

See Introduction 3/28/85

Judiciary and Law Enforcement: Running Chair: Brammer and McKean.

Amended (S 488) & H. Res 3/19 (J 944)

SENATE FILE 508

BY COMMITTEE ON JUDICIARY

S. J. B. 283 approved (J 921)

FILED MAR 20 1985

Passed Senate, Date 3-25-85 (J 1017) Passed House, Date 4-2-86 (J 1126)

Vote: Ayes 49 Nays 0 Vote: Ayes 77 Nays 17

Approved April 28, 1986 (J 1428)

Approved Senate 4-11-86 (J 1202)
41-1

A BILL FOR

1 An Act relating to the forcible entry or detention of real
2 property.

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

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87508

1 Section 1. Section 648.5, Code 1985, is amended to read as
2 follows:

3 648.5 JURISDICTION.

4 The court within the county ~~shall have~~ has jurisdiction of
5 actions for the forcible entry or detention of real property;
6 it, which shall be tried as an equitable action actions.
7 Unless commenced as a small claim, a petition shall be
8 presented to a district court judge. The court shall make an
9 order fixing the time and place for hearing upon ~~said the~~
10 petition and shall prescribe that notice of the hearing be
11 personally served upon the defendant or defendants, which
12 service shall be at least five days prior to the date set for
13 hearing. The hearing shall be held within fifteen days after
14 the filing of the petition.

15 Sec. 2. Section 648.19, Code 1985, is amended to read as
16 follows:

17 648.19 NO JOINDER OR COUNTERCLAIM.

18 An action of this kind ~~cannot~~ shall not be brought in
19 connection with any other action, with the exception of a
20 claim for rent or actual damages as provided in section
21 562A.32 or section 562B.25, nor can shall it be made the
22 subject of counterclaim.

23 Sec. 3. Section 648.22, Code 1985, is amended to read as
24 follows:

25 648.22 JUDGMENT.

26 If the defendant is found guilty, judgment shall be entered
27 that the defendant be removed from the premises, and that the
28 plaintiff be put in possession ~~thereof~~ of the premises, and an
29 execution for the defendant's removal within ten days from the
30 judgment shall issue accordingly, to which shall be added a
31 clause commanding the officer to collect the costs as in
32 ordinary cases.

33 EXPLANATION

34 This bill modifies the present chapter relating to the
35 forcible entry or detention of real property as follows:

1 Section 1 provides that the hearing on a petition for the
2 forcible entry or detention of property must be held within 15
3 days following the filing of the petition.

4 Section 2 provides that the restriction against joining any
5 other action to an action for forcible entry or detention of
6 real property does not apply to a claim for rent or actual
7 damages.

8 Section 3 provides that a judgment requiring a defendant to
9 be removed from the property will be executed within 10 days
10 following the judgment's issuance.

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SENATE FILE 508

H-5488

1 Amend Senate File 508 as passed by the Senate as
2 follows:

3 1. Page 1, by striking lines 3 through 14, and
4 inserting the following:

5 648.5 JURISDICTION.

6 The court within the county shall have jurisdiction
7 of actions for the forcible entry or detention of real
8 property. It shall be tried as an equitable action.
9 Unless commenced as a small claim, a petition shall be
10 presented to a district court judge. ~~The court shall~~
11 ~~make an order fixing the time and place for hearing~~
12 ~~upon said petition and shall prescribe that notice of~~
13 ~~the hearing be personally served upon the defendant or~~
14 ~~defendants, which service shall be at least five days~~
15 ~~prior to the date set for hearing. Upon receipt of~~
16 ~~the petition, the court shall order a hearing which~~
17 ~~shall not be later than fourteen days from the date of~~
18 ~~the order. Personal service shall be made upon the~~
19 ~~defendant not less than five days prior to the~~
20 ~~hearing. In the event that personal service cannot be~~
21 ~~completed in time to give the defendant the minimum~~
22 ~~notice required by this section, the court may set a~~
23 ~~new hearing date. A default can not be made upon a~~
24 ~~defendant unless the five days notice has been given.~~

25 Sec. 2. Section 648.10, Code 1985, is amended by
26 striking the section and inserting the following:

27 648.10 SERVICE BY PUBLICATION.

28 Notwithstanding the requirements of section 648.5,
29 service may be made by publishing such notice for one
30 week in a newspaper of general circulation published
31 in the county where the petition is filed, provided
32 the petitioner files with the court an affidavit
33 stating that an attempt at personal service made by
34 the sheriff was unsuccessful because the defendant is
35 avoiding service by concealment or otherwise, and that
36 a copy of the petition and notice of hearing has been
37 mailed to the defendant at the defendant's last known
38 address or that the defendant's last known address is
39 not known to the petitioner. Service under this
40 section is complete seven days after publication. The
41 court shall set a new hearing date if necessary to
42 allow the defendant the five day minimum notice
43 required under section 648.5."

44 2. Page 1, by striking lines 20 and 21, and
45 inserting the following: "claim for rent or recovery
46 as provided in sections 562A.24, 562A.32, 562B.22, or
47 562B.25, nor can shall it be made the".

48 3. By renumbering as necessary.

BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

H-5488 FILED MARCH 20, 1986

Adopted 4/2 (p 1124)

SENATE FILE 508

H-5579

1 Amend Senate File 508 as passed by the Senate as
2 follows:

3 1. Page 1, by inserting after line 32, the
4 following:

5 "Sec. ____ . NEW SECTION. 648.24 INSPECTION
6 CERTIFICATES.

7 The courts of this state shall not have
8 jurisdiction over any action or special proceeding for
9 possession based on nonpayment of rent unless the
10 plaintiff attaches to the petition a photocopy of a
11 current inspection certificate which may be required,
12 demonstrating compliance with section 364.17,
13 subsection 3, at the time the cause of action
14 accrued."

15 2. By renumbering as necessary.

H-5579 FILED MARCH 27, 1986 BY HOLVECK of Polk

Loss 4/2 (p. 1125)

SENATE FILE 508

H-5591

1 Amend Senate File 508 as passed by the Senate as
2 follows:

3 1. Page 1, by striking lines 15 through 32.

H-5591 FILED MARCH 28, 1986 BY ROSENBERG of Story

Loss 4/2 (p. 1125)

HOUSE AMENDMENT TO
SENATE FILE 508

S-5598

1 Amend Senate File 508 as passed by the Senate as
2 follows:

3 1. Page 1, by striking lines 3 through 14, and
4 inserting the following:

5 648.5 JURISDICTION.

6 The court within the county shall have jurisdiction
7 of actions for the forcible entry or detention of real
8 property. It shall be tried as an equitable action.
9 Unless commenced as a small claim, a petition shall be
10 presented to a district court judge. ~~The court shall~~
11 ~~make an order fixing the time and place for hearing~~
12 ~~upon said petition and shall prescribe that notice of~~
13 ~~the hearing be personally served upon the defendant or~~
14 ~~defendants, which service shall be at least five days~~
15 ~~prior to the date set for hearing. Upon receipt of~~
16 ~~the petition, the court shall order a hearing which~~
17 ~~shall not be later than fourteen days from the date of~~
18 ~~the order. Personal service shall be made upon the~~
19 ~~defendant not less than five days prior to the~~
20 ~~hearing. In the event that personal service cannot be~~
21 ~~completed in time to give the defendant the minimum~~
22 ~~notice required by this section, the court may set a~~
23 ~~new hearing date. A default can not be made upon a~~
24 ~~defendant unless the five days notice has been given.~~

25 Sec. 2. Section 648.10, Code 1985, is amended by
26 striking the section and inserting the following:

27 648.10 SERVICE BY PUBLICATION.

28 Notwithstanding the requirements of section 648.5,
29 service may be made by publishing such notice for one
30 week in a newspaper of general circulation published
31 in the county where the petition is filed, provided
32 the petitioner files with the court an affidavit
33 stating that an attempt at personal service made by
34 the sheriff was unsuccessful because the defendant is
35 avoiding service by concealment or otherwise, and that
36 a copy of the petition and notice of hearing has been
37 mailed to the defendant at the defendant's last known
38 address or that the defendant's last known address is
39 not known to the petitioner. Service under this
40 section is complete seven days after publication. The
41 court shall set a new hearing date if necessary to
42 allow the defendant the five day minimum notice
43 required under section 648.5."

44 2. Page 1, by striking lines 20 and 21, and
45 inserting the following: "claim for rent or recovery
46 as provided in sections 562A.24, 562A.32, 562B.22, or
47 562B.25, nor can shall it be made the".

48 3. By renumbering as necessary.

S-5598 Filed April 4, 1986 REC'D FROM THE HOUSE

Senate concurred 4/11 (p. 1202)

SENATE FILE 508

S-5681

1 Amend the House amendment S-5598 to Senate File
2 508 as passed by the Senate as follows:
3 1. Page 1, by inserting after line 47 the following:
4 " . Page 1, lines 29 and 30, by striking the words
5 "within ten days from the judgment"."

S-5681 Filed April 10, 1986

7/15 4/11 BY MANN

SSB 283

JUDICIARY: Drake, Chair; Carr and Horn

*New
SF 508*

SSB 283

Judiciary

SENATE FILE *508*

BY (PROPOSED COMMITTEE ON JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

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6 ~~it, which shall be tried as an equitable action~~ actions.
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9 order fixing the time and place for hearing upon said the
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11 personally served upon the defendant or defendants, which
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13 hearing. The hearing shall be held within fifteen days after
14 the filing of the petition.

15 Sec. 2. Section 648.19, Code 1985, is amended to read as
16 follows:

17 648.19 NO JOINDER OR COUNTERCLAIM.

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19 connection with any other action, with the exception of a
20 claim for rent or actual damages as provided in section
21 562A.32, nor can shall it be made the subject of counterclaim.

22 Sec. 3. Section 648.22, Code 1985, is amended to read as
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24 648.22 JUDGMENT.

25 If the defendant is found guilty, judgment shall be entered
26 that the defendant be removed from the premises, and that the
27 plaintiff be put in possession thereof of the premises, and an
28 execution for the defendant's removal within ten days from the
29 judgment shall issue accordingly, to which shall be added a
30 clause commanding the officer to collect the costs as in
31 ordinary cases.

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EXPLANATION

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34 forcible entry or detention of real property as follows:

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1 forcible entry or detention of property must be held within 15
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hearing date. A default can not be made upon a defendant unless the five days notice has been given.

Sec. 2. Section 648.10, Code 1985, is amended by striking the section and inserting the following:

648.10 SERVICE BY PUBLICATION.

Notwithstanding the requirements of section 648.5, service may be made by publishing such notice for one week in a newspaper of general circulation published in the county where the petition is filed, provided the petitioner files with the court an affidavit stating that an attempt at personal service made by the sheriff was unsuccessful because the defendant is avoiding service by concealment or otherwise, and that a copy of the petition and notice of hearing has been mailed to the defendant at the defendant's last known address or that the defendant's last known address is not known to the petitioner. Service under this section is complete seven days after publication. The court shall set a new hearing date if necessary to allow the defendant the five day minimum notice required under section 648.5.

Sec. 3. Section 648.19, Code 1985, is amended to read as follows:

648.19 NO JOINDER OR COUNTERCLAIM.

An action of this kind cannot shall not be brought in connection with any other action, with the exception of a claim for rent or recovery as provided in sections 562A.24, 562A.42, 562B.22, or 562B.25, nor can shall it be made the subject of counterclaim.

Sec. 4. Section 648.22, Code 1985, is amended to read as follows:

648.22 JUDGMENT.

If the defendant is found guilty, judgment shall be entered that the defendant be removed from the premises, and that the plaintiff be put in possession thereof of the premises, and an execution for the defendant's removal within ten days from the judgment shall issue accordingly, to which shall be added a

SENATE FILE 508

AN ACT

RELATING TO THE FORCIBLE ENTRY OR DETENTION OF REAL PROPERTY.

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

Section 1. Section 648.5, Code 1985, is amended to read as follows:

648.5 JURISDICTION.

The court within the county shall have jurisdiction of actions for the forcible entry or detention of real property. It shall be tried as an equitable action. Unless commenced as a small claim, a petition shall be presented to a district court judge. ~~The court shall make an order fixing the time and place for hearing upon said petition and shall prescribe that notice of the hearing be personally served upon the defendant or defendants, which service shall be at least five days prior to the date set for hearing. Upon receipt of the petition, the court shall order a hearing which shall not be later than fourteen days from the date of the order. Personal service shall be made upon the defendant not less than five days prior to the hearing. In the event that personal service cannot be completed in time to give the defendant the minimum notice required by this section, the court may set a new~~

clause commanding the officer to collect the costs as in ordinary cases.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 508, Seventy-first General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 28, 1986

TERRY E. BRANSTAD
Governor