

Amending 2/3

Do Pass 4/2 (7-12-79)

FILED FEB 26 1979

SENATE FILE 294

By COMMITTEE ON JUDICIARY
Approved 2/26 (7-5-79)

Passed Senate, Date 3-5-79 (7-6-79) Passed House, Date 4-20-79 (7-12-79)

Vote: Ayes 41 Nays 0 Vote: Ayes 82 Nays 1

Approved May 3, 1979

A BILL FOR

1 An Act to provide uniform procedures for certifying questions
2 of law.

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

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1 Section 1. NEW SECTION. POWER TO ANSWER. The supreme
2 court may answer questions of law certified to it by the
3 supreme court of the United States, a court of appeals of
4 the United States, a United States district court or the
5 highest appellate court or the intermediate appellate court
6 of another state, when requested by the certifying court,
7 if there are involved in a proceeding before it questions
8 of law of this state which may be determinative of the cause
9 then pending in the certifying court and as to which it ap-
10 pears to the certifying court there is no controlling pre-
11 cedent in the decisions of the appellate courts of this state.

12 Sec. 2. NEW SECTION. METHOD OF INVOKING. This Act may
13 be invoked by an order of a court referred to in section one
14 (1) of this Act upon the court's own motion or upon the motion
15 of a party to the cause.

16 Sec. 3. NEW SECTION. CONTENTS OF CERTIFICATION ORDER.
17 A certification order shall set forth the questions of law
18 to be answered and a statement of facts relevant to the
19 questions certified, showing fully the nature of the
20 controversy in which the questions arose.

21 Sec. 4. NEW SECTION. PREPARATION OF CERTIFICATION ORDER.
22 The certification order shall be prepared by the certifying
23 court, signed by the judge presiding at the hearing, and
24 forwarded to the supreme court by the clerk of the certify-
25 ing court under its official seal. The supreme court may
26 require the original or copies of all or of a portion of the
27 record before the certifying court to be filed with the
28 certification order, if, in the opinion of the supreme court,
29 the record or portion of it is necessary in answering the
30 questions.

31 Sec. 5. NEW SECTION. COSTS OF CERTIFICATION. Fees and
32 costs shall be the same as in civil appeals docketed before
33 the supreme court and shall be equally divided between the
34 parties unless otherwise ordered by the certifying court in
35 its order of certification.

1 and provides for certification of questions of law by the
2 Iowa supreme court or the Iowa court of appeals to the highest
3 courts of other states. The Iowa courts retain the discretion
4 to answer or certify or to refrain from answering or certifying
5 a question of law. Certification requires that the question
6 of state law to be certified must be one which "may be
7 determinative" of the cause pending in the certifying court
8 and cannot be answered satisfactorily by the certifying court
9 in light of the state precedents. The Iowa supreme court
10 is given the power to prescribe relevant rules of procedure,
11 subject to the approval of the general assembly. The bill
12 becomes law on January first following its enactment.

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SENATE FILE 294

AN ACT

TO PROVIDE UNIFORM PROCEDURES FOR CERTIFYING QUESTIONS OF LAW.

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

Section 1. NEW SECTION. POWER TO ANSWER. The supreme court may answer questions of law certified to it by the supreme court of the United States, a court of appeals of the United States, a United States district court or the highest appellate court or the intermediate appellate court of another state, when requested by the certifying court, if there are involved in a proceeding before it questions of law of this state which may be determinative of the cause then pending in the certifying court and as to which it appears to the certifying court there is no controlling precedent in the decisions of the appellate courts of this state.

Sec. 2. NEW SECTION. METHOD OF INVOKING. This Act may be invoked by an order of a court referred to in section one (1) of this Act upon the court's own motion or upon the motion of a party to the cause.

Sec. 3. NEW SECTION. CONTENTS OF CERTIFICATION ORDER. A certification order shall set forth the questions of law to be answered and a statement of facts relevant to the questions certified, showing fully the nature of the controversy in which the questions arose.

Sec. 4. NEW SECTION. PREPARATION OF CERTIFICATION ORDER. The certification order shall be prepared by the certifying court, signed by the judge presiding at the hearing, and forwarded to the supreme court by the clerk of the certifying court under its official seal. The supreme court may require the original or copies of all or of a portion of the record before the certifying court to be filed with the

certification order, if, in the opinion of the supreme court, the record or portion of it is necessary in answering the questions.

Sec. 5. NEW SECTION. COSTS OF CERTIFICATION. Fees and costs shall be the same as in civil appeals docketed before the supreme court and shall be equally divided between the parties unless otherwise ordered by the certifying court in its order of certification.

Sec. 6. NEW SECTION. PROCEDURE. The supreme court may prescribe its own rules of procedure concerning the answering and certification of questions of law under this Act, subject to section six hundred eighty-four point nineteen (684.19) of the Code.

Sec. 7. NEW SECTION. OPINION. The written opinion of the supreme court stating the law governing the questions certified shall be sent by the clerk under the seal of the supreme court to the certifying court and to the parties.

Sec. 8. NEW SECTION. POWER TO CERTIFY. The supreme court or the court of appeals, on its own motion or the motion of a party, may order certification of questions of law to the highest court of another state when it appears to the certifying court that there are involved in a proceeding before the court questions of law of the receiving state which may be determinative of the cause then pending in the certifying court and it appears to the certifying court that there are no controlling precedents in the decisions of the highest court or intermediate appellate courts of the receiving state.

Sec. 9. NEW SECTION. PROCEDURE ON CERTIFYING. The procedures for certification from this state to the receiving state are those provided in the laws of the receiving state.

Sec. 10. NEW SECTION. CONSTRUCTION. This Act shall be so construed as to effectuate its general purpose to make uniform the law of those states which enact it.

Sec. 11. NEW SECTION. TITLE. This Act may be cited as the "Uniform Certification of Questions of Law Act".

Sec. 12. This Act is effective January first following its enactment.

TERRY E. BRANSTAD
President of the Senate

FLOYD H. MILLEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 294, Sixty-eighth General Assembly.

FRANK J. STORK
Secretary of the Senate

Approved May 3, 1979

ROBERT D. RAY
Governor