

Comment Report

HF 109

A bill for an act regarding legislative oversight of supreme court decisions, and including applicability provisions.

Subcommittee Members: Salmon-CH, Hite, Wolfe

Date: 02/02/2021

Time: 08:00 AM

Location: RM 102, Sup. Ct. Consult

Name: Jane Robinette

Comment: I urge you to oppose HF 109. This bill seeks to delay for one year any supreme court decision that invalidates existing Iowa law or that "has the effect of creating new law." (This pretty much defines what the supreme court does since anything that is clear under the law doesn't need the court's input.) And if the court issues such a decision, the bill gives the legislature the power to compel the attendance of certain justices at a public hearing to discuss and justify their decision, after which the justices would be allowed to change their votes. It also gives the legislature the right to overturn such a decision by a 2/3 vote of the house and senate. In 2011, the late Iowa Supreme Court Chief Justice Mark Cady gave a remarkable state of the judiciary address to the legislature. He spoke about the role of the courts visavis the legislature, and also reaffirmed the necessity of the court's judicial review of laws passed by the legislature. I can find no better words than his to explain why this bill is dangerous. Justice Cady said: "In our government, courts are legal institutions not political institutions. When a person comes before a judge, that person expects the judge to be neutral and to render a ruling based upon the proven facts of the case and applicable legal principles not based upon public opinion.... 'or fear of criticism.'" "Unlike our political institutions, courts serve the law, not the interests of constituents, ...not the demands of special interest groups, ...not the electorate's reaction to a particular decision. By serving the rule of law, courts protect the civil, political, economic, and social rights of all citizens. Chief Justice William Rehnquist called the independence that allows judges to serve the law 'the crown jewel of our system of justice.'" "Upholding the constitution is the most important function of courts. The duty of courts to review the constitutionality of laws is known as judicial review and is one of our most basic responsibilities. Judicial review has been recognized as the responsibility of courts in this country for well over two hundred years." "The power of courts to review the constitutionality of a statute was promptly settled in 1803 by the United States Supreme Court in Marbury vs. Madison." "In 1849, the Iowa Supreme Court issued its first decision that protected the constitutional rights of an Iowan by invalidating a statute enacted by the legislature. In this case, the court stated it was 'a settled principle' in this country that courts have the power, 'as a matter of right and duty, to declare every act of the legislature made in violation of the constitution, or any provision of it, null and void.'" "Judicial review is so commonplace that, since 1846, litigants in Iowa in roughly 1000 cases have asked the Iowa Supreme Court to protect their constitutional rights by invalidating a state law. During this same time, the court has declared acts of the legislature unconstitutional in over 150 cases." "As far back as 1883, the Iowa Supreme Court made it clear that even unpopular rulings could not simply be suspended in time to await any future legislative action. In its decision, the court said that, if courts could be coerced by popular majorities to disregard the constitution any point in time, 'constitutions would become mere ropes of sand and there would be an end of...constitutional freedom.'" This bill is dangerous, disrespectful, and strikes at the very heart of our form of government. Vote no on HF 109.

Name: Bryce Smith

Comment: This bill directly violates the very premise of having coequal branches of government. This bill does not make sense in the scope of a legal mind, especially for anyone who respects and understands the constitution of the United States and Iowa. Oppose this bill!

Name: Mary Kay Wik

Comment: Civics 101: Three branches of government. If a law is found to be unconstitutional, rewrite it!

Name: Kelly Stone

Comment: No. This is 101. Three branches to ensure the separation of power. Checks and balances. Theres so much more that could be said here, but nothing else that needs to be.

Name: Mary Wolfe

Comment:

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Comment: Woops there was supposed to be a frowney face emoticon in my prior comment but apparently it didn't translate. So please just close your eyes and imagine a very frowney face and that is my comment thank you.

Name: Cate Koeppen

Comment: We have three coequal branches of government. If a law is found to be unconstitutional, you need to rewrite it.Oppose this bill.

Name: Dianne Prichard

Comment: This bill is unconstitutional. Oppose it.

Name: Richard Brown

Comment: Oppose this with extreme prejudice!!! Kill it dead!

Name: Keri Manning

Comment: This is a terrible idea and violates the separation of legislative, executive, and judicial powers. It does not even merit a floor vote.

Name: Christopher Taylor

Comment: An argument against this kind of legislative overreach was made over two hundred years ago by the Founding Father Alexander Hamilton. He wrote, in Federalist No. 78, "It equally proves, that though individual oppression may now and then proceed from the courts of justice, the general liberty of the people can never be endangered from that quarter; I mean so long as the judiciary remains truly distinct from both the legislature and the Executive. For I agree, that 'there is no liberty, if the power of judging be not separated from the legislative and executive powers'...The interpretation of the laws is the proper and peculiar province of the courts. A constitution is, in fact, and must be regarded by the judges, as a fundamental law. It therefore belongs to them to ascertain its meaning, as well as the meaning of any particular act proceeding from the legislative body." A fair appreciation of the founding principles of this state and this nation should compel members of this subcommittee and the General Assembly to vote against this bill.

Name: Diana Boeglin

Comment: This bill violates everything our founding fathers intended. Congress is not to have greater authority than the supreme court, they are coequal branches of government. This is a step towards autocracy and fascism.

Name: John Olsen

Comment: I strongly urge to oppose this bill. We already have a method to overturn Supreme Court decisions. It is called a constitutional amendment. Yes, it is long and arduous but it is meant that way to protect against the shift of political winds. Plus, Iowa voters get the final say which is the way it should be. We have three coequal branches of government and this bill would destroy that balance. Please oppose this bill.

Name: Connie Ryan

Comment: Interfaith Alliance of Iowa Action Fund opposes HF109 and all attempts to undermine the Judicial Branch. This is a thinly veiled attempt to take powers away from one branch of government as retribution for decisions that the religious right disagrees. This is wrong and unconstitutional.

Name: Pete McRoberts

Comment: We strongly oppose this bill on separation of powers grounds. The constitution works and we should protect it. The coequal branches of government, sometimes in collaboration with each other, sometimes in competition with each other, are critical for protecting minority rights, including those people with unpopular opinions even. At one point or the other, we **all** have unpopular opinions. So, the Court protects us all in this respect. We strongly recommend Members of the Legislature to preserve, protect and defend the Iowa Constitution, so we can all have the freedom it provides. Thank you.