

Judiciary and Law Enforcement: Shimunek, Chair, Pelton and Rapp.

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FILED MAR 13 1980

SENATE FILE 2318

By COMMITTEE ON JUDICIARY

(FORMER SSB 2014)

Approved 3/11 (p 861)

Passed Senate, Date 3-21-80 (p 1043) Passed House, Date _____

Vote: Ayes 43 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

- 1 An Act relating to the Iowa Probate Code.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SENATE FILE 2318

H-5986

1 Amend Senate File 2318 as passed by the Senate as
 2 follows:
 3 1. Page 1, by inserting after line 22 the following
 4 new sections:
 5 "Sec. 2. Section six hundred thirty-three point
 6 two hundred eleven (633.211), as amended by Acts of the
 7 Sixty-eighth General Assembly, 1979 Session, Chapter one
 8 hundred thirty-nine (139), section one (1), is amended
 9 by striking the section and inserting in lieu thereof
 10 the following:
 11 633.211. SHARE OF THE SURVIVING SPOUSE. If the
 12 decedent dies intestate leaving a surviving spouse, the
 13 surviving spouse shall receive the following:
 14 1. If there are no surviving issue of the decedent,
 15 or if there are surviving issue all of whom are issue
 16 of the decedent and the surviving spouse, the entire
 17 estate.
 18 2. If there are surviving issue of the decedent,
 19 one or more of whom are not issue of the surviving
 20 spouse, the first fifty thousand dollars plus one-
 21 half of the balance of the estate.
 22 Sec. 3. Section six hundred thirty-three point
 23 two hundred twelve (633.212), as amended by Acts of
 24 the sixty-eighth General Assembly, 1979 Session,
 25 Chapter one hundred thirty-nine (139), section two (2),
 26 is repealed.
 27 Sec. 4. Sections 2 and 3 of this Act take effect
 28 January first following its enactment for the estates
 29 of persons who die on or after that date."
 30 2. By renumbering and correcting internal references
 31 as are necessary in accordance with this amendment.

H-5986 FILED
APRIL 10, 1980

BY CONLON of Muscatine
LLOYD-JONES of Johnson

1 Section 1. Section six hundred thirty-three point one
2 hundred eight (633.108), Code 1979, is amended to read as
3 follows:

4 633.108 SMALL LEGACIES TO MINORS--PAYMENT. Whenever a
5 minor ~~shall-become~~ becomes entitled under the terms of a will
6 to a bequest or legacy, to a share of the estate of an
7 intestate, or to a beneficial interest in a trust fund upon
8 the distribution ~~thereof~~ of the trust fund, and the value
9 of ~~sueh~~ the bequest, legacy, share, or interest ~~shall~~ does
10 not exceed the sum of ~~one~~ four thousand dollars, and ~~no~~ a
11 conservator for ~~sueh~~ the minor has ~~theretefore~~ not been
12 appointed, the court having jurisdiction of the distribution
13 of ~~sueh~~ the funds may, in its discretion, upon the application
14 of the fiduciary, enter an order authorizing ~~sueh~~ the fiduciary
15 to pay ~~sueh~~ the bequest, legacy, share or interest to the
16 parents of ~~sueh~~ the minor, or to the person with whom ~~sueh~~
17 the minor resides, for the use of ~~sueh~~ the minor, ~~-and-the-~~
18 The receipt of ~~sueh~~ the person or persons therefor, when
19 presented to the court or filed with the report of distribution
20 of ~~any-sueh~~ the fiduciary, shall have the same force and
21 effect as though ~~sueh~~ the payment had been made to a duly
22 appointed and qualified conservator for ~~sueh~~ the minor.

23 Sec. 2. Section six hundred thirty-three point three
24 hundred eighty-nine (633.389), Code 1979, is amended to read
25 as follows:

26 633.389 NOTICE AND HEARING ON SALE, MORTGAGE, EXCHANGE,
27 PLEDGE OR LEASE OF PROPERTY. Upon the filing of the petition,
28 unless notice is waived in writing, notice ~~of-hearing~~ in
29 accordance with section 633.40, shall be served on all persons
30 interested in ~~sueh~~ the property, provided ~~-however-~~ that as
31 to personal property and as to the lease of real property
32 not specifically devised, for a period ~~of~~ not to exceed one
33 year, the court may ~~-in-its-discretion-~~ hear the petition
34 without notice. ~~in-these-instances-where~~ When notice is
35 required, the notice shall state briefly the nature of the

1 application. ~~At-the-hearing-and-upon~~ Upon satisfactory proof,
2 the court may order the sale, mortgage, exchange, pledge or
3 lease of the property described, or any part ~~thereof~~ of the
4 property, at ~~such~~ a price and upon ~~such~~ terms and conditions
5 as the court may authorize. For the purposes of this section,
6 the term "all persons interested" ~~shall-include~~ includes only
7 distributees in the estate and persons who have requested
8 notice as provided by this Code.

9 Sec. 3. Part six (6) of division seven (VII) of chapter
10 six hundred thirty-three (633), Code 1979, is amended by
11 adding the following new section:

12 NEW SECTION. SALE DEFINED. For purposes of part six (6)
13 of this division, sale of property includes but is not limited
14 to the granting of an easement, the granting of an option,
15 the granting of a right of refusal and the granting or
16 conveyance of any other interest, title or right regarding
17 property.

18 Sec. 4. Section six hundred thirty-three point four hundred
19 thirty-nine (633.439), Code 1979, is amended to read as
20 follows:

21 633.439 DISALLOWANCE BY PERSONAL REPRESENTATIVE. At any
22 time after the filing of a claim against an estate, the
23 personal representative may give the claimant and the
24 claimant's attorney of record, if any, written notice of
25 disallowance of claim. ~~Such-a~~ The notice shall be given by
26 certified mail addressed to the claimant at the address stated
27 in the claim and to the claimant's attorney of record, if
28 any.

29 Sec. 5. Section six hundred thirty-three point four hundred
30 seventy-eight (633.478), Code 1979, is amended to read as
31 follows:

32 633.478 NOTICE OF APPLICATION FOR DISCHARGE. ~~No~~ A personal
33 representative shall not be discharged from further duty or
34 responsibility upon final settlement until notice of ~~hearing~~
35 ~~on-his~~ the final report or of an application for discharge

1 ~~shall have~~ has been served upon all persons interested, in
2 accordance with section 633.40, unless ~~such~~ notice is waived.
3 An order prescribing notice may be made before or after the
4 filing of the final report.

5 Sec. 6. Section six hundred thirty-three point six hundred
6 seventy-seven (633.677), Code 1979, is amended to read as
7 follows:

8 633.677 ACCOUNTING TO WARD--NOTICE ~~OF HEARING~~. Upon the
9 termination of a conservatorship, the conservator shall pay
10 the costs of administration, and shall render a full and
11 complete accounting to the ward or ~~his~~ the ward's personal
12 representative and to the court. Notice of ~~hearing on~~ the
13 final report of a conservator shall be served on the ward
14 or ~~his~~ the ward's personal representative, in accordance with
15 section 633.40, unless ~~such~~ notice is waived. An order
16 prescribing notice may be made before or after the filing
17 of the final report.

18 EXPLANATION

19 This bill amends numerous sections of the Iowa Probate
20 Code.

21 Section one of the bill increases the amount that may pass
22 to a minor without the necessity of appointing a conservator.

23 Sections 2, 5 and 6 of the bill are intended to provide
24 that certain hearings are not necessary if notice as provided
25 for in paragraph 4 of Section 633.40 is used.

26 Section 3 is added to the Probate Code to define a sale
27 in probate proceedings and to provide that Part 6 of Division
28 VII of the Iowa Probate Code pertains to any type of
29 disposition of property in an estate.

30 Section 4 provides that if a claimant is represented by
31 an attorney, the attorney of record for the claimant shall
32 be notified of the disallowance of the claim.

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