

CHAPTER 4

CONSTRUCTION OF STATUTES

Referred to in §91A.2, 91E.1, 162.2, 514B.1

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4.1 Rules.

In the construction of the statutes, the following rules shall be observed, unless such construction would be inconsistent with the manifest intent of the general assembly, or repugnant to the context of the statute:

1. *Appellate court.* The term “*appellate court*” means and includes both the supreme court and the court of appeals. Where an act, omission, right, or liability is by statute conditioned upon the filing of a decision by an appellate court, the term means any final decision of either the supreme court or the court of appeals.

2. “*Child*” includes child by adoption.

3. *Clerk — clerk’s office.* The word “*clerk*” means clerk of the court in which the action or proceeding is brought or is pending; and the words “*clerk’s office*” mean the office of that clerk.

4. *Consanguinity and affinity.* Degrees of consanguinity and affinity shall be computed according to the civil law.

5. “*Court employee*” and “*employee of the judicial branch*” include every officer or employee of the judicial branch except a judicial officer.

6. *Deed — bond — indenture — undertaking.* The word “*deed*” is applied to an instrument conveying lands, but does not imply a sealed instrument; and the words “*bond*” and “*indenture*” do not necessarily imply a seal, and the word “*undertaking*” means a promise or security in any form.

7. *Executor — administrator.* The term “*executor*” includes administrator, and the term “*administrator*” includes executor, where the subject matter justifies such use.

8. *Figures and words.* If there is a conflict between figures and words in expressing a number, the words govern.

9. *Highway — road.* The words “*highway*” and “*road*” include public bridges, and may be held equivalent to the words “*county way*”, “*county road*”, “*common road*”, and “*state road*”.

9A. “*Intellectual disability*” means a disability of children and adults who as a result of inadequately developed intelligence have a significant impairment in ability to learn or to adapt to the demands of society, and, if a diagnosis is required, “*intellectual disability*” means a diagnosis of mental retardation as defined in the diagnostic and statistical manual of mental disorders, fourth edition, text revised, published by the American psychiatric association.

9B. “*Internet*” means the federated international system that is composed of allied electronic communication networks linked by telecommunication channels, that uses standardized protocols, and that facilitates electronic communication services, including but not limited to use of the world wide web; the transmission of electronic mail or messages; the transfer of files and data or other electronic information; and the transmission of voice, image, and video.

9C. “*Internet site*” means a specific location on the internet that is determined by internet protocol numbers, by a domain name, or by both, including but not limited to domain names that use the designations “.com”, “.edu”, “.gov”, “.org”, and “.net”.

10. *Issue*. The word “*issue*” as applied to descent of estates includes all lawful lineal descendants.

11. *Joint authority*. Words giving a joint authority to three or more public officers or other persons shall be construed as giving such authority to a majority of them, unless it be otherwise expressed in the Act giving the authority.

12. *Judicial officer*. Means a supreme court justice, a judge of the court of appeals, a district judge, a district associate judge, an associate juvenile judge, an associate probate judge, or a magistrate. The term also includes a person who is temporarily serving as a justice, judge, or magistrate as permitted by section 602.1612 or 602.9206.

13. *Land — real estate*. The word “*land*” and the phrases “*real estate*” and “*real property*” include lands, tenements, hereditaments, and all rights thereto and interests therein, equitable as well as legal.

13A. “*Livestock*” includes but is not limited to an animal classified as an ostrich, rhea, or emu.

14. “*Magistrate*” means a judicial officer appointed under chapter 602, article 6, part 4.

15. Reserved.

16. *Month — year — A.D.* The word “*month*” means a calendar month, and the word “*year*” and the abbreviation “*A.D.*” are equivalent to the expression “*year of our Lord*”.

17. *Number and gender*. Unless otherwise specifically provided by law the singular includes the plural, and the plural includes the singular. Words of one gender include the other genders.

18. *Numerals — figures*. The Roman numerals and the Arabic figures are to be taken as parts of the English language.

19. *Oath — affirmation*. The word “*oath*” includes affirmation in all cases where an affirmation may be substituted for an oath, and in like cases the word “*swear*” includes “*affirm*”.

20. *Person*. Unless otherwise provided by law, “*person*” means individual, corporation, limited liability company, government or governmental subdivision or agency, business trust, estate, trust, partnership or association, or any other legal entity.

21. *Personal property*. The words “*personal property*” include money, goods, chattels, evidences of debt, and things in action.

21A. *Persons with mental illness*. The words “*persons with mental illness*” include persons with psychosis, persons who are severely depressed, and persons with any type of mental disease or mental disorder, except that mental illness does not refer to intellectual disability, or to insanity, diminished responsibility, or mental incompetency as defined and used in the Iowa criminal code or in the rules of criminal procedure, Iowa court rules. A person who is hospitalized or detained for treatment of mental illness shall not be deemed or presumed to be incompetent in the absence of a finding of incompetence made pursuant to section 229.27.

22. *Population*. The word “*population*” where used in this Code or any statute means the population shown by the latest preceding certified federal census, unless otherwise specifically provided.

23. “*Preceding*” and “*following*” when used by way of reference to a chapter or other part of a statute mean the next preceding or next following chapter or other part.

24. *Property*. The word “*property*” includes personal and real property.

25. *Quorum*. A quorum of a public body is a majority of the number of members fixed by statute.

26. *Repeal — effect of*. The repeal of a statute, after it becomes effective, does not revive a statute previously repealed, nor affect any right which has accrued, any duty imposed, any penalty incurred, or any proceeding commenced, under or by virtue of the statute repealed.

27. “*Rule*” includes “*regulation*”.

28. *Seal*. Where the seal of a court, public office, public officer, or public or private corporation may be required to be affixed to any paper, the word “*seal*” shall include an impression upon the paper alone, or upon wax, a wafer affixed to the paper, or an official stamp of a notarial officer as provided in chapter 9B. If the seal of a court is required, the word “*seal*” may also include a visible electronic image of the seal on an electronic document.

29. *Series.* If a statute refers to a series of numbers or letters, the first and the last numbers or letters are included.

30. *Shall, must, and may.* Unless otherwise specifically provided by the general assembly, whenever the following words are used in a statute enacted after July 1, 1971, their meaning and application shall be:

- a. The word “*shall*” imposes a duty.
- b. The word “*must*” states a requirement.
- c. The word “*may*” confers a power.

31. *Sheriff.* The term “*sheriff*” may be extended to any person performing the duties of the sheriff, either generally or in special cases.

32. *State.* The word “*state*”, when applied to the different parts of the United States, includes the District of Columbia and the territories, and the words “*United States*” may include the said district and territories.

33. *Tense.* Words in the present tense include the future.

34. *Time — legal holidays.* In computing time, the first day shall be excluded and the last included, unless the last falls on Sunday, in which case the time prescribed shall be extended so as to include the whole of the following Monday. However, when by the provisions of a statute or rule prescribed under authority of a statute, the last day for the commencement of an action or proceedings, the filing of a pleading or motion in a pending action or proceedings, or the perfecting or filing of an appeal from the decision or award of a court, board, commission, or official falls on a Saturday, a Sunday, a day on which the office of the clerk of the district court is closed in whole or in part pursuant to the authority of the supreme court, the first day of January, the third Monday in January, the twelfth day of February, the third Monday in February, the last Monday in May, the fourth day of July, the first Monday in September, the eleventh day of November, the fourth Thursday in November, the twenty-fifth day of December, and the following Monday when any of the foregoing named legal holidays fall on a Sunday, and any day appointed or recommended by the governor of Iowa or the president of the United States as a day of fasting or thanksgiving, the time shall be extended to include the next day which the office of the clerk of the court or the office of the board, commission, or official is open to receive the filing of a commencement of an action, pleading or a motion in a pending action or proceeding, or the perfecting or filing of an appeal.

35. “*United States*” includes all the states.

36. The word “*week*” means seven consecutive days.

37. *Will.* The word “*will*” includes codicils.

38. *Words and phrases.* Words and phrases shall be construed according to the context and the approved usage of the language; but technical words and phrases, and such others as may have acquired a peculiar and appropriate meaning in law, shall be construed according to such meaning.

39. *Written — in writing — signature.* The words “*written*” and “*in writing*” may include any mode of representing words or letters in general use, and include an electronic record as defined in section 554D.103. A signature, when required by law, must be made by the writing or markings of the person whose signature is required. “*Signature*” includes an electronic signature as defined in section 554D.103. If a person is unable due to a physical disability to make a written signature or mark, that person may substitute either of the following in lieu of a signature required by law:

a. The name of the person with a disability written by another upon the request and in the presence of the person with a disability.

b. A rubber stamp reproduction of the name or facsimile of the actual signature when adopted by the person with a disability for all purposes requiring a signature and then only when affixed by that person or another upon request and in the presence of the person with a disability.

40. The word “year” means twelve consecutive months.

[C51, §26, 2513; R60, §29, 4121, 4123, 4124; C73, §45; C97, §48; C24, 27, 31, 35, 39, §63; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §4.1]

83 Acts, ch 186, §10002, 10201; 87 Acts, ch 115, §3; 92 Acts, ch 1151, §1; 93 Acts, ch 9, §1; 95 Acts, ch 43, §1; 96 Acts, ch 1129, §1; 96 Acts, ch 1153, §1; 98 Acts, ch 1047, §1; 99 Acts, ch 146, §42; 2000 Acts, ch 1189, §24; 2002 Acts, ch 1119, §106; 2002 Acts, ch 1137, §1, 71; 2005 Acts, ch 3, §1; 2007 Acts, ch 33, §1; 2009 Acts, ch 69, §1; 2012 Acts, ch 1019, §1, 2; 2012 Acts, ch 1050, §32, 60

Referred to in §28J.1, 43.49, 50.24, 50.46, 142C.2, 163.35, 203.1, 203C.1, 222.2, 222.60, 226.8, 229.1, 235B.2, 235E.1, 237.1, 256H.1, 347.9A, 362.2, 386.1, 446.16, 455B.482, 480.1, 481B.1, 486A.101, 490.140, 502A.1, 505.32, 508B.5, 514.1, 514E.1, 515G.5, 523H.1, 524.103, 527.5, 533.405, 537A.10, 551A.1, 562A.8A, 562B.9A, 633.556, 714.15, 714E.1, 715.3, 716A.1, 904.108

[P] Similar provision on population, §9F.6

[P] Definition of “special state agents”, §80.23

[P] Transition provisions for court reorganization in chapter 602, article 11

[T] 2012 amendment to subsection 28 takes effect January 1, 2013; 2012 Acts, ch 1050, §60

[T] NEW subsection 9A and former subsections 9A and 9B renumbered as 9B and 9C

[T] Subsection 21A amended

[T] Subsection 28 amended

4.2 Common law rule of construction.

The rule of the common law, that statutes in derogation thereof are to be strictly construed, has no application to this Code. Its provisions and all proceedings under it shall be liberally construed with a view to promote its objects and assist the parties in obtaining justice.

[C51, §2503; R60, §2622; C73, §2528; C97, §3446; C24, 27, 31, 35, 39, §64; C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §4.2]

4.3 References to other statutes.

Any statute which adopts by reference the whole or a portion of another statute of this state shall be construed to include subsequent amendments of the statute or the portion thereof so adopted by reference unless a contrary intent is expressed.

[C58, 62, 66, 71, 73, 75, 77, 79, 81, §4.3]

4.4 Presumption of enactment.

In enacting a statute, it is presumed that:

1. Compliance with the Constitutions of the state and of the United States is intended.
2. The entire statute is intended to be effective.
3. A just and reasonable result is intended.
4. A result feasible of execution is intended.
5. Public interest is favored over any private interest.

[C73, 75, 77, 79, 81, §4.4]

4.5 Prospective statutes.

A statute is presumed to be prospective in its operation unless expressly made retrospective.

[C73, 75, 77, 79, 81, §4.5]

4.6 Ambiguous statutes — interpretation.

If a statute is ambiguous, the court, in determining the intention of the legislature, may consider among other matters:

1. The object sought to be attained.
2. The circumstances under which the statute was enacted.
3. The legislative history.
4. The common law or former statutory provisions, including laws upon the same or similar subjects.
5. The consequences of a particular construction.
6. The administrative construction of the statute.
7. The preamble or statement of policy.

[C73, 75, 77, 79, 81, §4.6]

4.7 Conflicts between general and special statutes.

If a general provision conflicts with a special or local provision, they shall be construed, if possible, so that effect is given to both. If the conflict between the provisions is irreconcilable, the special or local provision prevails as an exception to the general provision.

[C73, 75, 77, 79, 81, §4.7]

Referred to in §7E.6

[P] Intent of general assembly that §7E.6 govern compensation of members of boards, committees, commissions, or councils except for certain provisions enacted subsequent to July 1, 1986; see §7E.6(1) and (7)

4.8 Irreconcilable statutes.

If statutes enacted at the same or different sessions of the legislature are irreconcilable, the statute latest in date of enactment by the general assembly prevails. If provisions of the same Act are irreconcilable, the provision listed last in the Act prevails.

[C73, 75, 77, 79, 81, §4.8]

[P] See also §2B.13(1)(h)

[P] Intent of general assembly that §7E.6 govern compensation of members of boards, committees, commissions, or councils except for certain provisions enacted subsequent to July 1, 1986; see §7E.6(1) and (7)

4.9 Official copy prevails.

If the language of the official copy of a statute conflicts with the language of any subsequent printing or reprinting of the statute, the language of the official copy prevails.

[C73, 75, 77, 79, 81, §4.9]

4.10 Reenactment of statutes — continuation.

A statute which is reenacted, revised or amended is intended to be a continuation of the prior statute and not a new enactment, so far as it is the same as the prior statute.

[C73, 75, 77, 79, 81, §4.10]

4.11 Conflicting amendments to same statutes — interpretation.

If amendments to the same statute are enacted at the same or different sessions of the general assembly, one amendment without reference to another, the amendments are to be harmonized, if possible, so that effect may be given to each. If the amendments are irreconcilable, the latest in date of enactment by the general assembly prevails.

[C73, 75, 77, 79, 81, §4.11]

4.12 Acts or statutes are severable.

If any provision of an Act or statute or the application thereof to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of the Act or statute which can be given effect without the invalid provision or application, and to this end the provisions of the Act or statute are severable.

[C73, 75, 77, 79, 81, §4.12]

Referred to in §533C.903

4.13 General savings provision.

1. The reenactment, revision, amendment, or repeal of a statute does not affect any of the following:

- a. The prior operation of the statute or any prior action taken under the statute.
- b. Any validation, cure, right, privilege, obligation, or liability previously acquired, accrued, accorded, or incurred under the statute.
- c. Any violation of the statute or penalty, forfeiture, or punishment incurred in respect to the statute, prior to the amendment or repeal.
- d. Any investigation, proceeding, or remedy in respect of any privilege, obligation, liability, penalty, forfeiture, or punishment; and the investigation, proceeding, or remedy may be instituted, continued, or enforced, and the penalty, forfeiture, or punishment imposed, as if the statute had not been repealed or amended.

2. If the penalty, forfeiture, or punishment for any offense is reduced by a reenactment,

revision, or amendment of a statute, the penalty, forfeiture, or punishment if not already imposed shall be imposed according to the statute as amended.

[C73, 75, 77, 79, 81, §4.13]
2008 Acts, ch 1031, §6

4.14 General rules of construction for English language laws.

It is presumed that English language requirements in the public sector are consistent with the laws of Iowa and any ambiguity in the English language text of the laws of Iowa shall be resolved, in accordance with the ninth and tenth amendments of the Constitution of the United States, not to deny or disparage rights retained by the people, and to reserve powers to the states or to the people.

2002 Acts, ch 1007, §2