

House File 1063
Judiciary and Law
Enforcement
Higgins, Chair
Brandt
Clark

12 1976

HOUSE FILE 1063

Judiciary and Law Enforcement, Pass 2/11
House File 1063
Judiciary *3/4, Pass 2/12*
Doderer, Chairperson
Willits
Shaw

By BRANDT, BRUNOW, O'HALLORAN,
LIPSKY, HARGRAVE and AVENSON

Passed House, Date 2-27-76 (9721) Passed Senate, Date 3-24-76 (1031)

Vote: Ayes 84 Nays 5 Vote: Ayes 43 Nays 2

Approved 5-7-76

Re-passed House per Senate amendment as amended
4-12-76 (1868)

Re-passed Senate per House Amend.
4-15-76 (1325)

79-0

47-0

A BILL FOR

1 An Act relating to certain statutory provisions affecting the
2 legal treatment of male and female persons.

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

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1 Section 1. Section one hundred forty-four point thirteen
2 (144.13), Code 1975, is amended by adding the following new
3 subsection:

4 NEW SUBSECTION. The surname of a child entered upon the
5 child's certificate of birth shall be the same as that of
6 the child's father, as shown by the certificate of birth,
7 unless some other surname is designated for the child by both
8 parents, or by the mother if she is not married to the father
9 at the time of the child's birth. If the father's name does
10 not appear on the certificate of birth, the mother may
11 designate any surname she chooses for the child and that
12 surname shall be entered upon the child's certificate of
13 birth.

14 Sec. 2. Section two hundred forty-five point seven (245.7),
15 Code 1975, is amended to read as follows:

16 245.7 TERM OF COMMITMENTS. A female convicted of a felony
17 shall not be detained in said reformatory under one commitment
18 for a period longer than the maximum term of imprisonment
19 provided by law for said felony. A female convicted of a
20 ~~crime less-than-felony~~ and sentenced to a term of less than
21 one year shall not be detained therein ~~longer-than-five-years~~
22 under-one-commitment.

23 Sec. 3. Section two hundred fifty-two A point one (252A.1),
24 unnumbered paragraph two (2), Code 1975, is amended to read
25 as follows:

26 The purpose of this uniform chapter is to secure support
27 in civil proceedings for dependent ~~wives~~ spouses, children
28 and poor relatives from persons legally responsible for their
29 support.

30 Sec. 4. Section two hundred fifty-two A point two (252A.2),
31 subsection four (4), Code 1975, is amended to read as follows:

32 4. "Dependent" shall mean and include a ~~wife~~ spouse,
33 child, mother, father, grandparent or grandchild who is in
34 need of and entitled to support from a person who is declared
35 to be legally liable for such support by the laws of the state

1 or states wherein the petitioner and the respondent reside.

2 Sec. 5. Section two hundred fifty-two A point three
3 (252A.3), subsections one (1), two (2), six (6) and seven
4 (7), Code 1975, are amended to read as follows:

5 1. A husband spouse in one state is hereby declared to
6 be liable for the support of his wife or her husband and any
7 child or children under eighteen years of age and any other
8 dependent residing or found in the same state or in another
9 state having substantially similar or reciprocal laws, and,
10 if possessed of sufficient means or able to earn such means,
11 may be required to pay for their support a fair and reasonable
12 sum according to his or her means, as may be determined by
13 the court having jurisdiction of the respondent in a proceeding
14 instituted under this chapter.

15 2. A mother parent in one state is hereby declared to
16 be liable for the support of his or her child or children
17 under eighteen years of age residing or found in the same
18 state or in another state having substantially similar or
19 reciprocal laws, whenever the father or mother of such child
20 or children is dead, or cannot be found, or is incapable of
21 supporting such child or children, and, if ~~she~~ the liable
22 parent is possessed of sufficient means or able to earn such
23 means, he or she may be required to pay for the support of
24 such child or children a fair and reasonable sum according
25 to his or her means, as may be determined by the court having
26 jurisdiction of the respondent in a proceeding instituted
27 under this chapter.

28 6. A man or woman who was or is held out as her husband
29 or his wife by a man person by virtue of a common law marriage
30 recognized as valid by the laws of the initiating state and
31 of the responding state shall be deemed the legitimate wife
32 spouse of such man person.

33 7. Notwithstanding the fact that the respondent has
34 obtained in any state or country a final decree of divorce
35 or separation from his wife or her husband or a decree

1 dissolving his or her marriage, the respondent shall be deemed
2 legally liable for the support of any dependent child of such
3 marriage.

4 Sec. 6. Section two hundred fifty-two A point six (252A.6),
5 subsections one (1) and three (3), subsection four (4),
6 unnumbered paragraph one (1), and subsections ten (10) and
7 thirteen (13), Code 1975, are amended to read as follows:

8 1. A proceeding under this chapter shall be commenced
9 by a petitioner, or a petitioner's representative, by filing
10 a verified petition in the court in equity in the county of
11 the state wherein he or she resides or is domiciled, showing
12 the name, age, residence and circumstances of the petitioner,
13 alleging that he or she is in need of and is entitled to
14 support from the respondent, giving ~~his~~ the respondent's name,
15 age, residence and circumstances, and praying that the
16 respondent be compelled to furnish such support. The
17 petitioner may include in or attach to the petition any
18 information which may help in locating or identifying the
19 respondent including, but without limitation by enumeration,
20 a photograph of the respondent, a description of any
21 distinguishing marks of his or her person, other names and
22 aliases by which he or she has been or is known, the name
23 of his or her employer, his or her fingerprints, or social
24 security number.

25 3. If the court of this state acting as an initiating
26 state finds that the petition sets forth facts from which
27 it may be determined that the respondent owes a duty of support
28 and that a court of the responding state may obtain
29 jurisdiction of the respondent or his or her property, it
30 shall so certify and shall cause three copies of (a) the
31 petition (b) its certificate and (c) this chapter to be
32 transmitted to the court in the responding state. If the
33 name and address of such court is unknown and the responding
34 state has an information agency comparable to that established
35 in the initiating state it shall cause such copies to be

1 transmitted to the state information agency or other proper
2 official of the responding state, with a request that it
3 forward them to the proper court, and that the court of the
4 responding state acknowledge their receipt to the court of
5 the initiating state.

6 4. When the court of this state, acting as a responding
7 state, receives from the court of an initiating state the
8 aforesaid copies, it shall docket the cause, notify the county
9 attorney or other official acting as petitioner's
10 representative, set a time and place for a hearing, and take
11 such action as is necessary in accordance with the laws of
12 this state to serve notice and thus obtain jurisdiction over
13 the respondent. If a court of the state, acting as a
14 responding state, is unable to obtain jurisdiction of the
15 respondent or his or her property due to inaccuracies or
16 inadequacies in the petition or otherwise, the court shall
17 communicate this fact to the court in the initiating state,
18 shall on its own initiative use all means at its disposal
19 to trace the respondent or his or her property, and shall
20 hold the case pending the receipt of more accurate information
21 or an amended petition from the court in the initiating state.

22 10. If a respondent, duly summoned by a court in the
23 responding state, willfully fails without good cause to appear
24 as directed in the summons, he or she shall be punished in
25 the same manner and to the same extent as is provided by law
26 for the punishment of a defendant or witness who willfully
27 disobeys a summons or subpoena duly issued out of such court
28 in any other action or proceeding cognizable by said court.

29 13. A respondent who shall willfully fail to comply with
30 or violate the terms or conditions of the support order or
31 of his or her probation shall be punished by the court in
32 the same manner and to the same extent as is provided by law
33 for a contempt of such court or a violation of probation
34 ordered by such court in any other suit or proceeding
35 cognizable by such court.

1 Sec. 7. Section two hundred forty-five point six (245.6),
2 Code 1975, is repealed.

3 EXPLANATION

4 This bill amends several sections of the Code affecting
5 the legal status or treatment of female persons.

6 Section one clarifies that an unwed mother of a child whose
7 paternity has not been acknowledged or determined by a court
8 may give the child whatever surname she chooses, even though
9 the father's name does not appear on the birth certificate.

10 Sections two and seven strike from the Code the present
11 authority to hold in the Women's Reformatory for up to five
12 years women who have been convicted of a crime less than a
13 felony, and bars the commitment to that reformatory of any
14 woman sentenced to a term of less than one year. These
15 provisions are consistent with those which presently govern
16 incarceration of men.

17 Sections three through six amend the Uniform Support of
18 Dependents Act so that it is equally applicable to males and
19 females as regards court-ordered support of minors or dependent
20 spouses or former spouses.

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HOUSE FILE 1063

H-5198

1 Amend House File 1063, page 4, by inserting after
2 line 35 the following:
3 "Sec. ____ Chapter six hundred seventy-four (674),
4 Code 1975, is amended by adding the following new
5 section:
6 NEW SECTION. CHANGE OF CERTAIN MINOR CHILDREN'S
7 NAMES. Notwithstanding section six hundred seventy-
8 four point one (674.1) of the Code, if a natural
9 parent has custody of his or her minor child and the
10 child's legal surname is different from that of such
11 natural parent, the parent may petition the district
12 court in the manner prescribed by this chapter to
13 have the child's surname changed to that of the natural
14 parent having custody. Notice of the petition, either
15 personal or constructive, shall be served upon the
16 child's other natural parent. If the minor child
17 is fourteen years of age or older, he or she shall
18 file written consent to the proposed change of name."

H-5198 FILED - *William 2/27* BY BRANDT of Black Hawk
FEBRUARY 11, 1976

H-5199

1 Amend House File 1063 as follows:
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3 1. Page 1, by striking everything after the
4 period in line 9 and all of lines 10 through 13.
H-5199 FILED - *Ruled out of order with* BY BRANDT of Black Hawk
FEBRUARY 12, 1976 *adoption of 5205 2/27*

HOUSE FILE 1063

H-5200

1 Amend amendment H-5198, to House File 1063, as
2 follows:
3 1. By striking from lines 14, 15 and 16 the
4 following: "Notice of the petition, either
5 personal or constructive, shall be served upon the
6 child's other natural parent." and inserting in
7 lieu thereof the following: "Notice of the petition
8 shall be served upon the child's other natural
9 parent pursuant to Iowa Rules of Civil Procedure
10 56, 60, 60.1 or 62, or by certified letter mailed
11 to the last known address."
H-5200 FILED - *William 2/27* BY BRANDT of Black Hawk
FEBRUARY 12, 1976

HOUSE FILE 1063

H-5205

1 Amend House File 1063 as follows:
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3 1. Page 1, by striking all of lines 1 through
4 13.
H-5205 FILED - *Adopted 2/27* BY HULLINGER of Decatur
FEBRUARY 12, 1976 *(720)*

S-5376

- 1 Amend House File 1063 as follows:
- 2 1. Page 1, by adding after line 13, the
- 3 following:
- 4 "Sec. ____ . Section two hundred forty-five
- 5 point one (245.1), Code 1975 is amended by striking
- 6 unnumbered paragraph two (2)."

S-5376 FILED - *Adopted 3/24 32-13 (1030)*
MARCH 19, 1976

GENE GLENN, Chairperson
JUDICIARY COMMITTEE

SENATE AMENDMENT TO HOUSE FILE 1063

H-6033

- 1 Amend House File 1063 as follows:
- 2 1. Page 1, by adding after line 13, the
- 3 following:
- 4 "Sec. ____ . Section two hundred forty-five
- 5 point one (245.1), Code 1975 is amended by striking
- 6 unnumbered paragraph two (2)."

H-6033 FILED
RECEIVED FROM SENATE, MARCH 30, 1976

*House amended and concurred 4/12
(1363)*

HOUSE FILE 1063

H-6037

- 1 Amend Senate amendment H-6033 to House File
- 2 1063 as follows:
- 3 1. By striking lines 2 and 3 and inserting in
- 4 lieu thereof the following:
- 5 "Page 1, by adding before line 1, the
- 6 following:"

H-6037 FILED - *Adopted 4/12* BY BRANDT of Black Hawk
MARCH 30, 1976 *(1368)*

HOUSE AMENDMENT TO SENATE AMENDMENT TO HOUSE FILE 1063

S-5505

- 1 Amend Senate amendment H-6033 to House File
- 2 1063 as follows:
- 3 1. By striking lines 2 and 3 and inserting
- 4 in lieu thereof the following:
- 5 "Page 1, by adding before line 1, the
- 6 following:"

S-5505 FILED
APRIL 13, 1976

RECEIVED FROM THE HOUSE

Senate concurred 4/15/76 (1324)

dissolving his or her marriage, the respondent shall be deemed legally liable for the support of any dependent child of such marriage.

Sec. 6. Section two hundred fifty-two A point six (252A.6), subsections one (1) and three (3), subsection four (4), unnumbered paragraph one (1), and subsections ten (10) and thirteen (13), Code 1975, are amended to read as follows:

1. A proceeding under this chapter shall be commenced by a petitioner, or a petitioner's representative, by filing a verified petition in the court in equity in the county of the state wherein he or she resides or is domiciled, showing the name, age, residence and circumstances of the petitioner, alleging that he or she is in need of and is entitled to support from the respondent, giving his the respondent's name, age, residence and circumstances, and praying that the respondent be compelled to furnish such support. The petitioner may include in or attach to the petition any information which may help in locating or identifying the respondent including, but without limitation by enumeration, a photograph of the respondent, a description of any distinguishing marks of his or her person, other names and aliases by which he or she has been or is known, the name of his or her employer, his or her fingerprints, or social security number.

3. If the court of this state acting as an initiating state finds that the petition sets forth facts from which it may be determined that the respondent owes a duty of support and that a court of the responding state may obtain jurisdiction of the respondent or his or her property, it shall so certify and shall cause three copies of (a) the petition (b) its certificate and (c) this chapter to be transmitted to the court in the responding state. If the name and address of such court is unknown and the responding state has an information agency comparable to that established

in the initiating state it shall cause such copies to be transmitted to the state information agency or other proper official of the responding state, with a request that it forward them to the proper court, and that the court of the responding state acknowledge their receipt to the court of the initiating state.

4. When the court of this state, acting as a responding state, receives from the court of an initiating state the aforesaid copies, it shall docket the cause, notify the county attorney or other official acting as petitioner's representative, set a time and place for a hearing, and take such action as is necessary in accordance with the laws of this state to serve notice and thus obtain jurisdiction over the respondent. If a court of the state, acting as a responding state, is unable to obtain jurisdiction of the respondent or his or her property due to inaccuracies or inadequacies in the petition or otherwise, the court shall communicate this fact to the court in the initiating state, shall on its own initiative use all means at its disposal to trace the respondent or his or her property, and shall hold the case pending the receipt of more accurate information or an amended petition from the court in the initiating state.

10. If a respondent, duly summoned by a court in the responding state, willfully fails without good cause to appear as directed in the summons, he or she shall be punished in the same manner and to the same extent as is provided by law for the punishment of a defendant or witness who willfully disobeys a summons or subpoena duly issued out of such court in any other action or proceeding cognizable by said court.

13. A respondent who shall willfully fail to comply with or violate the terms or conditions of the support order or of his or her probation shall be punished by the court in the same manner and to the same extent as is provided by law for a contempt of such court or a violation of probation

AN ACT

RELATING TO CERTAIN STATUTORY PROVISIONS AFFECTING THE LEGAL
TREATMENT OF MALE AND FEMALE PERSONS.

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

Section 1. Section two hundred forty-five point one (245.1), Code 1975, is amended by striking unnumbered paragraph two (2).

Sec. 2. Section two hundred forty-five point seven (245.7), Code 1975, is amended to read as follows:

245.7 TERM OF COMMITMENTS. A female convicted of a felony shall not be detained in said reformatory under one commitment for a period longer than the maximum term of imprisonment provided by law for said felony. A female convicted of a crime ~~less-than-felony~~ and sentenced to a term of less than one year shall not be detained therein ~~longer-than-five-years~~ under one commitment.

Sec. 3. Section two hundred fifty-two A point one (252A.1), unnumbered paragraph two (2), Code 1975, is amended to read as follows:

The purpose of this uniform chapter is to secure support in civil proceedings for dependent ~~wives~~ spouses, children and poor relatives from persons legally responsible for their support.

Sec. 4. Section two hundred fifty-two A point two (252A.2), subsection four (4), Code 1975, is amended to read as follows:

4. "Dependent" shall mean and include a wife spouse, child, mother, father, grandparent or grandchild who is in need of and entitled to support from a person who is declared to be legally liable for such support by the laws of the state or states wherein the petitioner and the respondent reside.

Sec. 5. Section two hundred fifty-two A point three (252A.3), subsections one (1), two (2), six (6) and seven (7), Code 1975, are amended to read as follows:

1. A husband spouse in one state is hereby declared to be liable for the support of his wife or her husband and any child or children under eighteen years of age and any other dependent residing or found in the same state or in another state having substantially similar or reciprocal laws, and, if possessed of sufficient means or able to earn such means, may be required to pay for their support a fair and reasonable sum according to his or her means, as may be determined by the court having jurisdiction of the respondent in a proceeding instituted under this chapter.

2. A mother parent in one state is hereby declared to be liable for the support of his or her child or children under eighteen years of age residing or found in the same state or in another state having substantially similar or reciprocal laws, whenever the father or mother of such child or children is dead, or cannot be found, or is incapable of supporting such child or children, and, if she the liable parent is possessed of sufficient means or able to earn such means, he or she may be required to pay for the support of such child or children a fair and reasonable sum according to his or her means, as may be determined by the court having jurisdiction of the respondent in a proceeding instituted under this chapter.

6. A man or woman who was or is held out as her husband or his wife by a man person by virtue of a common law marriage recognized as valid by the laws of the initiating state and of the responding state shall be deemed the legitimate wife spouse of such man person.

7. Notwithstanding the fact that the respondent has obtained in any state or country a final decree of divorce or separation from his wife or her husband or a decree

ordered by such court in any other suit or proceeding cognizable by such court.

Sec. 7. Section two hundred forty-five point six (245.6), Code 1975, is repealed.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 1063, Sixty-sixth General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved 5/7, 1976

ROBERT D. RAY
Governor