

*See Judiciary 4/3/81  
To Pass 4/5 (S. 1242)*

HOUSE FILE 794

Judiciary  
Kudart, Chairperson  
Doyle  
Delahery

**931**

HOUSE FILE

794

BY COMMITTEE ON JUDICIARY AND  
LAW ENFORCEMENT

Place On Calendar

(Formerly Study Bill 241)

Passed House, Date 4-6-81 (p. 1072) Passed Senate, Date 4-23-81 (p. 1398)

Vote: Ayes 96 Nays 0 Vote: Ayes 47 Nays 0

Approved May 4, 1981

## A BILL FOR

1 An Act relating to the Iowa Probate Code by increasing the  
 2 amount that may pass to a minor without the necessity  
 3 of appointing a conservator; by defining sale of property  
 4 in probate proceedings; by providing that certain hearings  
 5 are not necessary if a certain type of notice is used;  
 6 and by providing that if a claimant is represented by an  
 7 attorney, the attorney of record for the claimant shall  
 8 be notified of the disallowance of the claim.

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

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1 Section 1. Section 633.108, Code 1981, is amended to read  
2 as follows:

3 633.108 SMALL LEGACIES TO MINORS--PAYMENT. Whenever a  
4 minor ~~shall-become~~ becomes entitled under the terms of a will  
5 to a bequest or legacy, to a share of the estate of an  
6 intestate, or to a beneficial interest in a trust fund upon  
7 the distribution ~~thereof~~ of the trust fund, and the value  
8 of ~~sueh~~ the bequest, legacy, share, or interest ~~shall~~ does  
9 not exceed the sum of ~~one~~ four thousand dollars, and ~~no~~ a  
10 conservator for ~~sueh~~ the minor has ~~theretefore~~ not been  
11 appointed, the court having jurisdiction of the distribution  
12 of ~~sueh~~ the funds may, in its discretion, upon the application  
13 of the fiduciary, enter an order authorizing ~~sueh~~ the fiduciary  
14 to pay ~~sueh~~ the bequest, legacy, share or interest to the  
15 parents of ~~sueh~~ the minor, or to the person with whom ~~sueh~~  
16 the minor resides, for the use of ~~sueh~~ the minor, ~~and-the.~~  
17 The receipt of ~~sueh~~ the person or persons therefor, when  
18 presented to the court or filed with the report of distribution  
19 of ~~any-sueh~~ the fiduciary, shall have the same force and  
20 effect as though ~~sueh~~ the payment had been made to a duly  
21 appointed and qualified conservator for ~~sueh~~ the minor.

22 Sec. 2. Section 633.389, Code 1981, is amended to read  
23 as follows:

24 633.389 NOTICE AND HEARING ON SALE, MORTGAGE, EXCHANGE,  
25 PLEDGE OR LEASE OF PROPERTY. Upon the filing of the petition,  
26 unless notice is waived in writing, notice ~~of-hearing~~ in  
27 accordance with section 633.40, shall be served on all persons  
28 interested in ~~sueh~~ the property, provided, ~~however,~~ that as  
29 to personal property and as to the lease of real property  
30 not specifically devised, for a period ~~of~~ not to exceed one  
31 year, the court may, ~~in-its-discretion,~~ hear the petition  
32 without notice. ~~In-these-instances-where~~ When notice is  
33 required, the notice shall state briefly the nature of the  
34 application. ~~At-the-hearing-and-upon~~ Upon satisfactory proof,  
35 the court may order the sale, mortgage, exchange, pledge or

1 lease of the property described, or any part thereof of the  
2 property, at such a price and upon such terms and conditions  
3 as the court may authorize. For the purposes of this section,  
4 the term "all persons interested" ~~shall include~~ includes only  
5 distributees in the estate and persons who have requested  
6 notice as provided by this Code.

7 Sec. 3. Part 6 of division VII of chapter 633, Code 1981,  
8 is amended by adding the following new section:

9 NEW SECTION. SALE DEFINED. For purposes of part 6 of  
10 this division, sale of property includes but is not limited  
11 to the granting of an easement, the granting of an option,  
12 the granting of a right of refusal and the granting or  
13 conveyance of any other interest, title or right regarding  
14 property.

15 Sec. 4. Section 633.439, Code 1981, is amended to read  
16 as follows:

17 633.439 DISALLOWANCE BY PERSONAL REPRESENTATIVE. At any  
18 time after the filing of a claim against an estate, the  
19 personal representative may give the claimant and the  
20 claimant's attorney of record, if any, written notice of  
21 disallowance of claim. ~~Such-a~~ The notice shall be given by  
22 certified mail addressed to the claimant at the address stated  
23 in the claim and to the claimant's attorney of record, if  
24 any.

25 Sec. 5. Section 633.478, Code 1981, is amended to read  
26 as follows:

27 633.478 NOTICE OF APPLICATION FOR DISCHARGE. No A personal  
28 representative shall not be discharged from further duty or  
29 responsibility upon final settlement until notice of ~~hearing~~  
30 ~~on his~~ the final report or of an application for discharge  
31 ~~shall have~~ has been served upon all persons interested, in  
32 accordance with section 633.40, unless ~~such~~ notice is waived.  
33 An order prescribing notice may be made before or after the  
34 filing of the final report.

35 Sec. 6. Section 633.677, Code 1981, is amended to read

1 as follows:

2 633.677 ACCOUNTING TO WARD--NOTICE OF-HEARING. Upon the  
3 termination of a conservatorship, the conservator shall pay  
4 the costs of administration, and shall render a full and  
5 complete accounting to the ward or his the ward's personal  
6 representative and to the court. Notice of hearing-on the  
7 final report of a conservator shall be served on the ward  
8 or his the ward's personal representative, in accordance with  
9 section 633.40, unless such notice is waived. An order  
10 prescribing notice may be made before or after the filing  
11 of the final report.

12 EXPLANATION

13 This bill amends numerous sections of the Iowa Probate  
14 Code.

15 Section one of the bill increases the amount that may pass  
16 to a minor without the necessity of appointing a conservator.

17 Sections 2, 5 and 6 of the bill are intended to provide  
18 that certain hearings are not necessary if notice as provided  
19 for in paragraph 4 of Section 633.40 is used.

20 Section 3 is added to the Probate Code to define a sale  
21 in probate proceedings and to provide that Part 6 of Division  
22 VII of the Iowa Probate Code pertains to any type of  
23 disposition of property in an estate.

24 Section 4 provides that if a claimant is represented by  
25 an attorney, the attorney of record for the claimant shall  
26 be notified of the disallowance of the claim.

27 This bill would take effect July 1 following its enactment.

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HOUSE FILE 794

AN ACT

RELATING TO THE IOWA PROBATE CODE BY INCREASING THE AMOUNT THAT MAY PASS TO A MINOR WITHOUT THE NECESSITY OF APPOINTING A CONSERVATOR; BY DEFINING SALE OF PROPERTY IN PROBATE PROCEEDINGS; BY PROVIDING THAT CERTAIN HEARINGS ARE NOT NECESSARY IF A CERTAIN TYPE OF NOTICE IS USED; AND BY PROVIDING THAT IF A CLAIMANT IS REPRESENTED BY AN ATTORNEY, THE ATTORNEY OF RECORD FOR THE CLAIMANT SHALL BE NOTIFIED OF THE DISALLOWANCE OF THE CLAIM.

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

Section 1. Section 633.108, Code 1981, is amended to read as follows:

633.108 SMALL LEGACIES TO MINORS--PAYMENT. Whenever a minor ~~shall become~~ becomes entitled under the terms of a will to a bequest or legacy, to a share of the estate of an intestate, or to a beneficial interest in a trust fund upon the distribution ~~thereof of the trust fund~~, and the value of such the bequest, legacy, share, or interest ~~shall does~~

not exceed the sum of ~~one~~ four thousand dollars, and ~~no a~~ conservator for such the minor has ~~therefore~~ not been appointed, the court having jurisdiction of the distribution of such the funds may, in its discretion, upon the application of the fiduciary, enter an order authorizing such the fiduciary to pay such the bequest, legacy, share or interest to the parents of such the minor, or to the person with whom such the minor resides, for the use of such the minor; ~~and the~~. The receipt of such the person or persons therefor, when presented to the court or filed with the report of distribution of ~~any-such the~~ fiduciary, shall have the same force and effect as though such the payment had been made to a duly appointed and qualified conservator for such the minor.

Sec. 2. Section 633.389, Code 1981, is amended to read as follows:

633.389 NOTICE AND HEARING ON SALE, MORTGAGE, EXCHANGE, PLEDGE OR LEASE OF PROPERTY. Upon the filing of the petition unless notice is waived in writing, notice ~~of-hearing~~ in accordance with section 633.40, shall be served on all persons interested in such the property, provided; ~~however,~~ that as to personal property and as to the lease of real property not specifically devised, for a period ~~of~~ not to exceed one year, the court may; ~~in-its-discretion,~~ hear the petition without notice. ~~in-these-instances-where~~ When notice is required, the notice shall state briefly the nature of the application. ~~At-the-hearing-and-upon~~ Upon satisfactory proof, the court may order the sale, mortgage, exchange, pledge or lease of the property described, or any part ~~thereof of the~~ property, at such a price and upon such terms and conditions as the court may authorize. For the purposes of this section, the term "all persons interested" ~~shall-include~~ includes only distributees in the estate and persons who have requested notice as provided by this Code.

Sec. 3. Part 6 of division VII of chapter 633, Code 1981, is amended by adding the following new section:

NEW SECTION. SALE DEFINED. For purposes of part 6 of this division, sale of property includes but is not limited to the granting of an easement, the granting of an option, the granting of a right of refusal and the granting or conveyance of any other interest, title or right regarding property.

Sec. 4. Section 633.439, Code 1981, is amended to read as follows:

633.439 DISALLOWANCE BY PERSONAL REPRESENTATIVE. At any time after the filing of a claim against an estate, the personal representative may give the claimant and the claimant's attorney of record, if any, written notice of disallowance of claim. ~~Such-a~~ The notice shall be given by certified mail addressed to the claimant at the address stated in the claim and to the claimant's attorney of record, if any.

Sec. 5. Section 633.478, Code 1981, is amended to read as follows:

633.478 NOTICE OF APPLICATION FOR DISCHARGE. ~~No~~ A personal representative shall not be discharged from further duty or responsibility upon final settlement until notice of ~~hearing on-his~~ the final report or of an application for discharge ~~shall-have~~ has been served upon all persons interested, in accordance with section 633.40, unless ~~such~~ notice is waived. An order prescribing notice may be made before or after the filing of the final report.

Sec. 6. Section 633.677, Code 1981, is amended to read as follows:

633.677 ACCOUNTING TO WARD--NOTICE OF HEARING. Upon the termination of a conservatorship, the conservator shall pay the costs of administration, and shall render a full and complete accounting to the ward or ~~his~~ the ward's personal representative and to the court. Notice of ~~hearing-on~~ the final report of a conservator shall be served on the ward or ~~his~~ the ward's personal representative, in accordance with

section 633.40, unless ~~such~~ notice is waived. An order prescribing notice may be made before or after the filing of the final report.

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DELWYN STROMER  
Speaker of the House

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TERRY E. BRANSTAD  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 794, Sixty-ninth General Assembly.

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PAT H. HARPER  
Chief Clerk of the House

Approved 5/4, 1981

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ROBERT D. RAY  
Governor