

House Study Bill 64

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL
BRANCH BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to judicial branch practices and procedures,
2 including distribution of court revenue to cities and
3 counties, ordering hearings for forcible entry and detainer
4 actions, and forfeiting bail for failure to appear.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
6 TLSB 1376DP 82
7 jm/je/5

PAG LIN

1 1 Section 1. Section 331.653, subsection 61, Code 2007, is
1 2 amended by striking the subsection.
1 3 Sec. 2. Section 602.8102, subsection 131, Code 2007, is
1 4 amended by striking the subsection.
1 5 Sec. 3. Section 602.8107, subsection 4, unnumbered
1 6 paragraph 1, Code 2007, is amended to read as follows:
1 7 All fines, penalties, court costs, fees, surcharges, and
1 8 restitution for court-appointed attorney fees or for expenses
1 9 of a public defender which are deemed delinquent by the clerk
1 10 pursuant to subsection 3 may be collected by the county
1 11 attorney or the county attorney's designee. Thirty-five
1 12 percent of the amounts collected by the county attorney or the
1 13 person procured or designated by the county attorney shall be
1 14 deposited in the general fund of the county if the county
1 15 attorney has filed the notice required in section 331.756,
1 16 subsection 5, unless the county attorney has discontinued
1 17 collection efforts on a particular delinquent amount. Up to
1 18 one million two hundred thousand dollars of the remainder
1 19 shall be paid each fiscal year to the clerks for distribution
1 20 under section 602.8108. If the threshold amount of one
1 21 million two hundred thousand dollars has been distributed
1 22 during the fiscal year on or before June 1 under section
1 23 602.8108, the remainder shall be distributed as provided in
1 24 subsection 5. The state court administrator shall notify the
1 25 clerks that the threshold amount has been distributed under
1 26 section 602.8108, and that the distribution of any additional
1 27 moneys collected by the county attorney shall be as provided
1 28 in subsection 5.
1 29 Sec. 4. Section 602.8109, subsection 2, unnumbered
1 30 paragraph 1, Code 2007, is amended to read as follows:
1 31 ~~No later than the fifteenth day of each calendar month the~~
1 32 ~~The clerk of the district court shall deliver a statement to~~
1 33 ~~the county auditor a statement no later than the fifteenth day~~
1 34 ~~of each month~~ disclosing all of the following:
1 35 Sec. 5. Section 602.8109, subsections 5 and 6, Code 2007,
2 1 are amended by striking the subsections and inserting in lieu
2 2 thereof the following:
2 3 5. The clerk of the district court shall deliver a
2 4 statement to the city clerk no later than the fifteenth day of
2 5 each month disclosing all of the following:
2 6 a. The specific amounts of statutory fees and costs that
2 7 are payable by the city to the clerk of the district court for
2 8 services rendered by the clerk or other state officers or
2 9 employees during the preceding month in connection with each
2 10 civil or criminal action, and the total of all such fees and
2 11 costs.
2 12 b. Any amounts collected by the clerk of the district
2 13 court during the preceding month as costs in an action when
2 14 such amounts are payable by law to the city as reimbursement
2 15 for costs incurred by the city in connection with a civil or
2 16 criminal action, and the total of all such amounts.
2 17 6. If the amount owed by the city under subsection 5,

2 18 paragraph "a", for a calendar month is greater than the amount
2 19 due to the city under subsection 5, paragraph "b", for that
2 20 month, the city shall remit the difference to the clerk of the
2 21 district court no later than the last of the month in which
2 22 the statement under subsection 5 is received.

2 23 Sec. 6. Section 602.8109, subsection 7, Code 2007, is
2 24 amended to read as follows:

2 25 7. If the amount due the city under subsection 5,
2 26 paragraph "b", for a calendar month is greater than the amount
2 27 owed by the city under subsection 5, paragraph "a", for that
2 28 month, the clerk of the district court shall remit the
2 29 difference to the city clerk no later than the last day of the
2 30 month in which the statement under subsection 5 is delivered.

2 31 8. Amounts not paid as required under subsection 3, 4, 5,
2 32 or 6, or 7 shall bear interest for each day of delinquency at
2 33 the rate in effect as of the day of delinquency for time
2 34 deposits of public funds for eighty-nine days, as established
2 35 under section 12C.6.

3 1 Sec. 7. Section 633.32, Code 2007, is amended by striking
3 2 the section and inserting in lieu thereof the following:

3 3 633.32. DELINQUENT INVENTORIES AND REPORTS.

3 4 1. An inventory or report due by law in any pending
3 5 estate, trust, guardianship, or conservatorship that is not
3 6 filed on or before the due date is delinquent. The fiduciary
3 7 may be subject to removal under the provisions of section
3 8 633.65 if the inventory or report is delinquent.

3 9 2. If a report or inventory is delinquent in an estate,
3 10 the court, on its own motion, may close the estate and may
3 11 waive costs, or with reasonable notice to the fiduciary, tax
3 12 the costs against the fiduciary. An order closing the estate
3 13 under this subsection does not prohibit the reopening of the
3 14 estate.

3 15 3. The supreme court may prescribe rules establishing
3 16 procedures to implement this section.

3 17 Sec. 8. Section 648.5, Code 2007, is amended to read as
3 18 follows:

3 19 648.5 JURISDICTION == HEARING == PERSONAL SERVICE.

3 20 The court within the county shall have jurisdiction of
3 21 actions for forcible entry and detainer. They shall be tried
3 22 as equitable actions. Unless commenced as a small claim, a
3 23 petition shall be presented to a district court judge. Upon
3 24 receipt of the petition, the court shall order a hearing which
3 25 shall not be later than ~~seven~~ fourteen days from the date of
3 26 the order. Personal service shall be made upon the defendant
3 27 not less than three days prior to the hearing. In the event
3 28 that personal service cannot be completed in time to give the
3 29 defendant the minimum notice required by this section, the
3 30 court may set a new hearing date. A default cannot be made
3 31 upon a defendant unless the three days' notice has been given.

3 32 Sec. 9. Section 811.6, Code 2007, is amended to read as
3 33 follows:

3 34 811.6 FORFEITURE OF BAIL.

3 35 ~~1-~~ A defendant released pursuant to this chapter shall
4 1 appear at arraignment, trial, judgment, or such other
4 2 proceedings where the defendant's appearance is required. If
4 3 the defendant fails to appear at the time and place when the
4 4 defendant's personal appearance is lawfully required, or to
4 5 surrender in execution of the judgment, the court must direct
4 6 an entry of the failure to be made of record, and the
4 7 undertaking of the defendant's bail, or the money deposited,
4 8 is ~~thereupon~~ forfeited. As a part of the entry, except as
4 9 provided in rule of criminal procedure 2.72, the court shall
4 10 direct the clerk of the district court of the county to give
4 11 ten days' notice in writing to the defendant and the
4 12 defendant's sureties to appear and show cause, if any, why
4 13 judgment should not be entered for the amount of bail. If
4 14 such appearance is not made, judgment shall be entered by the
4 15 court. If appearance is made, the court shall set the case
4 16 down for immediate hearing as an ordinary action.

4 17 ~~2. Where a forfeiture and judgment have been entered as~~
4 18 ~~provided in this section, and the amount of the judgment has~~
4 19 ~~been paid to the clerk, the clerk shall hold the same as funds~~
4 20 ~~of the clerk's office for a period of sixty days from the date~~
4 21 ~~of judgment.~~

4 22 ~~3. The court may, upon application, set aside such~~
4 23 ~~judgment if, within sixty days from the date thereof, the~~
4 24 ~~defendant shall voluntarily surrender to the sheriff of the~~
4 25 ~~county, or the defendant's sureties shall, at their own~~
4 26 ~~expense, deliver the defendant to the custody of the sheriff.~~
4 27 ~~Such judgment shall not be set aside, however, unless as a~~
4 28 ~~condition precedent thereto, the defendant and the defendant's~~

~~4 29 sureties shall have paid all costs and expenses incurred in~~
~~4 30 connection therewith.~~

EXPLANATION

4 31
4 32 This bill relates to judicial branch practices and
4 33 procedures, including distribution of court revenue to cities
4 34 and counties, ordering hearings for forcible entry and
4 35 detainer actions, and forfeiting bail for failure to appear.

5 1 The bill strikes a provision requiring the clerk of the
5 2 district court to retain, for 60 days, forfeited bail money
5 3 when a criminal defendant fails to appear at a required court
5 4 appearance. The bill also strikes provisions permitting the
5 5 court to set aside a judgment forfeiting bail if the defendant
5 6 voluntarily surrenders to the county sheriff within 60 days
5 7 from the date the judgment forfeiting bail was entered and
5 8 requiring the sheriff to perform related duties.

5 9 Under the bill, if the county attorneys' combined
5 10 collection of delinquent fines, after the initial distribution
5 11 to the counties' general funds of 35 percent of the amount
5 12 collected, reaches the threshold amount of \$1.2 million in
5 13 Code section 602.8107, subsection 4, on or before June 1 of
5 14 the fiscal year, the county attorneys qualify to keep a
5 15 percentage of the delinquent fines collected as provided in
5 16 Code section 602.8107, subsection 5. Under current law, if
5 17 the threshold amount of \$1.2 million is reached the county
5 18 attorneys may qualify to keep a percentage of the delinquent
5 19 fines collected as provided in Code section 602.8107,
5 20 subsection 5, through the end of the fiscal year.

5 21 The bill modifies the manner in which court revenue is
5 22 reconciled between a city and the clerk of the district court.
5 23 The bill permits the clerk of the district court to offset any
5 24 amounts owed by the city to the clerk prior to distributing
5 25 any amounts owed to the city. The bill also permits the city
5 26 to offset any amounts owed by the clerk to the city prior to
5 27 distributing any amounts owed the clerk. Current law permits
5 28 the clerk of the district court and the county to offset
5 29 amounts owed prior to distribution in Code section 602.8109.

5 30 The bill modifies the manner in which a delinquent
5 31 inventory or report is handled in an estate, trust,
5 32 guardianship, or conservatorship. The bill provides an
5 33 inventory or report is delinquent if it is not filed on or
5 34 before the date the inventory or report is due. Current law
5 35 requires the clerk of the district court to notify the
6 1 fiduciary and the attorney for the fiduciary that a
6 2 delinquency has occurred and the fiduciary has 60 days to file
6 3 the inventory or report or the presiding judge will be
6 4 notified of the delinquency.

6 5 Under the bill, the supreme court may prescribe rules
6 6 establishing procedures to implement the modifications
6 7 relating to a delinquent report or inventory.

6 8 Under the bill, a judge shall order that a forcible entry
6 9 and detainer action (eviction) be heard within 14 days of the
6 10 action being filed. Current law provides that a forcible
6 11 entry and detainer action be heard within seven days of being
6 12 filed.

6 13 LSB 1376DP 82

6 14 jm:nh/je/5