

Miller
Hansen
McKibben

SSB. 1093
Judiciary

SENATE/HOUSE FILE (SF/HF 150)
BY (PROPOSED JUDICIAL BRANCH BILL)

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

A BILL FOR

1 An Act concerning judicial administration.

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

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1 Section 125.85, subsection 4, Code 1999, is
2 amended to read as follows:

3 4. Following a respondent's discharge from a facility or
4 from treatment, the administrator of the facility shall
5 immediately report that fact to the court which ordered the
6 respondent's commitment or treatment. The court shall issue
7 an order confirming the respondent's discharge from the
8 facility or from treatment, as the case may be, and shall
9 terminate the proceedings pursuant to which the order was
10 issued. Copies of the order shall be sent by certified
11 regular mail to the facility and the respondent.

12 Sec. 2. Section 229.16, Code 1999, is amended to read as
13 follows:

14 229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

15 When the condition of a patient who is hospitalized under
16 section 229.14, subsection 2, or is receiving treatment under
17 section 229.14, subsection 3, or is in full-time care and
18 custody under section 229.14, subsection 4, is such that in
19 the opinion of the chief medical officer the patient no longer
20 requires treatment or care for serious mental impairment, the
21 chief medical officer shall tentatively discharge the patient
22 and immediately report that fact to the court which ordered
23 the patient's hospitalization or care and custody. The court
24 shall thereupon issue an order confirming the patient's
25 discharge from the hospital or from care and custody, as the
26 case may be, and shall terminate the proceedings pursuant to
27 which the order was issued. Copies of the order shall be sent
28 by certified regular mail to the hospital, the patient, and
29 the applicant if the applicant has filed a written waiver
30 signed by the patient.

31 Sec. 3. Section 321A.12, subsection 1, Code 1999, is
32 amended to read as follows:

33 1. Whenever any person fails within sixty days to satisfy
34 any judgment, it shall be the duty of the clerk of the
35 district court, or of the judge of a court which has no clerk,

1 in which any such judgment is rendered within this state, to
2 forward to the department immediately after the expiration of
3 said the sixty days and upon written request of the judgment
4 creditor, a certified copy of such judgment.

5 Sec. 4. Section 602.1215, subsection 1, Code 1999, is
6 amended to read as follows:

7 1. The district judges of each judicial election district
8 shall by majority vote appoint persons to serve as clerks of
9 the district court, one for each county within the judicial
10 election district. ~~A person does not qualify for appointment~~
11 ~~to the office of clerk of the district court unless the person~~
12 ~~is at the time of application a resident of the state. Within~~
13 ~~three months of appointment the clerk of the district court~~
14 ~~must establish residence and physically reside in the county.~~
15 A clerk of the district court may be removed from office for
16 cause by a majority vote of the district judges of the
17 judicial election district. Before removal, the clerk of the
18 district court shall be notified of the cause for removal.

19 Sec. 5. Section 602.8103, Code 1999, is amended by adding
20 the following new subsection:

21 NEW SUBSECTION. 6. Establish and maintain a procedure to
22 setoff against amounts held by the clerk of the district court
23 and payable to the person any debt which is in the form of a
24 liquidated sum due, owing and payable to the clerk. The
25 procedure shall meet all of the following conditions:

26 a. Before setoff, the clerk shall provide written notice
27 to the debtor of the clerk's claim to all or a portion of the
28 amount held by the clerk for the debtor and the clerk's right
29 to recover the amount of the claim through the setoff
30 procedure, the opportunity to request in writing, that a
31 jointly or commonly owned right to payment be divided among
32 owners, and the opportunity to give written notice to the
33 clerk of the district court of the person's intent to contest
34 the amount of the claim. The debtor must file a notice of
35 intent to contest the claim within fifteen days after the

1 mailing of the notice of claim by the clerk or, if the notice
2 of claim was provided by the clerk at the time the debtor
3 appeared in the clerk's office to claim payment, within
4 fifteen days of that date.

5 b. Upon the request of the debtor or the owner of a
6 jointly or commonly owned right to payment, the clerk of the
7 district court shall divide the payment. Unless otherwise
8 stated in a judgment or court order, any jointly or commonly
9 owned right to payment is presumed to be owned in equal
10 portions by joint or common owners.

11 c. Upon timely filing of a notice of intent to contest the
12 setoff, the matter shall be set for hearing before a judge or
13 magistrate. The clerk shall notify the debtor in writing of
14 the time and date of the hearing.

15 d. If the claim is not contested or upon final
16 determination of a contested claim authorizing a setoff, the
17 clerk shall setoff the debt against any amount the clerk is
18 holding for payment to the debtor and pay any balance of the
19 amount to the debtor. The amount setoff shall be applied by
20 the clerk of the district court according to the order of
21 priority set out in section 602.8107, subsection 2.

22 Sec. 6. Section 622A.3, Code 1999, is amended to read as
23 follows:

24 622A.3 COSTS -- WHEN TAXED.

25 1. An interpreter shall be appointed without expense to
26 the person requiring assistance in the following cases:

27 1 a. If the person requiring assistance is a witness in
28 the civil legal proceeding.

29 2 b. If the person requiring assistance is indigent and
30 financially unable to secure an interpreter.

31 2. In civil cases, every court shall tax the cost of an
32 interpreter the same as other court costs. In criminal cases,
33 where the defendant is indigent, the interpreter shall be
34 considered as a defendant's witness under R.Cr.P. 14 for the
35 purpose of receiving fees, except that subpoenas shall not be

1 required. If the proceeding is before an administrative
2 agency, that agency shall provide such interpreter but may
3 require that a party to the proceeding pay the expense
4 thereof.

5 3. Moneys recovered as court costs for interpreters paid
6 through the revolving fund established in section 602.1302,
7 subsection 3, shall be deposited in that fund.

8 Sec. 7. Section 622A.4, Code 1999, is amended to read as
9 follows:

10 622A.4 FEE SET BY COURT -- PAYMENT.

11 Every interpreter appointed by a court or administrative
12 agency shall receive a fee to be set by the court or
13 administrative agency. If the interpreter is appointed by the
14 court in a civil case for a person who is indigent and unable
15 to secure an interpreter, the fee for the interpreter shall be
16 paid from the revolving fund established in section 602.1302,
17 subsection 3.

18 Sec. 8. Section 624.37, Code 1999, is amended to read as
19 follows:

20 624.37 SATISFACTION OF JUDGMENT -- PENALTY.

21 When the amount due upon judgment is paid off, or satisfied
22 in full, the party entitled to the proceeds thereof, or those
23 acting for that party, must acknowledge satisfaction ~~thereof~~
24 ~~upon-the-record-of-such-judgment,~~ or of the judgment by the
25 execution of an instrument referring to it, duly acknowledged
26 and filed in the office of the clerk in every county wherein
27 the judgment is a lien. A failure to do so within thirty days
28 after having been requested in writing shall subject the
29 delinquent party to a penalty of one hundred dollars plus
30 reasonable attorney fees incurred by the party aggrieved, to
31 be recovered in an action for the satisfaction or
32 acknowledgment by the party aggrieved.

33 Sec. 9. Section 631.12, Code 1999, is amended to read as
34 follows:

35 631.12 ENTRY OF JUDGMENT -- SETTING ASIDE DEFAULT

1 JUDGMENT.

2 The ~~judgment shall be entered in a space on the original~~
3 ~~notice first filed, and the~~ clerk shall immediately enter the
4 judgment in the small claims docket and district court lien
5 book, without recording. Such relief shall be granted as is
6 appropriate. Upon entering judgment, the court may provide
7 for installment payments to be made directly by the party
8 obligated to the party entitled thereto; and in such event
9 execution shall not issue as long as such payments are made
10 but execution shall issue for the full unpaid balance of the
11 judgment upon the filing of an affidavit of default. When
12 entered on the small claims docket and district court lien
13 book, a small claims judgment shall constitute a lien to the
14 same extent as regular judgments entered on the district court
15 judgment docket and lien book; but if a small claims judgment
16 requires installment payments, it shall not be enforceable
17 until an affidavit of default is filed.

18 A defendant may move to set aside a default judgment in the
19 manner provided for doing so in district court by rule of
20 civil procedure 236.

21 Sec. 10. Section 633.48, Code 1999, is amended to read as
22 follows:

23 633.48 CERTIFIED COPIES AFFECTING FOREIGN REAL ESTATE.

24 A certified copy of any proceedings, order, judgment, or
25 deed, affecting real estate in any county other than that in
26 which administration or conservatorship is originally granted,
27 shall be furnished to the clerk of the court of the county
28 where such real estate is situated, ~~and shall by.~~ Upon
29 receipt of the certified copy, the clerk of court ~~be entered~~
30 in the Probate Record shall assign a probate case number to
31 the certified copy and file the copy using the name of the
32 probate proceeding in the county sending the copy. The file
33 created by the county receiving a certified copy as provided
34 in this section shall not be considered an active file for
35 administrative purposes.

1 Sec. 11. Section 633.51, Code 1999, is amended to read as
2 follows:

3 633.51 CERTIFIED COPY RECORDED.

4 The clerk of the court to which the proceedings are
5 transferred shall ~~record-at-length file, in-the-probate-record~~
6 within a new file of the clerk's county, the certified copy of
7 the record entries referred to in section 633-49 633.50.

8 Sec. 12. Section 811.4, Code 1999, is amended to read as
9 follows:

10 811.4 UNDERTAKING OF BAIL AS LIENS ON REAL ESTATE.

11 Undertakings of bail, immediately after such undertakings
12 are filed with the clerk of the district court, shall be
13 docketed as liens on real estate, entered upon the lien index
14 as required for judgments in civil cases, and from the time of
15 such entries, shall be liens upon real estate of the persons
16 executing the same. Attested copies of such undertakings may
17 be filed in the office of the clerk of the district court of
18 the county in which the real estate is situated, in the same
19 manner and with like effect as attested copies of civil
20 judgments, and shall be immediately docketed and indexed in
21 the same manner. However, the provisions of this section
22 shall not apply to unsecured appearance bonds unless the
23 court, for good cause shown, enters an order subjecting an
24 unsecured appearance bond to the requirements of this section.

25 Sec. 13. Section 811.9, Code 1999, is amended to read as
26 follows:

27 811.9 FORFEITURE OF APPEARANCE BOND.

28 Sections 811.6 through 811.8 shall not apply in a case
29 where a simple misdemeanor is charged upon a uniform citation
30 and complaint and where the defendant has submitted an
31 unsecured appearance bond or has submitted bail in the form of
32 cash, check, credit card as provided in section 805.14, or
33 guaranteed arrest bond certificate as defined in section
34 321.1. When a defendant fails to appear as required in such
35 cases, the court, or the clerk of the district court, shall

1 enter a judgment of forfeiture of the bond or bail. The
2 judgment shall be final upon entry and shall not be set aside.

3 Sec. 14. Section 633.29, Code 1999, is repealed.

4 EXPLANATION

5 This bill makes several changes governing the duties and
6 responsibilities of clerks of the district court and makes
7 other changes concerning the administration of the judicial
8 system.

9 Code sections 125.85 and 229.16 are amended to permit the
10 clerk of the district court to send copies of an order
11 discharging a patient from a substance abuse or mental illness
12 facility by regular, rather than certified, mail.

13 Code section 321A.12 is amended to provide that the clerk
14 of the district court shall notify the department of
15 transportation of an unsatisfied civil judgment relating to
16 vehicle financial responsibility only upon written request of
17 the judgment creditor when the judgment obligee fails to
18 satisfy the judgment within 60 days of the judgment.

19 Code section 602.1215 is amended to eliminate the state
20 residency requirement for persons applying for the position of
21 clerk of the district court and the county residency
22 requirement for persons appointed clerk.

23 New subsection 6 to Code section 602.8103 gives the clerk
24 of the district court the authority to setoff any moneys held
25 by the clerk which is owed to a person against any sum owed to
26 the clerk by that person.

27 Code sections 622A.3 and 622A.4 are amended to authorize
28 the payment of interpreter fees in civil cases out of the jury
29 and witness fund when a person requiring assistance is
30 indigent and unable to secure an interpreter. The jury and
31 witness fund shall be repaid from court costs collected which
32 represent interpreter fees paid from the fund.

33 Code section 624.37 is amended to eliminate the ability of
34 a prevailing party to acknowledge satisfaction of a judgment
35 by entering it on the court's record or docket. The ability

1 of a prevailing party to acknowledge satisfaction by executing
2 an instrument referring to it and then filed where the
3 judgment is a lien is retained.

4 Code section 631.12 is amended to delete the requirement
5 that a small claims judgment be entered on a space on the
6 original notice first filed.

7 Code section 633.29, providing for the creation by the
8 clerk of court of a book known as the probate record, is
9 repealed. Code sections 633.48 and 633.51 are amended to
10 delete references to the probate record while retaining the
11 requirement of the clerk to file the certified copy received.

12 Code section 811.4 is amended to provide that unsecured
13 appearance bonds are to be entered on the lien index and
14 treated like other undertakings of bail only upon order to the
15 court for good cause shown.

16 Code section 811.9 is amended to permit the clerk of the
17 district court to enter conviction and judgment when a
18 defendant fails to appear when charged by a uniform citation
19 and complaint.

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TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: FEBRUARY 3, 1999

RE: TLSB 1282DP

The purpose of this bill is to clarify certain duties, eliminate outdated procedures and practices, increase efficiency in offices of the clerk of the district court, and make other technical changes concerning the administration of the judicial system.

Sections 1 and 2 would allow clerk's of the district court to send copies of certain orders by regular mail rather than certified mail. The affected orders concern specific situations where the court is merely confirming an action already taken. Regular mail would be more efficient, cost-effective and would have no impact on the individuals receiving a copy of the order.

Section 3 amends current law which requires the clerk to report all unsatisfied **civil** judgments relating to motor vehicle financial responsibility to the DOT. The proposed change will require such reporting to be done only on those cases where there is a specific request from the judgment creditor.

Section 4 eliminates certain residency requirements for clerks of the clerk of the court. Current law makes it very difficult to recruit a large pool of qualified applicants for the position of clerk of the district court. Additionally, current law makes it very difficult for an employee in one clerk's office to seek the job of clerk in another county unless they are willing to relocate, even if they are willing to commute to the other county.

Section 5 will help clerks collect unpaid fines and fees. The proposed change will establish a set off procedure patterned after the existing tax and vendor set off procedures used by the department of revenue and finance by which clerks will be authorized to withhold moneys they are holding such as juror and witness reimbursement, returnable bonds, and executed funds against amounts owed to the clerk by the person for who the money is being held.

Sections 6 and 7 will facilitate civil proceedings in which language interpreters are needed. Currently, the cost of these interpreters in civil cases are taxed as costs. If the losing party does not pay the costs, the interpreter is not paid. In some areas of the state, interpreters will not work on this basis and court participants are essentially denied access to the court system because of language barriers.

Sections 8, 9, 10, 11 and 14 will eliminate obsolete and impractical procedures now that the court system is automated.

Section 12 will clear up confusion about whether unsecured appearance bonds must be entered on the lien index and leave the listing of the bond on the lien index to the discretion of a judge. This change would not affect the listing of the index of secured bonds.

Section 13 conforms a change approved the General Assembly in 1988.

H. 3/1/99 Judiciary
H-3/24/99 Do Pass
amend w/1196

FILED FEB 16 1999

SENATE FILE 150
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1093)

Passed Senate, Date 2/24/99 (P. 389)
Vote: Ayes 48 Nays 0
Approved May 19, 1999
Passed House, Date 4-27-99 (P. 1759)
Vote: Ayes 98 Nays 0

(P. 1897) Reported 4-29-99
Vote 96-0

A BILL FOR

- 1 An Act concerning judicial administration.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 3

SENATE FILE 150

H-1196

1 Amend Senate File 150, as passed by the Senate, as
 2 follows:
 3 1. Page 2, by inserting after line 25 the
 4 following:
 5 "Sec. ____ Section 602.1215, subsection 1, Code
 6 1999, is amended to read as follows:
 7 1. The district judges of each judicial election
 8 district shall by majority vote appoint persons to
 9 serve as clerks of the district court, one for each
 10 county within the judicial election district. A
 11 ~~person does not qualify for appointment to the office~~
 12 ~~of clerk of the district court unless the person is at~~
 13 ~~the time of application a resident of the state.~~
 14 Within three months of appointment the clerk of the
 15 district court must establish residence and physically
 16 reside in the county. A clerk of the district court
 17 may be removed from office for cause by a majority
 18 vote of the district judges of the judicial election
 19 district. Before removal, the clerk of the district
 20 court shall be notified of the cause for removal."
 21 2. By renumbering as necessary.

Adopted 4/27/99 (P. 1759) By COMMITTEE ON JUDICIARY
LARSON of Linn, CHAIRPERSON
H-1196 FILED MARCH 24, 1999

1 Section 1. Section 125.85, subsection 4, Code 1999, is
2 amended to read as follows:

3 4. Following a respondent's discharge from a facility or
4 from treatment, the administrator of the facility shall
5 immediately report that fact to the court which ordered the
6 respondent's commitment or treatment. The court shall issue
7 an order confirming the respondent's discharge from the
8 facility or from treatment, as the case may be, and shall
9 terminate the proceedings pursuant to which the order was
10 issued. Copies of the order shall be sent by certified
11 regular mail to the facility and the respondent.

12 Sec. 2. Section 229.16, Code 1999, is amended to read as
13 follows:

14 229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

15 When the condition of a patient who is hospitalized under
16 section 229.14, subsection 2, or is receiving treatment under
17 section 229.14, subsection 3, or is in full-time care and
18 custody under section 229.14, subsection 4, is such that in
19 the opinion of the chief medical officer the patient no longer
20 requires treatment or care for serious mental impairment, the
21 chief medical officer shall tentatively discharge the patient
22 and immediately report that fact to the court which ordered
23 the patient's hospitalization or care and custody. The court
24 shall thereupon issue an order confirming the patient's
25 discharge from the hospital or from care and custody, as the
26 case may be, and shall terminate the proceedings pursuant to
27 which the order was issued. Copies of the order shall be sent
28 by certified regular mail to the hospital, the patient, and
29 the applicant if the applicant has filed a written waiver
30 signed by the patient.

31 Sec. 3. Section 229.21, subsection 3, paragraph a, Code
32 1999, is amended to read as follows:

33 a. Any respondent with respect to whom the magistrate or
34 judicial hospitalization referee has found the contention that
35 the respondent is seriously mentally impaired or a chronic

1 substance abuser sustained by clear and convincing evidence
2 presented at a hearing held under section 229.12 or section
3 125.82, may appeal from the magistrate's or referee's finding
4 to a judge of the district court by giving the clerk notice in
5 writing, within ten days after the magistrate's or referee's
6 finding is made, that an appeal is taken. The appeal may be
7 signed by the respondent or by the respondent's next friend,
8 guardian, or attorney.

9 Sec. 4. Section 229.21, subsection 3, paragraph b,
10 unnumbered paragraph 1, Code 1999, is amended to read as
11 follows:

12 An order of a magistrate or judicial hospitalization
13 referee with a finding that the respondent is seriously
14 mentally impaired or a chronic substance abuser shall include
15 the following notice, located conspicuously on the face of the
16 order:

17 Sec. 5. Section 321A.12, subsection 1, Code 1999, is
18 amended to read as follows:

19 1. Whenever any person fails within sixty days to satisfy
20 any judgment, it shall be the duty of the clerk of the
21 district court, or of the judge of a court which has no clerk,
22 in which any such judgment is rendered within this state, to
23 forward to the department immediately after the expiration of
24 said the sixty days and upon written request of the judgment
25 creditor, a certified copy of such judgment.

26 Sec. 6. Section 602.5104, Code 1999, is amended to read as
27 follows:

28 602.5104 SESSIONS -- LOCATION.
29 The court of appeals shall meet at the seat of state
30 government and elsewhere as the court orders, and at the times
31 specified by order of the supreme court. ~~Court-sessions-shall~~
32 ~~be-held-in-the-courtroom-of-the-supreme-court-at-the~~
33 ~~statehouse-~~

34 Sec. 7. Section 602.8103, Code 1999, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 6. Establish and maintain a procedure to
2 setoff against amounts held by the clerk of the district court
3 and payable to the person any debt which is in the form of a
4 liquidated sum due, owing and payable to the clerk. The
5 procedure shall meet all of the following conditions:

6 a. Before setoff, the clerk shall provide written notice
7 to the debtor of the clerk's claim to all or a portion of the
8 amount held by the clerk for the debtor and the clerk's right
9 to recover the amount of the claim through the setoff
10 procedure, the opportunity to request in writing, that a
11 jointly or commonly owned right to payment be divided among
12 owners, and the opportunity to give written notice to the
13 clerk of the district court of the person's intent to contest
14 the amount of the claim. The debtor must file a notice of
15 intent to contest the claim within fifteen days after the
16 mailing of the notice of claim by the clerk or, if the notice
17 of claim was provided by the clerk at the time the debtor
18 appeared in the clerk's office to claim payment, within
19 fifteen days of that date.

20 b. Upon the request of the debtor or the owner of a
21 jointly or commonly owned right to payment, the clerk of the
22 district court shall divide the payment. Unless otherwise
23 stated in a judgment or court order, any jointly or commonly
24 owned right to payment is presumed to be owned in equal
25 portions by joint or common owners.

26 c. Upon timely filing of a notice of intent to contest the
27 setoff, the matter shall be set for hearing before a judge or
28 magistrate. The clerk shall notify the debtor in writing of
29 the time and date of the hearing.

30 d. If the claim is not contested or upon final
31 determination of a contested claim authorizing a setoff, the
32 clerk shall setoff the debt against any amount the clerk is
33 holding for payment to the debtor and pay any balance of the
34 amount to the debtor. The amount setoff shall be applied by
35 the clerk of the district court according to the order of

1 priority set out in section 602.8107, subsection 2.

2 Sec. 8. Section 622A.3, Code 1999, is amended to read as
3 follows:

4 622A.3 COSTS -- WHEN TAXED.

5 1. An interpreter shall be appointed without expense to
6 the person requiring assistance in the following cases:

7 † a. If the person requiring assistance is a witness in
8 the civil legal proceeding.

9 ‡ b. If the person requiring assistance is indigent and
10 financially unable to secure an interpreter.

11 2. In civil cases, every court shall tax the cost of an
12 interpreter the same as other court costs. In criminal cases,
13 where the defendant is indigent, the interpreter shall be
14 considered as a defendant's witness under R.Cr.P. 14 for the
15 purpose of receiving fees, except that subpoenas shall not be
16 required. If the proceeding is before an administrative
17 agency, that agency shall provide such interpreter but may
18 require that a party to the proceeding pay the expense
19 thereof.

20 3. Moneys recovered as court costs for interpreters paid
21 through the revolving fund established in section 602.1302,
22 subsection 3, shall be deposited in that fund.

23 Sec. 9. Section 622A.4, Code 1999, is amended to read as
24 follows:

25 622A.4 FEE SET BY COURT -- PAYMENT.

26 Every interpreter appointed by a court or administrative
27 agency shall receive a fee to be set by the court or
28 administrative agency. If the interpreter is appointed by the
29 court in a civil case for a person who is indigent and unable
30 to secure an interpreter, the fee for the interpreter shall be
31 paid from the revolving fund established in section 602.1302,
32 subsection 3.

33 Sec. 10. Section 624.37, Code 1999, is amended to read as
34 follows:

35 624.37 SATISFACTION OF JUDGMENT -- PENALTY.

1 When the amount due upon judgment is paid off, or satisfied
2 in full, the party entitled to the proceeds thereof, or those
3 acting for that party, must acknowledge satisfaction thereof
4 ~~upon the record of such judgment, or~~ of the judgment by the
5 execution of an instrument referring to it, duly acknowledged
6 and filed in the office of the clerk in every county wherein
7 the judgment is a lien. A failure to do so within thirty days
8 after having been requested in writing shall subject the
9 delinquent party to a penalty of one hundred dollars plus
10 reasonable attorney fees incurred by the party aggrieved, to
11 be recovered in an action for the satisfaction or
12 acknowledgment by the party aggrieved.

13 Sec. 11. Section 631.12, Code 1999, is amended to read as
14 follows:

15 631.12 ENTRY OF JUDGMENT -- SETTING ASIDE DEFAULT
16 JUDGMENT.

17 ~~The judgment shall be entered in a space on the original~~
18 ~~notice first filed, and the~~ clerk shall immediately enter the
19 judgment in the small claims docket and district court lien
20 book, without recording. Such relief shall be granted as is
21 appropriate. Upon entering judgment, the court may provide
22 for installment payments to be made directly by the party
23 obligated to the party entitled thereto; and in such event
24 execution shall not issue as long as such payments are made
25 but execution shall issue for the full unpaid balance of the
26 judgment upon the filing of an affidavit of default. When
27 entered on the small claims docket and district court lien
28 book, a small claims judgment shall constitute a lien to the
29 same extent as regular judgments entered on the district court
30 judgment docket and lien book; but if a small claims judgment
31 requires installment payments, it shall not be enforceable
32 until an affidavit of default is filed.

33 A defendant may move to set aside a default judgment in the
34 manner provided for doing so in district court by rule of
35 civil procedure 236.

1 Sec. 12. Section 633.48, Code 1999, is amended to read as
2 follows:

3 633.48 CERTIFIED COPIES AFFECTING FOREIGN REAL ESTATE.

4 A certified copy of any proceedings, order, judgment, or
5 deed, affecting real estate in any county other than that in
6 which administration or conservatorship is originally granted,
7 shall be furnished to the clerk of the court of the county
8 where such real estate is situated, ~~and shall by~~. Upon
9 receipt of the certified copy, the clerk of court be entered
10 in the Probate Record shall assign a probate case number to
11 the certified copy and file the copy using the name of the
12 probate proceeding in the county sending the copy. The file
13 created by the county receiving a certified copy as provided
14 in this section shall not be considered an active file for
15 administrative purposes.

16 Sec. 13. Section 633.51, Code 1999, is amended to read as
17 follows:

18 633.51 CERTIFIED COPY RECORDED.

19 The clerk of the court to which the proceedings are
20 transferred shall ~~record at length~~ file, in the probate record
21 within a new file of the clerk's county, the certified copy of
22 the record entries referred to in section 633-49 633.50.

23 Sec. 14. Section 811.9, Code 1999, is amended to read as
24 follows:

25 811.9 FORFEITURE OF APPEARANCE BOND.

26 Sections 811.6 through 811.8 shall not apply in a case
27 where a simple misdemeanor is charged upon a uniform citation
28 and complaint and where the defendant has submitted an
29 unsecured appearance bond or has submitted bail in the form of
30 cash, check, credit card as provided in section 805.14, or
31 guaranteed arrest bond certificate as defined in section
32 321.1. When a defendant fails to appear as required in such
33 cases, the court, or the clerk of the district court, shall
34 enter a judgment of forfeiture of the bond or bail. The
35 judgment shall be final upon entry and shall not be set aside.

1 Sec. 15. Section 633.29, Code 1999, is repealed.

2 EXPLANATION

3 This bill makes several changes governing the duties and
4 responsibilities of clerks of the district court and makes
5 other changes concerning the administration of the judicial
6 system.

7 Code sections 125.85 and 229.16 are amended to permit the
8 clerk of the district court to send copies of an order
9 discharging a patient from a substance abuse or mental illness
10 facility by regular, rather than certified, mail.

11 Code section 229.21 is amended to provide for an appeal
12 when a magistrate has made a determination that a respondent
13 is seriously mentally impaired or a chronic substance abuser.

14 Code section 321A.12 is amended to provide that the clerk
15 of the district court shall notify the department of
16 transportation of an unsatisfied civil judgment relating to
17 vehicle financial responsibility only upon written request of
18 the judgment creditor when the judgment obligee fails to
19 satisfy the judgment within 60 days of the judgment.

20 Code section 602.5104 is amended to permit the court of
21 appeals by its own order to meet in a location other than Des
22 Moines.

23 New subsection 6 to Code section 602.8103 gives the clerk
24 of the district court the authority to setoff any moneys held
25 by the clerk which is owed to a person against any sum owed to
26 the clerk by that person.

27 Code sections 622A.3 and 622A.4 are amended to authorize
28 the payment of interpreter fees in civil cases out of the jury
29 and witness fund when a person requiring assistance is
30 indigent and unable to secure an interpreter. The jury and
31 witness fund shall be repaid from court costs collected which
32 represent interpreter fees paid from the fund.

33 Code section 624.37 is amended to eliminate the ability of
34 a prevailing party to acknowledge satisfaction of a judgment
35 by entering it on the court's record or docket. The ability

1 of a prevailing party to acknowledge satisfaction by executing
2 an instrument referring to it and then filed where the
3 judgment is a lien is retained.

4 Code section 631.12 is amended to delete the requirement
5 that a small claims judgment be entered on a space on the
6 original notice first filed.

7 Code section 633.29, providing for the creation by the
8 clerk of court of a book known as the probate record, is
9 repealed. Code sections 633.48 and 633.51 are amended to
10 delete references to the probate record while retaining the
11 requirement of the clerk to file the certified copy received.

12 Code section 811.9 is amended to permit the clerk of the
13 district court to enter conviction and judgment when a
14 defendant fails to appear when charged by a uniform citation
15 and complaint.

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HOUSE AMENDMENT TO
SENATE FILE 150

S-3510

1 Amend Senate File 150, as passed by the Senate, as
2 follows:

3 1. Page 2, by inserting after line 25 the
4 following:

5 "Sec. ____ . Section 602.1215, subsection 1, Code
6 1999, is amended to read as follows:

7 1. The district judges of each judicial election
8 district shall by majority vote appoint persons to
9 serve as clerks of the district court, one for each
10 county within the judicial election district. A
11 ~~person does not qualify for appointment to the office~~
12 ~~of clerk of the district court unless the person is at~~
13 ~~the time of application a resident of the state.~~

14 Within three months of appointment the clerk of the
15 district court must establish residence and physically
16 reside in the county. A clerk of the district court
17 may be removed from office for cause by a majority
18 vote of the district judges of the judicial election
19 district. Before removal, the clerk of the district
20 court shall be notified of the cause for removal."

21 2. By renumbering as necessary.

RECEIVED FROM THE HOUSE

4/29/99 Senate Refused

3510 FILED APRIL 28, 1999

*House Recorder
4-29-99
(p. 1896)*

AN ACT
CONCERNING JUDICIAL ADMINISTRATION.

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

Section 1. Section 125.85, subsection 4, Code 1999, is amended to read as follows:

4. Following a respondent's discharge from a facility or from treatment, the administrator of the facility shall immediately report that fact to the court which ordered the respondent's commitment or treatment. The court shall issue an order confirming the respondent's discharge from the facility or from treatment, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by certified regular mail to the facility and the respondent.

Sec. 2. Section 229.16, Code 1999, is amended to read as follows:

229.16 DISCHARGE AND TERMINATION OF PROCEEDING.

When the condition of a patient who is hospitalized under section 229.14, subsection 2, or is receiving treatment under section 229.14, subsection 3, or is in full-time care and custody under section 229.14, subsection 4, is such that in the opinion of the chief medical officer the patient no longer requires treatment or care for serious mental impairment, the chief medical officer shall tentatively discharge the patient and immediately report that fact to the court which ordered the patient's hospitalization or care and custody. The court shall thereupon issue an order confirming the patient's discharge from the hospital or from care and custody, as the case may be, and shall terminate the proceedings pursuant to which the order was issued. Copies of the order shall be sent by certified regular mail to the hospital, the patient, and

the applicant if the applicant has filed a written waiver signed by the patient.

Sec. 3. Section 229.21, subsection 3, paragraph a, Code 1999, is amended to read as follows:

a. Any respondent with respect to whom the magistrate or judicial hospitalization referee has found the contention that the respondent is seriously mentally impaired or a chronic substance abuser sustained by clear and convincing evidence presented at a hearing held under section 229.12 or section 125.82, may appeal from the magistrate's or referee's finding to a judge of the district court by giving the clerk notice in writing, within ten days after the magistrate's or referee's finding is made, that an appeal is taken. The appeal may be signed by the respondent or by the respondent's next friend, guardian, or attorney.

Sec. 4. Section 229.21, subsection 3, paragraph b, unnumbered paragraph 1, Code 1999, is amended to read as follows:

An order of a magistrate or judicial hospitalization referee with a finding that the respondent is seriously mentally impaired or a chronic substance abuser shall include the following notice, located conspicuously on the face of the order:

Sec. 5. Section 321A.12, subsection 1, Code 1999, is amended to read as follows:

1. Whenever any person fails within sixty days to satisfy any judgment, it shall be the duty of the clerk of the district court, or of the judge of a court which has no clerk, in which any such judgment is rendered within this state, to forward to the department immediately after the expiration of ~~said~~ the sixty days and upon written request of the judgment creditor, a certified copy of such judgment.

Sec. 6. Section 602.5104, Code 1999, is amended to read as follows:

602.5104 SESSIONS -- LOCATION.

The court of appeals shall meet at the seat of state government and elsewhere as the court orders, and at the times specified by order of the supreme court. ~~Court-sessions-shall be held in the courtroom of the supreme court at the statehouse.~~

Sec. 7. Section 602.8103, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6. Establish and maintain a procedure to setoff against amounts held by the clerk of the district court and payable to the person any debt which is in the form of a liquidated sum due, owing and payable to the clerk. The procedure shall meet all of the following conditions:

a. Before setoff, the clerk shall provide written notice to the debtor of the clerk's claim to all or a portion of the amount held by the clerk for the debtor and the clerk's right to recover the amount of the claim through the setoff procedure, the opportunity to request in writing, that a jointly or commonly owned right to payment be divided among owners, and the opportunity to give written notice to the clerk of the district court of the person's intent to contest the amount of the claim. The debtor must file a notice of intent to contest the claim within fifteen days after the mailing of the notice of claim by the clerk or, if the notice of claim was provided by the clerk at the time the debtor appeared in the clerk's office to claim payment, within fifteen days of that date.

b. Upon the request of the debtor or the owner of a jointly or commonly owned right to payment, the clerk of the district court shall divide the payment. Unless otherwise stated in a judgment or court order, any jointly or commonly owned right to payment is presumed to be owned in equal portions by joint or common owners.

c. Upon timely filing of a notice of intent to contest the setoff, the matter shall be set for hearing before a judge or magistrate. The clerk shall notify the debtor in writing of the time and date of the hearing.

d. If the claim is not contested or upon final determination of a contested claim authorizing a setoff, the clerk shall setoff the debt against any amount the clerk is holding for payment to the debtor and pay any balance of the amount to the debtor. The amount setoff shall be applied by the clerk of the district court according to the order of priority set out in section 602.8107, subsection 2.

Sec. 8. Section 622A.3, Code 1999, is amended to read as follows:

622A.3 COSTS -- WHEN TAXED.

1. An interpreter shall be appointed without expense to the person requiring assistance in the following cases:

1 a. If the person requiring assistance is a witness in the civil legal proceeding.

2 b. If the person requiring assistance is indigent and financially unable to secure an interpreter.

2. In civil cases, every court shall tax the cost of an interpreter the same as other court costs. In criminal cases, where the defendant is indigent, the interpreter shall be considered as a defendant's witness under R.Cr.P. 14 for the purpose of receiving fees, except that subpoenas shall not be required. If the proceeding is before an administrative agency, that agency shall provide such interpreter but may require that a party to the proceeding pay the expense thereof.

3. Moneys recovered as court costs for interpreters paid through the revolving fund established in section 602.1302, subsection 3, shall be deposited in that fund.

Sec. 9. Section 622A.4, Code 1999, is amended to read as follows:

622A.4 FEE SET BY COURT -- PAYMENT.

Every interpreter appointed by a court or administrative agency shall receive a fee to be set by the court or administrative agency. If the interpreter is appointed by the court in a civil case for a person who is indigent and unable

to secure an interpreter, the fee for the interpreter shall be paid from the revolving fund established in section 602.1202, subsection 3.

Sec. 10. Section 624.37, Code 1999, is amended to read as follows:

624.37 SATISFACTION OF JUDGMENT -- PENALTY.

When the amount due upon judgment is paid off, or satisfied in full, the party entitled to the proceeds thereof, or those acting for that party, must acknowledge satisfaction thereof ~~upon the record of such judgment, or of the judgment~~ by the execution of an instrument referring to it, duly acknowledged and filed in the office of the clerk in every county wherein the judgment is a lien. A failure to do so within thirty days after having been requested in writing shall subject the delinquent party to a penalty of one hundred dollars plus reasonable attorney fees incurred by the party aggrieved, to be recovered in an action for the satisfaction or acknowledgment by the party aggrieved.

Sec. 11. Section 631.12, Code 1999, is amended to read as follows:

631.12 ENTRY OF JUDGMENT -- SETTING ASIDE DEFAULT JUDGMENT.

~~The judgment shall be entered in a space on the original notice first filed, and the clerk shall immediately enter the judgment in the small claims docket and district court lien book, without recording. Such relief shall be granted as is appropriate. Upon entering judgment, the court may provide for installment payments to be made directly by the party obligated to the party entitled thereto; and in such event execution shall not issue as long as such payments are made but execution shall issue for the full unpaid balance of the judgment upon the filing of an affidavit of default. When entered on the small claims docket and district court lien book, a small claims judgment shall constitute a lien to the same extent as regular judgments entered on the district court~~

judgment docket and lien book; but if a small claims judgment requires installment payments, it shall not be enforceable until an affidavit of default is filed.

A defendant may move to set aside a default judgment in the manner provided for doing so in district court by rule of civil procedure 236.

Sec. 12. Section 633.48, Code 1999, is amended to read as follows:

633.48 CERTIFIED COPIES AFFECTING FOREIGN REAL ESTATE.

A certified copy of any proceedings, order, judgment, or deed, affecting real estate in any county other than that in which administration or conservatorship is originally granted, shall be furnished to the clerk of the court of the county where such real estate is situated, ~~and shall by~~. Upon receipt of the certified copy, the clerk of court be entered in the Probate Record shall assign a probate case number to the certified copy and file the copy using the name of the probate proceeding in the county sending the copy. The file created by the county receiving a certified copy as provided in this section shall not be considered an active file for administrative purposes.

Sec. 13. Section 633.51, Code 1999, is amended to read as follows:

633.51 CERTIFIED COPY RECORDED.

The clerk of the court to which the proceedings are transferred shall ~~record at length file, in the probate record within a new file~~ of the clerk's county, the certified copy of the record entries referred to in section 633.49 633.50.

Sec. 14. Section 811.9, Code 1999, is amended to read as follows:

811.9 FORFEITURE OF APPEARANCE BOND.

Sections 811.6 through 811.8 shall not apply in a case where a simple misdemeanor is charged upon a uniform citation and complaint and where the defendant has submitted an unsecured appearance bond or has submitted bail in the form of

cash, check, credit card as provided in section 805.14, or guaranteed arrest bond certificate as defined in section 321.1. When a defendant fails to appear as required in such cases, the court, or the clerk of the district court, shall enter a judgment of forfeiture of the bond or bail. The judgment shall be final upon entry and shall not be set aside.

Sec. 15. Section 633.29, Code 1999, is repealed.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 150, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 5/19, 1999

THOMAS J. VILSACK
Governor