

Reprinted

FILED MAR 20 1995

SENATE FILE 440
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 299)

(p929)
Passed Senate, Date 3-29-95 Passed House, Date 4/10/95
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 0
Approved April 24, 1995

A BILL FOR

1 An Act relating to probate including the lien period for estates
2 which have not been administered, the amount which may be
3 passed to a minor without appointing a conservator, the
4 distribution of an intestate estate to the parents, and
5 special use trusts.

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

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SENATE FILE 440

S-3205

1 Amend Senate File 440 as follows:
2 1. Page 4, line 6, by striking the word "may" and
3 inserting the following: "may shall".

(p929) *adopted - 3-29-95* By DONALD B. REDFERN

S-3205 FILED MARCH 23, 1995

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S.F. 440

1 Section 1. Section 450.7, subsection 1, Code 1995, is
2 amended to read as follows:

3 1. Except for the share of the estate passing to the
4 surviving spouse, the tax is a charge against and a lien upon
5 the estate subject to tax under this chapter, and all property
6 of the estate or owned by the decedent from the death of the
7 decedent until paid, subject to the following limitations
8 limitation:

9 ~~a. Inheritance taxes owing with respect to a passing of~~
10 ~~property of a deceased person whose estate has not been~~
11 ~~administered in this state are no longer a lien against the~~
12 ~~property twenty years from the date of death of the decedent~~
13 ~~owner, except to the extent taxes are attributable to~~
14 ~~remainder or deferred interests which have not been finally~~
15 ~~vested in possession for at least ten years.~~

16 b. Inheritance taxes owing with respect to a passing of
17 property of a deceased person whose estate has been
18 administered in this state are no longer a lien against the
19 property ten years from the date of death of the decedent
20 owner, except to the extent taxes are attributable to
21 remainder or deferred interests and are deferred in accordance
22 with the provisions of this chapter.

23 Sec. 2. Section 450.12, subsection 1, paragraph a, Code
24 1995, is amended to read as follows:

25 a. The debts owing by the decedent at the time of death,
26 the local and state taxes accrued before the decedent's death,
27 the federal estate tax and federal taxes owing by the
28 decedent, a reasonable sum for funeral expenses, the allowance
29 for surviving spouse and minor children granted by the probate
30 court or its judge, court costs, the costs of appraisement
31 made for the purpose of assessing the inheritance tax, the fee
32 of personal representatives as allowed by order of court, the
33 amount paid by the personal representatives for a bond, the
34 attorney's fee as determined pursuant to sections 633:197,
35 633:198, and 633:199 and approved by the court for the probate

1 ~~proceedings-in-the-estate,-the-costs-of-the-sale-of-real~~
2 ~~estate-or-personal-property-in-the-estate,-including-the-real~~
3 ~~estate-agent's-commission,-and-expenses-for-abstracting,-~~
4 ~~documentary-stamps,-and-title-correction-expenses~~ and any
5 other administration expenses allowable pursuant to section
6 2053 of the Internal Revenue Code.

7 Sec. 3. Section 633.108, Code 1995, is amended to read as
8 follows:

9 633.108 SMALL LEGACIES TO MINORS -- PAYMENT.

10 Whenever a minor becomes entitled under the terms of a will
11 to a bequest or legacy, to a share of the estate of an
12 intestate, or to a beneficial interest in a trust fund upon
13 the distribution of the trust fund, and the value of the
14 bequest, legacy, share, or interest does not exceed the sum of
15 four ten thousand dollars, and a conservator for the minor has
16 not been appointed, the court having jurisdiction of the
17 distribution of the funds may, in its discretion, upon the
18 application of the fiduciary, enter an order authorizing the
19 fiduciary to pay the bequest, legacy, share, or interest to
20 ~~the-parent-or-other-person-entitled-to-the-custody-of-the~~
21 ~~minor,-for-the-use-of-the-minor~~ a custodian under any uniform
22 transfers to minors Act. The receipt of the person or persons
23 therefor Receipt by the custodian, when presented to the court
24 or filed with the report of distribution of the fiduciary,
25 shall have the same force and effect as though the payment had
26 been made to a duly appointed and qualified conservator for
27 the minor.

28 Sec. 4. Section 633.219, subsections 3 and 4, Code 1995,
29 are amended to read as follows:

30 3. If there is no person to take under either subsection 1
31 or 2 of this section, ~~to-the-issue-of-the-parents-or-either-of~~
32 ~~them-per-stirpes~~ the estate shall be divided and set aside
33 into two equal shares. One share shall be distributed to the
34 issue of the decedent's mother per stirpes and one share shall
35 be distributed to the issue of the decedent's father per

1 stirpes. If there are no surviving issue of one deceased
2 parent, the entire estate passes to the issue of the other
3 deceased parent in accordance with this subsection.

4 4. If there is no person to take under subsection 1, 2, or
5 3 of this section, but and the decedent is survived by one or
6 more grandparents or issue of grandparents, half the estate
7 passes to the paternal grandparents, if both survive, or to
8 the surviving paternal grandparent, ~~or to the issue of the~~
9 ~~paternal grandparents if both are deceased, the issue taking~~
10 ~~per stirpes, and the other half passes to the maternal~~
11 ~~relatives in the same manner, but if there is no surviving~~
12 ~~grandparent or issue of grandparent on one side, the entire~~
13 ~~estate passes to the relatives of the other side in the same~~
14 ~~manner as the half if only one survives.~~ If neither paternal
15 grandparent survives, this half share shall be further divided
16 into two equal subshares. One subshare shall be distributed
17 to the issue of the decedent's paternal grandmother per
18 stirpes and one subshare shall be distributed to the issue of
19 the decedent's paternal grandfather per stirpes. If there are
20 no surviving issue of one deceased paternal grandparent, the
21 entire half share passes to the issue of the other deceased
22 paternal grandparent and their issue in the same manner. The
23 other half of the decedent's estate passes to the maternal
24 grandparents and their issue in the same manner. If there are
25 no surviving grandparents or issue of grandparents on either
26 the paternal or maternal side, the entire estate passes to the
27 decedent's surviving grandparents or their issue on the other
28 side in accordance with this subsection.

29 Sec. 5. Section 633.273, subsection 1, Code 1995, is
30 amended to read as follows:

31 1. If a devisee dies before the testator, leaving issue
32 who survive the testator, the devisee's heirs issue who
33 survive the testator shall inherit the property devised to the
34 devisee per stirpes, unless from the terms of the will, the
35 intent is clear and explicit to the contrary.

1 to provide that the gross value of the estate for estate tax
2 purposes may be reduced by any administration expenses
3 allowable pursuant to section 2053 of the federal Internal
4 Revenue Code.

5 2. Sections 633.108 and 633.574 are amended to increase
6 from \$4,000 to \$10,000 the amount which may be bequeathed to a
7 minor without the appointment of a conservator, and to provide
8 that the bequest may be paid to a custodian under the uniform
9 transfers to minors Act. Currently, the bequest must be paid
10 to a parent or other person entitled to the custody of the
11 minor.

12 3. Section 633.219, regarding the passing of property
13 where no will has been executed, is amended to provide that,
14 if the decedent has no descendants or parents, the decedent's
15 estate is to be divided into two shares, with one share each
16 being distributed among the surviving descendants of each
17 parent. If no descendants survive from one parent, the
18 surviving descendants of the other parent get both shares.
19 The section is further amended to provide that if the decedent
20 has no descendants, parents, or living descendants of the
21 decedent's parents, then half the estate passes to the
22 maternal grandparents and half to the paternal grandparents,
23 to the surviving maternal and paternal grandparent, or to the
24 surviving descendants of the grandparents, and if no
25 descendants from one set of grandparents are living, then the
26 other set of grandparents or their surviving descendants get
27 the whole estate.

28 Section 633.273 is amended to provide that if a person who
29 would receive a bequest dies prior to the date the testator
30 dies, the bequest shall be divided among the person's living
31 descendants.

32 Section 633.704 is amended to provide that a person acting
33 as an attorney-in-fact pursuant to a power of attorney may
34 disclaim an interest in property on behalf of the person who
35 executed the power of attorney in the same manner as that

1 person would if no power of attorney existed.

2 Finally, the bill repeals chapter 634A, regarding the
3 creation of certain supplemental needs trusts for persons with
4 disabilities, which was enacted during the 1994 session.

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Substituted for HF 527
04-4-95 (P.1211)

SENATE FILE 440
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 299)
(AS AMENDED AND PASSED BY THE SENATE MARCH 29, 1995)
- New Language by the Senate

Passed Senate, ^(p.929) Date 3-29-95 Passed House, ^(p.1385) Date 4/10/95
Vote: Ayes 49 Nays 0 Vote: Ayes 98 Nays 0
Approved April 24, 1995

A BILL FOR

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2 which have not been administered, the amount which may be
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S.F. 440

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5 the estate subject to tax under this chapter, and all property
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7 decedent until paid, subject to the following ~~limitations~~
8 limitation:

9 ~~a. Inheritance taxes owing with respect to a passing of~~
10 ~~property of a deceased person whose estate has not been~~
11 ~~administered in this state are no longer a lien against the~~
12 ~~property twenty years from the date of death of the decedent~~
13 ~~owner, except to the extent taxes are attributable to~~
14 ~~remainder or deferred interests which have not been finally~~
15 ~~vested in possession for at least ten years.~~

16 b. Inheritance taxes owing with respect to a passing of
17 property of a deceased person whose ~~estate has been~~
18 ~~administered in this state~~ are no longer a lien against the
19 property ten years from the date of death of the decedent
20 owner, except to the extent taxes are attributable to
21 remainder or deferred interests and are deferred in accordance
22 with the provisions of this chapter.

23 Sec. 2. Section 450.12, subsection 1, paragraph a, Code
24 1995, is amended to read as follows:

25 a. The debts owing by the decedent at the time of death,
26 the local and state taxes accrued before the decedent's death,
27 the federal estate tax and federal taxes owing by the
28 decedent, a reasonable sum for funeral expenses, the allowance
29 for surviving spouse and minor children granted by the probate
30 court or its judge, court costs, ~~the costs of appraisement~~
31 ~~made for the purpose of assessing the inheritance tax, the fee~~
32 ~~of personal representatives as allowed by order of court, the~~
33 ~~amount paid by the personal representatives for a bond, the~~
34 ~~attorney's fee as determined pursuant to sections 633:197,~~
35 ~~633:198, and 633:199 and approved by the court for the probate~~

1 ~~proceedings-in-the-estate, the costs of the sale of real~~
2 ~~estate or personal property in the estate, including the real~~
3 ~~estate agent's commission, and expenses for abstracting,~~
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5 other administration expenses allowable pursuant to section
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11 to a bequest or legacy, to a share of the estate of an
12 intestate, or to a beneficial interest in a trust fund upon
13 the distribution of the trust fund, and the value of the
14 bequest, legacy, share, or interest does not exceed the sum of
15 four ten thousand dollars, and a conservator for the minor has
16 not been appointed, the court having jurisdiction of the
17 distribution of the funds may, in its discretion, upon the
18 application of the fiduciary, enter an order authorizing the
19 fiduciary to pay the bequest, legacy, share, or interest to
20 ~~the parent or other person entitled to the custody of the~~
21 ~~minor, for the use of the minor~~ a custodian under any uniform
22 transfers to minors Act. ~~The receipt of the person or persons~~
23 ~~therefor~~ Receipt by the custodian, when presented to the court
24 or filed with the report of distribution of the fiduciary,
25 shall have the same force and effect as though the payment had
26 been made to a duly appointed and qualified conservator for
27 the minor.

28 Sec. 4. Section 633.219, subsections 3 and 4, Code 1995,
29 are amended to read as follows:

30 3. If there is no person to take under either subsection 1
31 or 2 of this section, ~~to the issue of the parents or either of~~
32 ~~them per stirpes~~ the estate shall be divided and set aside
33 into two equal shares. One share shall be distributed to the
34 issue of the decedent's mother per stirpes and one share shall
35 be distributed to the issue of the decedent's father per

1 stirpes. If there are no surviving issue of one deceased
2 parent, the entire estate passes to the issue of the other
3 deceased parent in accordance with this subsection.

4 4. If there is no person to take under subsection 1, 2, or
5 3 of this section, but and the decedent is survived by one or
6 more grandparents or issue of grandparents, half the estate
7 passes to the paternal grandparents, if both survive, or to
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15 grandparent survives, this half share shall be further divided
16 into two equal subshares. One subshare shall be distributed
17 to the issue of the decedent's paternal grandmother per
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20 no surviving issue of one deceased paternal grandparent, the
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29 Sec. 5. Section 633.273, subsection 1, Code 1995, is
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31 1. If a devisee dies before the testator, leaving issue
32 who survive the testator, the devisee's heirs issue who
33 survive the testator shall inherit the property devised to the
34 devisee per stirpes, unless from the terms of the will, the
35 intent is clear and explicit to the contrary.

1 Sec. 6. Section 633.574, Code 1995, is amended to read as
2 follows:

3 633.574 PROCEDURE IN LIEU OF CONSERVATORSHIP.

4 If a conservator has not been appointed, money due a minor
5 or other property to which a minor is entitled, not exceeding
6 in the aggregate four ten thousand dollars in value, may shall
7 ~~be paid or delivered to the parent or other person entitled to~~
8 ~~the custody of the minor, for the use of the minor, upon~~
9 ~~written statement verified by the oath of the parent or other~~
10 ~~person that all money or property of the minor does not exceed~~
11 ~~in the aggregate four thousand dollars~~ a custodian under any
12 uniform transfers to minors Act. The written receipt of the
13 ~~parent or other person entitled to the custody of the minor~~
14 custodian constitutes an acquittance of the person making the
15 payment of money or delivery of property.

16 Sec. 7. Section 633.704, subsection 3, Code 1995, is
17 amended by adding the following new paragraph:

18 NEW PARAGRAPH. d. DISCLAIMER BY ATTORNEY-IN-FACT.
19 Whenever a principal designates in writing another as the
20 principal's attorney-in-fact or agent by a power of attorney,
21 and the designation authorizes the attorney-in-fact to
22 disclaim the principal's interest in any property, the
23 attorney-in-fact has the same right to disclaim as the
24 disclaimant and may disclaim on behalf of the attorney-in-
25 fact's principal.

26 Sec. 8. REPEAL. Chapter 634A, Code 1995, is repealed.

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Redfern
Giannetto
Vilsack
Neuhouser
McKean

SSB. 299

Succeeded By
S. J. F.
SENATE FILE 440
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY CHAIR-
PERSON GIANNETTO)

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

A BILL FOR

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2 which have not been administered, the amount which may be
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17 property of a deceased person whose estate has been
18 administered in this state are no longer a lien against the
19 property ten years from the date of death of the decedent
20 owner, except to the extent taxes are attributable to
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22 with the provisions of this chapter.

23 Sec. 2. Section 450.12, subsection 1, paragraph a, Code
24 1995, is amended to read as follows:

25 a. The debts owing by the decedent at the time of death,
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16 not been appointed, the court having jurisdiction of the
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SENATE FILE 440

AN ACT

RELATING TO PROBATE INCLUDING THE LIEN PERIOD FOR ESTATES WHICH HAVE NOT BEEN ADMINISTERED, THE AMOUNT WHICH MAY BE PASSED TO A MINOR WITHOUT APPOINTING A CONSERVATOR, THE DISTRIBUTION OF AN INTESTATE ESTATE TO THE PARENTS, AND SPECIAL USE TRUSTS.

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

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1. Except for the share of the estate passing to the surviving spouse, the tax is a charge against and a lien upon the estate subject to tax under this chapter, and all property of the estate or owned by the decedent from the death of the decedent until paid, subject to the following limitations limitation:

~~a. Inheritance taxes owing with respect to a passing of property of a deceased person whose estate has not been administered in this state are no longer a lien against the property twenty years from the date of death of the decedent owner, except to the extent taxes are attributable to remainder or deferred interests which have not been finally vested in possession for at least ten years.~~

b. Inheritance taxes owing with respect to a passing of property of a deceased person whose estate has been administered in this state are no longer a lien against the property ten years from the date of death of the decedent owner, except to the extent taxes are attributable to remainder or deferred interests and are deferred in accordance with the provisions of this chapter.

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a. The debts owing by the decedent at the time of death, the local and state taxes accrued before the decedent's death, the federal estate tax and federal taxes owing by the decedent, a reasonable sum for funeral expenses, the allowance for surviving spouse and minor children granted by the probate court or its judge, court costs, ~~the costs of appraisement made for the purpose of assessing the inheritance tax, the fee of personal representatives as allowed by order of court, the amount paid by the personal representatives for a bond, the attorney's fee as determined pursuant to sections 633.197, 633.198, and 633.199 and approved by the court for the probate proceedings in the estate, the costs of the sale of real estate or personal property in the estate, including the real estate agent's commission, and expenses for abstracting, documentary stamps, and title correction expenses and any other administration expenses allowable pursuant to section 2053 of the Internal Revenue Code.~~

Sec. 3. Section 633.108, Code 1995, is amended to read as follows:

633.108 SMALL LEGACIES TO MINORS -- PAYMENT.

Whenever a minor becomes entitled under the terms of a will to a bequest or legacy, to a share of the estate of an intestate, or to a beneficial interest in a trust fund upon the distribution of the trust fund, and the value of the bequest, legacy, share, or interest does not exceed the sum of four ten thousand dollars, and a conservator for the minor has not been appointed, the court having jurisdiction of the distribution of the funds may, in its discretion, upon the application of the fiduciary, enter an order authorizing the fiduciary to pay the bequest, legacy, share, or interest to ~~the parent or other person entitled to the custody of the minor, for the use of the minor~~ a custodian under any uniform transfers to minors Act. The receipt of the person or persons therefor Receipt by the custodian, when presented to the court or filed with the report of distribution of the fiduciary,

shall have the same force and effect as though the payment had been made to a duly appointed and qualified conservator for the minor.

Sec. 4. Section 633.219, subsections 3 and 4, Code 1995, are amended to read as follows:

3. If there is no person to take under either subsection 1 or 2 of this section, ~~to the issue of the parents or either of them per stirpes~~ the estate shall be divided and set aside into two equal shares. One share shall be distributed to the issue of the decedent's mother per stirpes and one share shall be distributed to the issue of the decedent's father per stirpes. If there are no surviving issue of one deceased parent, the entire estate passes to the issue of the other deceased parent in accordance with this subsection.

4. If there is no person to take under subsection 1, 2, or 3 of this section, ~~but and~~ the decedent is survived by one or more grandparents or issue of grandparents, half the estate passes to the paternal grandparents, if both survive, or to the surviving paternal grandparent, ~~or to the issue of the paternal grandparents if both are deceased, the issue taking per stirpes, and the other half passes to the maternal relatives in the same manner, but if there is no surviving grandparent or issue of grandparent on one side, the entire estate passes to the relatives of the other side in the same manner as the half if only one survives. If neither paternal grandparent survives, this half share shall be further divided into two equal subshares. One subshare shall be distributed to the issue of the decedent's paternal grandmother per stirpes and one subshare shall be distributed to the issue of the decedent's paternal grandfather per stirpes. If there are no surviving issue of one deceased paternal grandparent, the entire half share passes to the issue of the other deceased paternal grandparent and their issue in the same manner. The other half of the decedent's estate passes to the maternal grandparents and their issue in the same manner. If there are~~

no surviving grandparents or issue of grandparents on either the paternal or maternal side, the entire estate passes to the decedent's surviving grandparents or their issue on the other side in accordance with this subsection.

Sec. 5. Section 633.273, subsection 1, Code 1995, is amended to read as follows:

1. If a devisee dies before the testator, leaving issue who survive the testator, the devisee's heirs issue who survive the testator shall inherit the property devised to the devisee per stirpes, unless from the terms of the will, the intent is clear and explicit to the contrary.

Sec. 6. Section 633.574, Code 1995, is amended to read as follows:

633.574 PROCEDURE IN LIEU OF CONSERVATORSHIP.

If a conservator has not been appointed, money due a minor or other property to which a minor is entitled, not exceeding in the aggregate ~~four ten~~ four thousand dollars in value, may ~~shall~~ be paid or delivered to ~~the parent or other person entitled to the custody of the minor, for the use of the minor, upon written statement verified by the oath of the parent or other person that all money or property of the minor does not exceed in the aggregate four thousand dollars~~ a custodian under any uniform transfers to minors Act. The written receipt of the ~~parent or other person entitled to the custody of the minor~~ custodian constitutes an acquittance of the person making the payment of money or delivery of property.

Sec. 7. Section 633.704, subsection 3, Code 1995, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. DISCLAIMER BY ATTORNEY-IN-FACT. Whenever a principal designates in writing another as the principal's attorney-in-fact or agent by a power of attorney, and the designation authorizes the attorney-in-fact to disclaim the principal's interest in any property, the attorney-in-fact has the same right to disclaim as the disclaimant and may disclaim on behalf of the attorney-in-fact's principal.

Sec. 8. REPEAL. Chapter 634A, Code 1995, is repealed.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 440, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved April 24, 1995

TERRY E. BRANSTAD
Governor