of state government.

1 SEC. 25. NEW SECTION. **Supervision by the supreme court.** The court of
2 appeals and all of its officers and employees shall be subject to the supervisory
3 and administrative control of the supreme court.

4 DIVISION IV

5 CORRELATING AMENDMENTS

1 SEC. 26. Section four point one (4.1), Code 1975, is amended by adding the
2 following new subsection:

3 NEW SUBSECTION. Appellate court. The term "appellate court" means and
4 includes both the supreme court and the court of appeals. Where an act,
5 omission, right, or liability is by statute conditioned upon the filing of a decision
6 by an appellate court, the term means any final decision of either the supreme
7 court or the court of appeals.

1 SEC. 27. Section seven point six (7.6), unnumbered paragraph two (2), Code
2 1975, is amended to read as follows:

3 ~~Such~~ *The reward shall be paid only upon the conviction of said the person and*
4 ~~affirmance thereof by the supreme court, if appealed thereto, and if appealed, only~~
5 ~~after a final decision of an appellate court has been rendered which affirms that~~
6 ~~conviction.~~

1 SEC. 28. Section thirteen point two (13.2), subsection one (1), Code 1975, is
2 amended to read as follows:

3 1. Prosecute and defend all causes in the ~~supreme court~~ *appellate courts* in
4 which the state is a party or interested.

1 SEC. 29. Section fourteen point six (14.6), subsection four (4), Code 1975, is
2 amended to read as follows:

3 4. Prepare and cause to be published, at such times as the supreme court shall
4 by order direct, the rules of civil procedure, *the rules of appellate procedure*, and
5 supreme court rules.

1 SEC. 30. Section fourteen point twelve (14.12), subsection six (6), paragraphs j
2 and k, Code 1975, are amended to read as follows:

3 j. The rules of the supreme court, *rules of civil procedure and rules of appellate*
4 *procedure.*

5 k. An index covering the Constitution and statutes of the state of Iowa and the
6 rules of the supreme court, *rules of civil procedure and rules of appellate procedure.*

1 SEC. 31. Section seventeen point twenty-one (17.21), Code 1975, is amended
2 to read as follows:

3 **17.21 Legal publications.** The Code or supplements thereto, Iowa
4 administrative code, rules of civil procedure, *rules of appellate procedure*, and
5 supreme court rules, session laws, annotations, tables of corresponding sections
6 and reports of the supreme court, unless otherwise specifically provided by law,
7 shall be printed, and paid for in the same manner as other public printing.

1 SEC. 32. Section seventeen point twenty-two (17.22), Code 1975, as amended
2 by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter twenty-nine
3 (29), section two (2), is amended by striking the section and inserting in lieu
4 thereof the following:

5 **17.22 Price.** Said publications shall be sold at a price to be established by
6 dividing the total cost only, of printing, binding, distribution and paper stock by
7 the total number printed of each edition.

8 1. Code or supplements thereto and Iowa administrative code.

9 2. Session laws.

10 3. Daily journals and bills.

11 4. Book of annotations to the Code.

12 5. Supplements to the book of annotations.

13 6. Tables of corresponding sections to the Code.

14 7. Reports of the supreme court, and reports of the court of appeals.

15 8. Rules of civil procedure, rules of appellate procedure and supreme court
16 rules.

17 The Iowa administrative code shall be distributed with each order for purchase
18 of the Code and the price set for the Code and administrative code as provided
19 above shall include the cost of both the Code and administrative code. However,
20 the Iowa administrative code or its supplements may be distributed separately.
21 There shall be established a price for the Iowa administrative code and a separate
22 price for its supplements. The price charged for the Iowa administrative code or
23 its supplements shall represent the cost of compiling and indexing plus the
24 amount charged for the printing and distribution of the Iowa administrative code
25 or its supplements.

26 When the Code is published in more than one volume the superintendent of
27 printing may distribute each volume on order, after payment of the estimated
28 purchase price for the set, when said volume becomes available.

1 SEC. 33. Section seventeen point twenty-five (17.25), Code 1975, is amended
2 to read as follows:

3 **17.25 New editions.** New editions of the Code or supplements thereto, book
4 of annotations, ~~and~~ reports of the supreme court, *and reports of the court of*
5 *appeals* may be published by the superintendent of printing when the supply on
6 hand of the last edition becomes exhausted and when a new edition is necessary
7 in order to meet the demand.

1 SEC. 34. Section eighteen point ninety-seven (18.97), unnumbered paragraph
2 one (1), and subsection five (5), Code 1975, are amended to read as follows:

3 The superintendent of printing shall make free distribution of the Code, the
4 Iowa administrative code, rules of civil procedure, *rules of appellate procedure* and
5 supreme court rules, and of the Acts of each general assembly, as follows:

6 5. To each judge of the supreme court and to each judge of , *the court of appeals*
 7 *and* the district court, two copies; and to each district associate judge and each
 8 judicial magistrate 1 copy

1 SEC. 35. Section eighteen point ninety-eight (18.98), subsection five (5), Code
 2 1975, is amended to read as follows:

3 5. To the office of each judge of the supreme *court, court of appeals*, and district
 4 ~~*courts court*~~, including district associate judges and judicial magistrates, and to
 5 each judge of the federal courts in Iowa 1 copy

1 SEC. 36. Section eighteen point ninety-nine (18.99), Code 1975, is amended to
 2 read as follows:

3 **18.99 Supreme Appellate court reports.** The supreme court shall cause to be
 4 furnished without charge copies of any publication containing its official reports
 5 *of the supreme court and the court of appeals* to the chambers of each judge of the
 6 district court in each county and to such other governmental agencies as the
 7 supreme court shall direct.

1 SEC. 37. Section forty-six point twelve (46.12), Code 1975, is amended to read
 2 as follows:

3 **46.12 Notification of vacancy and resignation.** When a vacancy occurs or will
 4 occur within sixty days in the supreme court, *the court of appeals*, or district court,
 5 the state commissioner of elections shall forthwith so notify the chairman of the
 6 proper judicial nominating commission. The chairman shall call a meeting of the
 7 commission within ten days after such notice; if he fails to do so, the chief justice
 8 shall call such meeting.

9 When a judge of the supreme court, *court of appeals*, or district court resigns, he
 10 shall submit a copy of his resignation to the state commissioner of elections at the
 11 time he submits his resignation to the governor; and when a judge of the supreme
 12 court, *court of appeals*, or district court dies, the clerk of district court of the
 13 county of his residence shall in writing forthwith notify the state commissioner of
 14 elections of such fact.

15 *For the purpose of this chapter, vacancies in the court of appeals shall be deemed to*
 16 *exist from the effective date of this Act until the initial number of court of appeals*
 17 *judges provided by this Act have qualified for office.*

1 SEC. 38. Section forty-six point fifteen (46.15), Code 1975, is amended to read
 2 as follows:

3 **46.15 Appointments to be from nominees.** All appointments to the supreme
 4 court and district court shall be made from the nominees of the respective judicial
 5 ~~nominating commissions~~ *court of appeals shall be made from the nominees of the*
 6 *state judicial nominating commission, and all appointments to the district court shall*
 7 *be made from the nominees of the district judicial nominating commission. Nominees*
 8 *to the court of appeals shall have the qualifications prescribed for nominees to the*
 9 *supreme court.*

10 *Vacancies in the court of appeals shall be filled by appointment by the governor*
 11 *from a list of nominees submitted by the state judicial nominating commission. Three*
 12 *nominees shall be submitted for each vacancy. If the governor fails to make an*
 13 *appointment within thirty days after a list of nominees has been submitted, the*
 14 *appointment shall be made from the list of nominees by the chief justice of the*
 15 *supreme court.*

1 SEC. 39. Section forty-six point sixteen (46.16), Code 1975, is amended to read
 2 as follows:

3 **46.16 Terms of judges.** Subject to the provisions of sections 605.24 and
 4 605.25 and to removal for cause:

5 1. The initial term of office of judges of the supreme court, *court of appeals*, and
 6 district court shall be for one year after appointment and until January ~~+~~ *first*
 7 following the next judicial election after expiration of such year; and

8 2. The regular term of office of judges of the supreme court retained at a
 9 judicial election shall be eight years, and of judges of the *court of appeals* and
 10 district court so retained shall be six years, from the expiration of their initial or
 11 previous regular term as the case may be.

12 *For the purpose of initial appointments to the court of appeals, two of the judges*
 13 *appointed shall serve an irregular term ending December thirtieth of the fourth year*
 14 *after expiration of the initial term prescribed in subsection one (1) of this section and*
 15 *two of the judges appointed shall serve an irregular term ending December thirtieth of*
 16 *the fifth year after expiration of the initial term prescribed in subsection one (1) of this*
 17 *section. Expiration of irregular terms shall be deemed expiration of regular terms for*
 18 *all purposes.*

1 SEC. 40. Section forty-six point twenty (46.20), Code 1975, is amended to read
 2 as follows:

3 **46.20 Declaration of candidacy.** At least ninety days prior to the judicial
 4 election preceding expiration of his *or her* initial or regular term of office, a judge
 5 of the supreme court, *court of appeals*, or district court including district associate
 6 judges may file a declaration of candidacy with the state commissioner of
 7 elections, whereupon such judge shall stand for retention or rejection at that
 8 election. If a judge fails to file such declaration, his *or her* office shall be vacant at
 9 the end of his *or her* term. District associate judges filing such a declaration shall
 10 stand for retention in the county of their residence.

1 SEC. 41. Section forty-six point twenty-one (46.21), Code 1975, is amended to
 2 read as follows:

3 **46.21 Conduct of elections.** At least fifty-five days prior to each judicial
 4 election, the state commissioner of elections shall certify to the county
 5 commissioner of elections of each county a list of the judges of the supreme court,
 6 *court of appeals* and district court including district associate judges to be voted
 7 on in such county at that election. The county commissioner of elections shall
 8 place the names upon the ballot in the order in which they appear in the
 9 certificate, unless only one county is voting thereon. The state commissioner of
 10 elections shall rotate the names in the certificate by county, or the county
 11 commissioner of elections shall rotate them upon the ballot by precinct if only
 12 one county is voting thereon. The names of all judges to be voted on shall be
 13 placed upon one ballot, which shall be in substantially the following form:

14 STATE OF IOWA
 15 JUDICIAL BALLOT
 16 (Date)

17 VOTE ON ALL NAMES BY PLACING AN X IN THE APPROPRIATE BOX AFTER EACH
 18 NAME.

19 SUPREME COURT

20 Shall the following judges of the Supreme Court be retained in office?

21 JOHN DOE YES _____ NO _____

22 RICHARD ROE YES _____ NO _____

23 COURT OF APPEALS

24 *Shall the following judges of the Court of Appeals be retained in office?*

25 JOHN DOE YES _____ NO _____

26 RICHARD ROE YES _____ NO _____

27 DISTRICT COURT

28 Shall the following judge or associate judge of the District Court be retained in
 29 office?

30 JOHN SMITH YES _____ NO _____

1 SEC. 42. Section forty-six point twenty-four (46.24), Code 1975, is amended to
 2 read as follows:

3 **46.24 Results of election.** A judge of the supreme court, *court of appeals*, or
 4 district court including a district associate judge must receive more affirmative

5 than negative votes to be retained in office. When the poll is closed, the election
6 judges shall publicly canvass the vote forthwith. The board of supervisors shall
7 canvass the returns at its meeting on Monday after the election, and shall
8 promptly certify the number of affirmative and negative votes on each judge to
9 the state commissioner of elections.

10 The state board of canvassers shall, at the time of canvassing the vote cast at a
11 general election, open and canvass all of the returns for the judicial election. Each
12 judge of the supreme court, *court of appeals*, or district court including a district
13 associate judge who has received more affirmative than negative votes shall
14 receive from the state board of canvassers an appropriate certificate so stating.

1 SEC. 43. Section eighty-six point thirty-nine (86.39), Code 1975, is amended to
2 read as follows:

3 **86.39 Fees—approval—lien.** All fees or claims for legal, medical, hospital,
4 and burial services rendered under this chapter and chapters 85 and 87 shall be
5 subject to the approval of the industrial commissioner, and no lien for such
6 service shall be enforceable without the approval of the amount thereof by the
7 industrial commissioner. For services rendered in the district court and ~~supreme~~
8 ~~court~~ *appellate courts*, the attorney's fee shall be subject to the approval of a judge
9 of the district court.

1 SEC. 44. Section one hundred forty-five point nineteen (145.19), Code 1975, is
2 amended to read as follows:

3 **145.19 Appeal.** Either party to said proceedings may take an appeal from the
4 district court to the supreme court of this state in the same manner and within the
5 same time and with like effect as ~~appeals in other civil actions are taken, and such~~
6 ~~case shall be tried in the supreme court in the same manner as other appeals in~~
7 *ordinary civil actions at law*. If the defendant be represented by an attorney
8 appointed by the court, and, in the opinion of the court, is financially unable to
9 meet his part of the expense of an appeal, the defendant's actual and necessary
10 expense of such appeal and prosecution thereof to final decree by the supreme
11 court shall be paid by the state upon order of said the district court; ~~same to be~~
12 ~~paid~~ out of the general funds of the state not otherwise appropriated.

1 SEC. 45. Section one hundred forty-seven point seventy (147.70), Code 1975, is
2 amended to read as follows:

3 **147.70 Hearing on appeal.** Both parties shall have the right of appeal; ~~and in~~
4 ~~such event, the supreme court shall fix the time of hearing, and for filing abstracts~~
5 ~~and arguments. Said~~ The cause shall be advanced and take precedence over all
6 other causes upon the court calendar, and shall be heard at the next term after
7 the appeal is taken; ~~provided the abstracts and arguments are filed in said court~~
8 ~~in time for said action to be heard.~~

1 SEC. 46. Section two hundred four point three hundred five (204.305),
2 subsection two (2), Code 1975, is amended to read as follows:

3 2. The board, without an order to show cause, may suspend any registration
4 simultaneously with the institution of proceedings under section 204.304, or where
5 renewal of registration is refused, if it finds that there is an imminent danger to
6 the public health or safety which warrants this action. The suspension shall
7 continue in effect until the conclusion of the proceedings, including judicial
8 review thereof, under the provisions of the Iowa administrative procedure Act,
9 unless sooner withdrawn by the board or dissolved by the *order of the district*
10 ~~court or supreme an appellate court.~~

1 SEC. 47. Section two hundred thirty-two point fifty-eight (232.58), Code 1975,
2 is amended to read as follows:

3 **232.58 Appeal.** An interested party aggrieved by any order or decree of the
4 court may appeal to the supreme court for review of questions of law and fact.
5 The procedure for such appeals shall be governed by the same provisions

6 applicable to appeals from the district court except when the decree or order
7 affects the custody of a minor the appeal shall be heard at the earliest practicable
8 time. The pendency of an appeal or application therefor shall not suspend the
9 order of the juvenile court regarding a minor and shall not discharge the minor
10 from the custody of the *juvenile* court or of the person, institution, or agency to
11 whose care the minor has been committed or placed unless otherwise ordered by
12 the ~~supreme~~ *appellate* court on application of an appellant.

13 If the ~~supreme~~ *appellate* court does not dismiss the proceedings and discharge
14 the minor, ~~said~~ the court shall affirm or modify the order of the juvenile court
15 and remand the minor to the jurisdiction of the *juvenile* court for disposition not
16 inconsistent with the ~~supreme court's~~ finding on the appeal.

1 SEC. 48. Section three hundred thirty-six point two (336.2), subsection two (2),
2 Code 1975, is amended to read as follows:

3 2. Appear for the state and county in all cases and proceedings in the courts of
4 his county to which the state or county is a party, except cases brought on change
5 of venue from another county, and to appear in the ~~supreme court~~ *appellate courts*
6 in all cases in which the county is a party, and also in all cases transferred on
7 change of venue to another county, in which his county or the state is a party.

1 SEC. 49. Section five hundred fifty-eight point sixty-six (558.66), Code 1975, is
2 amended to read as follows:

3 **558.66 Title decree—entry on transfer books.** Upon receipt of a certificate
4 from the clerk of the district ~~or supreme~~ court, *or an appellate court* that the title
5 to real estate has been finally established in any named person by judgment or
6 decree of ~~said court~~, or by will, the auditor shall enter the same upon the transfer
7 books, upon payment of a fee of one dollar, which fee shall be taxed as costs in
8 the cause, collected by the clerk, and paid to the auditor at the time of filing such
9 certificate.

1 SEC. 50. Section six hundred five point two (605.2), Code 1975, is amended to
2 read as follows:

3 **605.2 Expenses.** Where a judge of the district *court, court of appeals,* or
4 supreme court is required, in the discharge of his official duties, to leave the
5 county of his residence or leave the city of his residence to perform such duties,
6 he shall be paid such actual and necessary expenses for living quarters and living
7 expenses not to exceed the sum of twenty dollars per day and transportation
8 expenses as shall be incurred. *Expenses for judges of the court of appeals are limited*
9 *as provided in section fifteen (15) of this Act.*

1 SEC. 51. Section six hundred five point fourteen (605.14), Code 1975, is
2 amended to read as follows:

3 **605.14 Judge to be attorney—exception.** No person shall be eligible for, or
4 hold the office of supreme court judge, *court of appeals judge,* or district judge or
5 district associate judge who is not an attorney at law; ~~duly~~ admitted to the
6 practice ~~under the laws of~~ *of law* in this state.

1 SEC. 52. Section six hundred five point fifteen (605.15), Code 1975, is
2 amended to read as follows:

3 **605.15 Practice prohibited.** During the time that a supreme court ~~justice~~
4 *judge, court of appeals judge,* district judge, district associate judge, or judicial
5 magistrate appointed pursuant to section 602.51 is holding such office he shall not
6 practice as an attorney or counselor or give advice in relation to any action
7 pending or about to be brought in any of the courts of the state.

1 SEC. 53. Section six hundred five point twenty-four (605.24), Code 1975, is
2 amended to read as follows:

3 **605.24 Mandatory retirement.** All judges of the supreme court, *court of*
4 *appeals,* or district court who shall have reached the mandatory retirement age,
5 shall cease to hold office. The mandatory retirement age shall be seventy-five

6 years for all judges of the supreme court or district court holding office on July 1, 7 1965. The mandatory retirement age shall be seventy-two years for all judges of 8 the supreme court, *court of appeals*, or district court appointed to office after July 9 1, 1965.

1 SEC. 54. Section six hundred five point twenty-five (605.25), Code 1975, is 2 amended to read as follows:

3 **605.25 Temporary service by retired judges.** Judges of the supreme court, 4 *court of appeals* and district court who are hereafter retired by reason of age, or 5 who are drawing benefits under section 605A.6, may with their consent be 6 assigned by the supreme court to temporary judicial duties on ~~any a~~ a court in ~~the~~ 7 ~~this~~ state; ~~however only retired supreme court judges may be assigned to the~~ 8 ~~supreme court and only in the case of temporary absence of a member of the~~ 9 ~~supreme court:~~ *However, a retired judge shall not be assigned to temporary judicial* 10 *duties on any court superior to the highest court to which that judge had been* 11 *appointed prior to retirement, and a judge may not be assigned for temporary duties* 12 *with the supreme court or the court of appeals except in the case of a temporary* 13 *absence of a member of one of those courts. No such A* retired judge shall not 14 engage in the practice of law unless he shall file with the clerk of the supreme 15 court an election to practice law, in which event he shall thereafter be ineligible 16 for assignment to temporary judicial duties at any time. While serving under 17 temporary assignment as herein provided, a retired judge shall receive the 18 compensation and actual expense provided by law for judges on the court to 19 which he is assigned, but shall not receive any annuity payments to which he may 20 be entitled under the judicial retirement system. He may be authorized in the 21 order of assignment to appoint a temporary reporter, who shall receive the 22 compensation and actual expense provided by law for a regular reporter in the 23 court to which the judge is assigned. The order of assignment shall be filed in the 24 offices of the clerks of court at the places where the judge is to serve.

1 SEC. 55. Section six hundred five point twenty-seven (605.27), Code 1975, is 2 amended to read as follows:

3 **605.27 Power of supreme court.** Upon application by the commission on 4 judicial qualifications, the supreme court shall have power to do either of the 5 following:

- 6 1. Retire a district ~~associate~~ judge ~~or, a district associate judge of the district~~ 7 ~~court or, a judge of the court of appeals, or a judge of the~~ supreme court for 8 permanent physical or mental disability which substantially interferes with the 9 performance of his judicial duties.
- 10 2. Discipline or remove any ~~such~~ judge *referred to in subsection one (1) of this* 11 *section* for persistent failure to perform his duties, habitual intemperance, willful 12 misconduct in office, conduct which brings judicial office into disrepute, or 13 substantial violation of the canons of judicial ethics. Discipline may include 14 suspension without pay for a definite period of time not to exceed twelve months.

1 SEC. 56. Section six hundred five A point three (605A.3), Code 1975, is 2 amended to read as follows:

3 **605A.3 Notice by judge in writing.** This chapter shall not apply to any judge 4 of the municipal, superior, *or district court including a district associate judge, or a* 5 *judge of the court of appeals or of the* supreme court, ~~including a district associate~~ 6 ~~judge,~~ until he gives notice in writing, while serving as a judge, to the state 7 comptroller and treasurer of state, of his purpose to come within its purview. 8 Judges of the municipal and superior courts shall at the same time give a copy of 9 such notice to the city treasurer and county auditor within the district of such 10 court. Such notice shall be given within one year after the effective date hereof or 11 within one year after any date on which he takes oath of office as such judge.

1 SEC. 57. Section six hundred five A point four (605A.4), Code 1975, is
2 amended to read as follows:

3 **605A.4 Deposit by judge—deductions—contributions by governing body.** Each
4 judge coming within the purview of this chapter shall, on or before retirement,
5 pay to the court administrator for deposit with the treasurer of state to the credit
6 of a fund to be known as the “judicial retirement fund”, hereinafter called the
7 “fund”, a sum equal to four percent of his basic salary for services as such judge
8 for the total period of service as a judge of a municipal, superior, district or
9 supreme court, *or the court of appeals*, including district associate judges, before
10 the date of said notice, and after the date of the notice there shall be deducted
11 and withheld from the basic salary of each judge coming within the purview of
12 this chapter a sum equal to four percent of such basic salary. Provided that the
13 maximum amount which any judge shall be required to contribute for past service
14 shall not exceed for municipal or superior or district associate judges thirty-five
15 hundred dollars, for district judges four thousand dollars, *for court of appeals*
16 *judges four thousand five hundred dollars*, and for supreme court judges five
17 thousand dollars. The amounts so deducted and withheld from the basic salary of
18 each said judge shall be paid to the court administrator for deposit with the
19 treasurer of state to the credit of the judicial retirement fund, and said fund is
20 hereby appropriated for the payment of annuities, refunds, and allowances herein
21 provided, except that the amount of such appropriations affecting payment of
22 annuities, refunds, and allowances to judges of the municipal and superior court
23 shall be limited to that part of said fund accumulated for their benefit as
24 hereinafter provided. The judges of the municipal, superior, district and supreme
25 court, *and the court of appeals*, including district associate judges, coming within
26 the provisions of this chapter shall be deemed to consent and agree to the
27 deductions from basic salary as provided herein and payment less such
28 deductions shall be a full and complete discharge and acquittance of all claims
29 and demands whatsoever for all regular services rendered by such judges during
30 the period covered by such payment, except the right to the benefits to which they
31 shall be entitled under the provisions of this chapter. The state shall contribute a
32 sum not exceeding three percent of the basic salary of all judges of the district
33 and supreme court for the years 1949 and 1950 and thereafter such sums as may
34 be necessary over the amount contributed by the district and supreme court
35 judges to finance the system, but only to the extent that the system applies to
36 them. After June 30, 1973, the state shall contribute such sums as may be
37 necessary over the amount contributed by district associate judges to finance the
38 system as to them for the portion of their tenure after July 1, 1973, and thereafter
39 such sums as may be necessary over the amount contributed by the district
40 associate judges to finance the system, but only to the extent the system applies to
41 them; and the respective cities and counties within each municipal and superior
42 court district shall contribute the additional amount necessary pursuant to the
43 next paragraph of this section, for the portion of the tenure of such district
44 associate judges prior to July 1, 1973. *After the effective date of this Act, the state*
45 *shall contribute such sums as may be necessary over the amount contributed by judges*
46 *of the court of appeals to finance the system, but only to the extent the system applies*
47 *to them.*

1 SEC. 58. Section six hundred five A point eight (605A.8), Code 1975, is
2 amended to read as follows:

3 **605A.8 Individual accounts—refunding.** The amounts deducted and withheld
4 from the basic salary of each judge of the municipal, superior, district or supreme
5 court, *or court of appeals*, including district associate judges, for the credit of the
6 judicial retirement fund and all amounts paid into such fund by each judge shall
7 be credited to the individual account of such judge. In the event a judge of the
8 municipal, superior, district or supreme court, *court of appeals*, including district
9 associate judges, becomes separated from service as such judge before he

10 completes an aggregate of six years of service as a judge of one or more of such
 11 courts, the total amount of his contribution to the fund shall be returned to said
 12 judge or his legal representatives, and in the event a judge who has completed an
 13 aggregate of six years or more of service as a judge of one or more of such courts,
 14 dies before retirement, without a survivor, the total amount of his contribution to
 15 the fund shall be paid in one sum to his legal representatives, and in the event an
 16 annuitant under this section dies without a survivor, without having received in
 17 annuities an amount equal to the total amount remaining to his credit at the time
 18 of his separation from service, the amount remaining to his credit shall be paid in
 19 one sum to his legal representatives.

1 SEC. 59. Section six hundred five A point twelve (605A.12), Code 1975, is
 2 amended to read as follows:

3 **605A.12 Voluntary retirement for disability.** Any judge of the supreme,
 4 district or municipal court, including a district associate judge, *or a judge of the*
 5 *court of appeals*, who shall have served as a judge of one or ~~both~~ *more* of such
 6 courts for a period of six years in the aggregate and who believes he has become
 7 permanently incapacitated, physically or mentally, to perform the duties of his
 8 office may personally or by his next friend or guardian file with the court
 9 administrator a written application for retirement. The application shall be filed
 10 in duplicate and accompanied by an affidavit as to the duration and particulars
 11 of his service and the nature of his incapacity. The court administrator shall
 12 forthwith transmit one copy of the application and affidavit to the chief justice
 13 who shall request the attorney general in writing to cause an investigation to be
 14 made relative to the claimed incapacity and report back the results thereof in
 15 writing. If the chief justice finds from the report of the attorney general that the
 16 applicant is permanently incapacitated, physically or mentally, to perform the
 17 duties of his office he shall by his endorsement thereon declare the applicant
 18 retired, and the office vacant, and shall file the report in the office of the court
 19 administrator, and a copy in the office of the secretary of state. From the date of
 20 such filing the applicant shall be deemed retired from his office and entitled to
 21 the benefits of this chapter to the same extent as if he had retired under the
 22 provisions of section 605A.6.

1 SEC. 60. Section six hundred five A point fourteen (605A.14), Code 1975, is
 2 amended to read as follows:

3 **605A.14 Forfeiture of benefits—refund.** In the event a judge of the supreme,
 4 district or municipal court including a district associate judge, *or a judge of the*
 5 *court of appeals*, is removed for cause other than permanent disability he and his
 6 survivor shall forfeit the right to any retirement benefits under the system but the
 7 total amount of his contribution to the fund shall be returned to him or his legal
 8 representative.

1 SEC. 61. Section six hundred six point fourteen (606.14), Code 1975, is
 2 amended to read as follows:

3 **606.14 Change in title—certification.** Where the title of any real estate is
 4 finally established in any person or persons by a judgment or decree of ~~said the~~
 5 *district court or of the supreme by a decision of an appellate court*, or where title to
 6 real estate is changed by judgment, decree, will, proceeding, or order in probate,
 7 the clerk of the district court shall certify the same, under the seal of said court,
 8 to the county auditor of the county in which said land is located.

1 SEC. 62. Section six hundred twenty-four point two (624.2), Code 1975, is
 2 amended to read as follows:

3 **624.2 Ordinary actions—evidence on appeal.** Upon appeal, in ordinary
 4 actions no evidence shall go to the ~~supreme appellate~~ court except such as may be
 5 necessary to explain any exception taken in the cause, and such court shall hear
 6 and try the case only on the legal errors so presented.

1 SEC. 63. Section six hundred twenty-four point four (624.4), Code 1975, is
2 amended to read as follows:

3 **624.4 Equitable actions—evidence on appeal.** The evidence in actions
4 cognizable in equity shall be presented on appeal to the ~~supreme~~ appellate court,
5 which shall try such causes anew. *However, upon certiorari to the supreme court of*
6 *equity actions heard by the court of appeals the review may be limited in scope as*
7 *provided in the rules of appellate procedure.*

1 SEC. 64. Section six hundred twenty-four point five (624.5), Code 1975, is
2 amended to read as follows:

3 **624.5 Abstracts in equity causes.** In equitable causes, where the evidence is
4 taken in the form of depositions, the *district* court may require to be submitted
5 with the arguments an abstract of the pleadings and evidence, substantially as
6 required by the rules of the ~~supreme court~~ appellate procedure for abstracts in
7 appeals in equitable causes, except that the same need not be printed.

1 SEC. 65. Section six hundred twenty-four point fifteen (624.15), Code 1975, is
2 amended to read as follows:

3 **624.15 Must be on material point.** No exception shall be regarded in the
4 ~~supreme~~ an appellate court unless the ruling has been on a material point, and the
5 effect thereof prejudicial to the rights of the party excepting.

1 SEC. 66. Section six hundred twenty-four point twenty-three (624.23), Code
2 1975, is amended to read as follows:

3 **624.23 Liens of judgments.** Judgments in the ~~supreme~~ appellate or district
4 ~~court~~ courts of this state, or in the circuit or district court of the United States
5 within the state, are liens upon the real estate owned by the defendant at the time
6 of such rendition, and also upon all he may subsequently acquire, for the period
7 of ten years from the date of the judgment.

1 SEC. 67. Section six hundred twenty-four point twenty-five (624.25), Code
2 1975, is amended to read as follows:

3 **624.25 Supreme Appellate court judgments.** The lien of judgments of the
4 ~~supreme court~~ appellate courts of Iowa shall not attach to any real estate until an
5 attested copy of the judgment is filed in the office of the clerk of the district court
6 of the county in which the real estate lies.

1 SEC. 68. Section six hundred twenty-four point twenty-six (624.26), Code
2 1975, is amended to read as follows:

3 **624.26 Docketing transcript.** Such clerk shall, on the filing of such transcript
4 of the judgment of the ~~supreme~~ appellate or district court of this state or of the
5 circuit or district court of the United States in his office, immediately proceed to
6 docket and index the same, in the same manner as though rendered in the court
7 of his own county.

1 SEC. 69. Section six hundred twenty-five point nine (625.9), Code 1975, is
2 amended to read as follows:

3 **625.9 Transcripts—retaxation.** The fees of shorthand reporters for making
4 transcripts of the notes in any case or any portion thereof, as directed by any
5 party thereto, shall be taxed as costs, as shall also the fees of the clerk for making
6 any transcripts of the record required on appeal, but such taxation may be revised
7 by the ~~supreme~~ an appellate court on motion on the appeal, without any motion in
8 the lower court for the retaxation of costs.

1 SEC. 70. Section six hundred twenty-five point eighteen (625.18), Code 1975, is
2 amended to read as follows:

3 **625.18 Bill of costs on appeal.** In cases of appeals from a trial court, the
4 supreme court clerk, if final judgment is rendered in the supreme court or court of
5 appeals or both, shall make a complete bill of costs in that court which shall be
6 filed in the office of the clerk of the trial court and taxed with the costs in the
7 action therein.

1 SEC. 71. Section six hundred twenty-five point nineteen (625.19), Code 1975,
2 as amended by Acts of the Sixty-sixth General Assembly, 1975 Session, chapter
3 two hundred forty-nine (249), section one (1), is amended to read as follows:

4 **625.19 Costs in ~~supreme court~~ appellate courts.** When the costs accrued in
5 the ~~supreme court~~ appellate courts and the trial court are paid to the clerk of the
6 trial court, ~~he~~ the clerk shall pay them to the persons entitled thereto.

1 SEC. 72. Section six hundred twenty-six point two (626.2), Code 1975, is
2 amended to read as follows:

3 **626.2 Within what time—to what counties.** Executions may issue at any time
4 before the judgment is barred by the statute of limitations; and upon those in the
5 district and ~~supreme~~ appellate courts, into any county which the party ordering
6 may direct.

1 SEC. 73. Section six hundred thirty point one (630.1), Code 1975, is amended
2 to read as follows:

3 **630.1 Debtor examined.** When execution against the property of a judgment
4 debtor, or one of several debtors in the same judgment, has been issued from the
5 district court or ~~supreme~~ an appellate court to the sheriff of the county where such
6 debtor resides, or if he ~~do~~ or she does not reside in the state, to the sheriff of the
7 county where the judgment was rendered, and execution issued thereon is
8 returned unsatisfied in whole or in part, the owner of the judgment is entitled to
9 an order for the appearance and examination of ~~such~~ the debtor.

1 SEC. 74. Section six hundred thirty-one point sixteen (631.16), subsections six
2 (6), seven (7), eight (8) and nine (9), Code 1975, are amended to read as follows:

3 6. The record and case shall be presented to the supreme court as provided by
4 ~~its~~ the rules of appellate procedure; and the provisions of law in civil procedure
5 relating to the filing of decisions and opinions of the supreme court shall apply in
6 such cases. *The case may be transferred to the court of appeals by the supreme court.*

7 7. An application shall not be dismissed for an informality or defect in taking it
8 if corrected as directed by the ~~supreme~~ appellate court. The ~~supreme~~ appellate
9 court, after an examination of the entire record, may dispose of the case by
10 affirmation, reversal or modification of the lower court judgment, and may order
11 a new trial. It also may dismiss the application if both of the following are true:

12 a. The court determines that there has been no substantial miscarriage of
13 justice.

14 b. The arguments do not present definite grounds for a hearing.

15 8. The decision of the ~~supreme~~ appellate court with any opinion filed or
16 judgment rendered must be recorded by ~~its~~ the supreme court clerk. After the
17 expiration of the period allowed for a rehearing, or as ordered by the court or
18 provided by its rules, a certified copy of the decision and opinion shall be
19 transmitted to the clerk of the trial court, and filed and entered of record in the
20 district court.

21 9. The jurisdiction of the ~~supreme~~ appellate court shall cease after the certified
22 copy of the decision and opinion is transmitted to the clerk of the trial court. All
23 proceedings for executing the judgment shall be had in the trial court or by its
24 clerk.

1 SEC. 75. Section six hundred sixty-one point four (661.4), Code 1975, is
2 amended to read as follows:

3 **661.4 Order issued.** The order may be issued by the district court to any
4 inferior tribunal, or to any corporation, officer, or person; and by the supreme
5 court or the court of appeals to any ~~district~~ inferior court, if necessary, and in any
6 other case where it is found necessary for ~~that court~~ either of those courts to
7 exercise its legitimate power.

1 SEC. 76. Section six hundred sixty-five point four (665.4), subsection one (1),
2 Code 1975, is amended to read as follows:

3 1. In the supreme court *or the court of appeals*, by a fine not exceeding one
4 thousand dollars or by imprisonment in a county jail not exceeding six months, or
5 by both such fine and imprisonment.

1 SEC. 77. Section six hundred eighty-four point one (684.1), Code 1975, is
2 amended by striking the section and inserting in lieu thereof the following:

3 **684.1 Jurisdiction.**

4 1. The supreme court shall have appellate jurisdiction only in cases in chancery,
5 and shall constitute a court for the correction of errors at law. The jurisdiction of
6 the supreme court shall be coextensive with the state.

7 2. Any civil or criminal action or special proceeding filed with the supreme
8 court for appeal or review, may be transferred by the supreme court to the court
9 of appeals by issuing an order of transfer. The jurisdiction of the supreme court in
10 such a matter shall cease upon the filing of that order by the clerk of the supreme
11 court. Any matter which has been transferred to the court of appeals pursuant to
12 order of the supreme court shall not thereafter be subject to the jurisdiction of the
13 supreme court, except as provided in subsection four (4) of this section.

14 3. The supreme court shall promulgate rules for the transfer of matters to the
15 court of appeals. Those rules may provide for the selective transfer of individual
16 cases and may provide for the transfer of cases according to subject matter or
17 other general criteria. Rules relating to the transfer of cases shall be subject to the
18 provisions of section six hundred eighty-four point nineteen (684.19) of the Code.
19 A rule shall not provide for the transfer of a matter other than by an order of
20 transfer as provided in subsection two (2) of this section.

21 4. Any party to an appeal decided by the court of appeals may, as a matter of
22 right, file an application with the supreme court for further review. An application
23 for further review shall not be granted by the supreme court unless the
24 application was filed within twenty days following the filing of the decision of the
25 court of appeals. The court of appeals may extend the time for filing of an
26 application if the court of appeals determines that a failure to timely file an
27 application was due to the failure of the clerk of the court of appeals to notify the
28 prospective applicant of the filing of the decision. If an application for further
29 review is not acted upon by the supreme court within thirty days after the
30 application was filed, the application shall be deemed denied, the supreme court
31 shall lose jurisdiction, and the decision of the court of appeals shall be conclusive.

32 5. The supreme court shall promulgate rules of appellate procedure which shall
33 govern further review by the supreme court of decisions of the court of appeals.
34 Such rules shall contain, but need not be limited to, a specification of the grounds
35 upon which further review may, in the discretion of the supreme court, be
36 granted. Rules promulgated pursuant to this subsection shall be subject to section
37 six hundred eighty-four point nineteen (684.19) of the Code.

1 SEC. 78. Section six hundred eighty-four point two (684.2), Code 1975, is
2 amended to read as follows:

3 **684.2 Judges—quorum—divisions.**

4 1. *The supreme court shall consist of nine judges. A majority of the judges sitting*
5 *shall constitute a quorum but in no case shall a quorum consist of less than three*
6 *judges.*

7 2. The supreme court may be divided into divisions of three or more judges in
8 such manner as it may by rule prescribe. Said divisions may hold open court
9 separately and cases may be submitted to each division separately, in accordance
10 with such rules as the court may adopt.

1 SEC. 79. Section six hundred eighty-four point eighteen (684.18), Code 1975, is
2 amended to read as follows:

3 **684.18 Rules in civil for actions and proceedings.**

4 1. The supreme court shall have the power to prescribe all rules of pleading,
5 practice and procedure, and the forms of process, writs and notices, for all
6 proceedings of a civil nature in all courts of this state, for the purpose of
7 simplifying the same, and of promoting the speedy determination of litigation
8 upon its merits. Said rules shall neither abridge, enlarge, nor modify the
9 substantive rights of any litigant.

10 2. *The supreme court shall have the power to prescribe rules of appellate procedure*
11 *relating to appeals to and review by the supreme court, discretionary review by the*
12 *courts of small claims actions, review by the supreme court by writ of certiorari to*
13 *inferior courts, and appeal or review by the court of appeals of a matter transferred to*
14 *that court by the supreme court. Rules prescribed pursuant to this subsection shall be*
15 *known as "Rules of Appellate Procedure", and shall be codified apart from rules of*
16 *civil procedure applicable in the district court and other rules prescribed by the*
17 *supreme court.*

18 3. Rules prescribed pursuant to this section shall be subject to section six hundred
19 eighty-four point nineteen (684.19) of the Code.

1 SEC. 80. Section six hundred eighty-five point five (685.5), Code 1975, is
2 amended to read as follows:

3 **685.5 Deputy clerk of supreme court—qualification—duties.** The ~~clerk of the~~
4 ~~supreme court~~ court administrator may appoint, in writing, any person, except one
5 holding a state office, as deputy clerk of the supreme court, which appointment
6 must be approved by the officer having the approval of the principal's bond, and
7 such appointment may be revoked in the same manner; ~~both the~~. The
8 appointment and the revocation ~~to~~ shall be filed and kept in the office of the
9 secretary of state. The deputy shall qualify by taking the oath of the principal, to
10 be endorsed upon and filed with the certificate of appointment, and, when so
11 qualified, ~~he~~ the deputy shall, in the absence or disability of the clerk, perform all
12 of the duties of ~~such~~ the clerk ~~pertaining to his office~~. The deputy clerk also shall
13 perform such duties with respect to the court of appeals as are prescribed by the court
14 administrator.

1 SEC. 81. Section six hundred eighty-six point two (686.2), Code 1975, is
2 amended to read as follows:

3 **686.2 Motion for new trial.** ~~The supreme~~ An appellate court on appeal may
4 review and reverse any judgment or order of the district court, although no
5 motion for a new trial was made in such court.

1 SEC. 82. Section six hundred eighty-six point seven (686.7), Code 1975, is
2 amended to read as follows:

3 **686.7 Transmission.** The transcript of any paper or exhibit required for use
4 in ~~the supreme~~ an appellate court may be transmitted thereto by the clerk of the
5 trial court by express or other safe and speedy method, but not by a party or any
6 attorney of a party.

1 SEC. 83. Section six hundred eighty-six point eight (686.8), Code 1975, is
2 amended to read as follows:

3 **686.8 Return of original papers.** If a new trial is granted by ~~the supreme~~ an
4 appellate court, the clerk, as soon as the cause is at an end therein, shall transmit
5 to the clerk of the court below all original papers or exhibits certified up from
6 said court, and may at any time return any such papers when no new trial is
7 awarded.

1 SEC. 84. Section six hundred eighty-six point thirteen (686.13), Code 1975, is
2 amended to read as follows:

3 **686.13 Arguments in re constitutional test.** If the action challenges the
4 legality, validity or constitutionality of a proposed constitutional amendment, the
5 appellant shall file a written argument *with the supreme court* within ten days after

6 the filing of the abstract and appellee shall file his argument within ten days
7 thereafter, and appellant shall then file his reply within three days. The cause
8 shall then be submitted to the supreme court in regular or special ~~full bench~~ *en*
9 *banc* session as soon thereafter as the chief justice may order.

1 SEC. 85. Section six hundred eighty-six point fourteen (686.14), Code 1975, is
2 amended to read as follows:

3 **686.14 Remand—process.** If ~~the supreme~~ *an appellate* court affirms the
4 judgment or order of *an inferior court*, it may send the cause to the *appropriate*
5 court below to have the same carried into effect, or may issue the necessary
6 process for this purpose, directed to the sheriff of the proper county, as the party
7 may require.

1 SEC. 86. Section six hundred eighty--six point fifteen (686.15), Code 1975, is
2 amended to read as follows:

3 **686.15 Restitution of property.** If, by the decision of ~~the supreme~~ *an appellate*
4 court, the appellant becomes entitled to a restoration of any part of the money or
5 property that was taken from him by means of ~~such a~~ judgment or order, either
6 the ~~supreme~~ *appellate* court or the court below may direct execution or writ of
7 restitution to issue for the purpose of restoring to him such property or its value.

1 SEC. 87. Section six hundred eighty-six point eighteen (686.18), Code 1975, is
2 amended to read as follows:

3 **686.18 Executions.** Executions issued from the ~~supreme court~~ *appellate courts*
4 shall be like those from the district court, attended with the same consequences,
5 and returnable in the same time.

1 SEC. 88. Section seven hundred forty-eight point one (748.1), Code 1975, is
2 amended to read as follows:

3 **748.1 "Magistrate" defined.** The term "magistrate" includes all judges of the
4 supreme court, *court of appeals* and district courts and all district associate judges
5 and judicial magistrates.

1 SEC. 89. Section seven hundred fifty-one point one (751.1), Code 1975, is
2 amended to read as follows:

3 **751.1 Definitions.** A search warrant is an order in writing, in the name of
4 the state, signed by a magistrate, other than a judge of the supreme court or *the*
5 *court of appeals*, directed to a peace officer, commanding him to search for
6 personal property, and bring it before the magistrate.

1 SEC. 90. Section seven hundred fifty-one point four (751.4), unnumbered
2 paragraph one (1), Code 1975, is amended to read as follows:

3 Any credible resident of this state may make application for the issuance of a
4 search warrant by filing before any magistrate, except a judge of the supreme
5 court or *the court of appeals*, a written information, supported by his oath or
6 affirmation, and alleging therein the existence of any ground or grounds specified
7 in this chapter as ground for the issuance of a search warrant and that he believes
8 and has substantial reason to believe that said ground or grounds exist in fact.
9 Said information shall describe with reasonable certainty the person or premises,
10 or both, to be searched, the property to be seized, and the person, if known, in
11 possession of said premises and property.

1 SEC. 91. Section seven hundred sixty point one (760.1), Code 1975, is
2 amended to read as follows:

3 **760.1 Public offense threatened—complaint—arrest.** When complaint is
4 made before a magistrate, *other than a judge of the supreme court or court of*
5 *appeals*, that any person has threatened to commit any public offense punishable
6 by law, and such magistrate is satisfied that there is reason to fear the commission
7 thereof, he may issue a warrant for the arrest of the person complained of; and
8 the officer to whom the same shall be delivered for service shall forthwith arrest

9 and bring the accused before such magistrate, or, in case of his absence or
 10 inability to act, before the nearest and most accessible magistrate of the same
 11 county. When the name of the person complained of is unknown, he may be
 12 designated in the warrant by any name, and the warrant issued in pursuance
 13 hereof may be executed by any peace officer in any county of the state.

1 SEC. 92. Section seven hundred sixty-two point forty-four (762.44), Code 1975,
 2 is amended to read as follows:

3 **762.44 Appeal to ~~supreme~~ from the district court.** After appeal to a district
 4 judge in a nonindictable case, either party may appeal from the judgment of the
 5 district judge to the supreme court in the same manner as from a judgment in a
 6 prosecution by indictment, and the defendant may be admitted to bail in like
 7 manner, and similar proceedings shall be had on the appeal in all respects, as far
 8 as applicable. The same proceedings shall be had to carry into effect the
 9 judgment of ~~the supreme~~ *an appellate* court upon the appeal as if it had been
 10 taken from a judgment prosecuted by indictment.

1 SEC. 93. Section seven hundred sixty-three point nine (763.9), Code 1975, is
 2 amended to read as follows:

3 **763.9 Bail on appeal—conditions.** After conviction, *and* upon an appeal to
 4 ~~the supreme court~~, the defendant must be admitted to bail, if it be from a
 5 judgment imposing a fine, upon the undertaking of bail that he will, in all
 6 respects, abide the orders and the judgment of ~~the supreme~~ *an appellate* court
 7 upon the appeal; if from a judgment of imprisonment, upon the undertaking of
 8 bail that the defendant will surrender himself in execution of the judgment and
 9 direction of the ~~supreme~~ *appellate* court, and in all respects abide the orders and
 10 judgment of the ~~supreme~~ *appellate* court upon the appeal.

1 SEC. 94. Section seven hundred sixty-three point ten (763.10), Code 1975, is
 2 amended to read as follows:

3 **763.10 By whom taken.** The bail may be taken, either by the court where the
 4 judgment was rendered, or the district court of the county in which he is
 5 imprisoned, or by the ~~supreme~~ *appellate* court, or a judge or clerk of any of such
 6 courts.

1 SEC. 95. Section seven hundred sixty-three point eighteen (763.18), subsection
 2 two (2), Code 1975, is amended to read as follows:

3 2. In any case in which a court denied a motion under subsection 1 to amend
 4 an order imposing conditions of release, or a defendant is detained after
 5 conditions of release have been imposed or amended upon such a motion, an
 6 appeal may be taken to the supreme court. The appeal shall be determined
 7 summarily without briefs on the record made in the district court. However, the
 8 defendant may elect to file briefs and may be heard in oral argument, in which
 9 case the prosecution shall have a right to respond as in an ordinary appeal from a
 10 criminal conviction. The ~~supreme~~ *appellate* court may, on its own motion, order
 11 the parties to submit briefs and set the time in which such briefs shall be filed.
 12 Any order so appealed shall be affirmed if it is supported by the proceedings in
 13 the district court. If the order is not so supported the court may remand the case
 14 for a further hearing, or may, with or without additional evidence, order the
 15 defendant released pursuant to section 763.17, subsection 1.

1 SEC. 96. Section seven hundred sixty-nine point one (769.1), Code 1975, is
 2 amended to read as follows:

3 **769.1 Offenses prosecuted on information—jurisdiction.** Criminal offenses in
 4 which the punishment exceeds a fine of one hundred dollars or exceeds
 5 imprisonment for thirty days may be prosecuted to final judgment, either on
 6 indictment, as is now or may be hereafter provided, or on information as herein
 7 provided, and the district and ~~supreme~~ *appellate* courts shall possess and exercise
 8 the same power and jurisdiction to hear, try, and determine prosecutions on

9 information, as herein provided, for all such criminal offenses, to issue writs and
 10 process, and do all other acts therein, as they possess and may exercise in cases of
 11 like prosecutions upon indictment.

1 SEC. 97. Section seven hundred seventy-five point five (775.5), Code 1975, is
 2 amended to read as follows:

3 **775.5 Fee for attorney defending.** An attorney appointed by the court to
 4 defend any person charged with a crime in this state shall be entitled to a
 5 reasonable compensation to be decided in each case by the court, including such
 6 sum or sums as the court may determine are necessary for investigation in the
 7 interests of justice and in the event of appeal the cost of obtaining the transcript
 8 of the trial and the printing of the trial record and necessary briefs in behalf of
 9 the defendant. Such attorney need not follow the case into another county or into
 10 the ~~supreme~~ *appellate* court unless so directed by the court at the request of the
 11 defendant, where grounds for further litigation are not capricious or
 12 unreasonable, but if he does so his fee shall be determined accordingly. Only one
 13 attorney fee shall be so awarded in any one case.

1 SEC. 98. Section seven hundred ninety-three point one (793.1), Code 1975, is
 2 amended to read as follows:

3 **793.1 Office of appeal—who may appeal.** The mode of reviewing in the
 4 ~~supreme court~~ *appellate courts* any judgment, action, or decision of the district
 5 court in a criminal case which is an indictable offense is by appeal. Either the
 6 defendant or state may appeal.

1 SEC. 99. Section seven hundred ninety-three point seven (793.7), final
 2 unnumbered paragraph, Code 1975, is amended to read as follows:

3 Such manuscripts shall be prepared in ample time so that the same may be
 4 printed and filed within the time and in the manner prescribed by law and the
 5 rules of the ~~supreme court~~ *appellate procedure*.

1 SEC. 100. Section seven hundred ninety-three point thirteen (793.13), Code
 2 1975, is amended to read as follows:

3 **793.13 Personal appearance of defendant.** The personal appearance of the
 4 defendant in the ~~supreme court~~ *appellate courts* on the trial of an appeal is ~~in no~~
 5 ~~case necessary~~ *not required*.

1 SEC. 101. Section seven hundred ninety-three point fourteen (793.14), Code
 2 1975, is amended to read as follows:

3 **793.14 Informality or defect.** An appeal shall not be dismissed for any
 4 informality or defect in taking it, if corrected in a reasonable time; and the
 5 ~~supreme appellate~~ court must direct how it shall be corrected.

1 SEC. 102. Section seven hundred ninety-three point seventeen (793.17), Code
 2 1975, is amended to read as follows:

3 **793.17 Rules of procedure.** The record and case may be presented in the
 4 ~~supreme appellate~~ court by printed abstracts, arguments, motions, and petitions
 5 for rehearing as provided by ~~its~~ *the rules of appellate procedure*; and the provisions
 6 of law in civil procedure relating to certification of the record and the filing of
 7 decisions and opinions of the ~~supreme court~~ *appellate courts* shall apply in such
 8 cases.

1 SEC. 103. Section seven hundred ninety-three point eighteen (793.18), Code
 2 1975, is amended to read as follows:

3 **793.18 Decision of supreme appellate court.** If the appeal is taken by the
 4 defendant, the ~~supreme appellate~~ court must examine the record, without regard
 5 to technical errors or defects which do not affect the substantial rights of the
 6 parties, and render such judgment on the record as the law demands; it may

7 affirm, reverse, or modify the judgment, or render such judgment as the district
8 court should have done, or order a new trial, or reduce the punishment, but
9 cannot increase it.

1 SEC. 104. Section seven hundred ninety-three point twenty (793.20), Code
2 1975, is amended to read as follows:

3 **793.20 Decisions in appeals by state.** If the state appeals, the ~~supreme~~
4 *appellate* court cannot reverse or modify the judgment so as to increase the
5 punishment, but may affirm it, and shall point out any error in the proceedings or
6 in the measure of punishment, and its decision shall be obligatory as law.

1 SEC. 105. Section seven hundred ninety-three point twenty-one (793.21), Code
2 1975, is amended to read as follows:

3 **793.21 Reversal—effect.** If a judgment against the defendant is reversed,
4 such reversal shall be deemed an order for a new trial, unless the ~~supreme~~
5 *appellate* court shall direct that the defendant be discharged and his bail
6 exonerated, or if money be deposited instead, that it be refunded to him.

1 SEC. 106. Section seven hundred ninety-three point twenty-two (793.22), Code
2 1975, is amended to read as follows:

3 **793.22 Affirmance—effect.** On a judgment of affirmance against the
4 defendant, the original judgment shall be carried into execution as the ~~supreme~~
5 *appellate* court shall direct, except as otherwise provided.

1 SEC. 107. Section seven hundred ninety-three point twenty-three (793.23),
2 Code 1975, is amended to read as follows:

3 **793.23 Opinion of ~~supreme~~ appellate court.** The opinion of the ~~supreme~~
4 *appellate* court must be in writing, filed with its clerk, and recorded.

1 SEC. 108. Section seven hundred ninety-three point twenty-four (793.24), Code
2 1975, is amended to read as follows:

3 **793.24 Decision recorded and transmitted.** The decision of the ~~supreme~~
4 *appellate* court, with any opinion filed or judgment rendered, must be recorded by
5 its clerk, and, after the expiration of the period allowed for a rehearing, or as
6 ordered by the court or provided by ~~its~~ *the rules of appellate procedure*, a certified
7 copy of the decision and opinion shall be transmitted to the clerk of the trial
8 court, filed and entered of record by him, and thereafter the jurisdiction of the
9 ~~supreme~~ *appellate* court shall cease, and all proceedings necessary for executing
10 the judgment shall be had in the trial court, or by its clerk.

1 SEC. 109. Section seven hundred ninety-three point twenty-six (793.26), Code
2 1975, is amended to read as follows:

3 **793.26 Time of imprisonment deducted.** If a defendant, imprisoned during
4 the pendency of an appeal, upon a new trial ordered by the ~~supreme~~ *appellate*
5 court is again convicted, the period of his former imprisonment shall be deducted
6 from the period of imprisonment to be fixed on the last verdict of conviction.

1 SEC. 110. The Code editor is directed to codify sections one (1) through
2 twenty-five (25) of this Act as a new chapter of the Code.

Approved May 24, 1976