

Reprinted 3/31/83

MAR 21 1983

SENATE FILE 504

BY COMMITTEE ON JUDICIARY
Approved 3/21/83 (p. 878)
(FORMERLY SSB 218)

Passed Senate, Date 3-30-83 (p. 1036) Passed House, Date 4-12-83 (p. 1241)
Vote: Ayes 47 Nays 0 Vote: Ayes 98 Nays 0
Approved April 28, 1983 (p. 1473)

A BILL FOR

1 An Act relating to the repeal or modification of statutes
2 and rules affected by the proposed Iowa rules of evidence.

SENATE FILE 504

S-3300

1 Amend Senate File 504 as follows:

- 2 1. Page 1, line 23, by striking the words and
- 3 figure "Ia. Ct. Rules, 2nd ed".
- 4 2. By striking page 1, line 24 through page 2,
- 5 line 2.
- 6 3. By striking page 2, line 20 through page 4,
- 7 line 19.
- 8 4. By striking page 4, line 22 through page 5,
- 9 line 1, and inserting in lieu thereof the following:
- 10 "624.14 JUROR AS WITNESS--GROUNDS TO SET ASIDE
- 11 VERDICT. If a juror has personal knowledge respecting
- 12 a fact in controversy in a cause, the juror must
- 13 ~~declare the same in open court during the trial, and~~
- 14 ~~if, during the retirement of the jury, a juror declares~~
- 15 ~~any fact which could be evidence in the cause, as~~
- 16 ~~of the juror's own knowledge, the jury must return~~
- 17 ~~into court, and the juror must be sworn as a witness~~
- 18 ~~and examined in the presence of the parties, and the~~
- 19 ~~juror's evidence be admissible, and in support of~~
- 20 ~~a motion to set aside a verdict, proof fact of the~~
- 21 knowledge in accordance with Iowa rule of evidence
- 22 606(A), and the juror may not testify in the trial
- 23 of the case in which the juror is sitting. Proof
- 24 of such a declaration may be made by any juror in
- 25 support of a motion to set aside a verdict."
- 26 5. Page 5, by striking lines 9 through 12 and
- 27 inserting in lieu thereof the following: "~~however,~~
- 28 ~~that no husband or wife shall be called or compelled~~
- 29 ~~to testify against the other under section 726-3-~~
- 30 ~~726-5 or 726-6 except upon consent of such witness."~~
- 31 6. Page 5, line 13, by inserting after the figure
- 32 "622.5," the figure "622.6,".
- 33 7. By renumbering to conform to this amendment.

S-3300 FILED

BY TOM MANN, JR.

MARCH 23, 1983

Adopted 3/30/83 (p. 1035)

1 Section 1. Section 232.74, Code 1983, is amended to read
2 as follows:

3 232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED. Sections
4 ~~622-7~~, 622.9 and 622.10 and any other statute or rule of
5 evidence which excludes or makes privileged the testimony
6 of a husband or wife against the other or the testimony of
7 a health practitioner as to confidential communications, ~~shall~~
8 do not apply to evidence regarding a child's injuries or the
9 cause ~~thereof~~ of the injuries in any judicial proceeding,
10 civil or criminal, resulting from a report pursuant to this
11 chapter or relating to the subject matter of such a report.

12 Sec. 2. Section 554.2724, Code 1983, is amended to read
13 as follows:

14 554.2724 ADMISSIBILITY OF MARKET QUOTATIONS. Whenever
15 if the prevailing price or value of any goods regularly bought
16 and sold in any an established commodity market is in issue,
17 reports in official publications or trade journals or in
18 newspapers or periodicals of general circulation published
19 as the reports of such that market ~~shall-be~~ are admissible
20 in evidence. The circumstances of the preparation of such
21 a report may be shown to affect its weight but not its
22 admissibility. Reports are also admissible under Iowa rule
23 of evidence 803(17), Ia. Ct. Rules, 2d ed.

24 Sec. 3. Section 622.6, Code 1983, is amended to read as
25 follows:

26 622.6 DEPOSITIONS TAKEN CONDITIONALLY. Any person may
27 have ~~his~~ their own deposition, or that of any other person,
28 read in evidence in all cases where ~~his~~ evidence would be
29 incompetent ~~by-the-provisions-of-section-622-4~~, by causing
30 it to be taken, either before or after action is brought,
31 during the lifetime or good mental health of the person against
32 whose executor, heir, or other representative the same is
33 to be used, if such deposition shall have been taken and filed
34 ten days prior to the death or mental illness of such person.
35 If after action is brought, such deposition may be taken in

1 the usual manner; if before, then the same may be taken de
2 bene esse, as provided by law.

3 Sec. 4. Section 622.52, Code 1983, is amended by striking
4 the section and inserting in lieu thereof the following:

5 622.52 EFFECT ON RULES. Sections 622.53 through 622.63,
6 are not a limitation of the Iowa rules of evidence.

7 Sec. 5. Section 622.53, Code 1983, is amended by striking
8 the section and inserting in lieu thereof the following:

9 622.53 JUDICIAL RECORD--STATE OR FEDERAL COURTS. A
10 judicial record of this state, including the filed certified
11 shorthand notes of the official court reporter as transcribed
12 or a court of the United States may be proved by the production
13 of the original, or a copy of it certified by the clerk or
14 person having the legal custody of it, authenticated by the
15 custodian's seal of office, if there is a seal. That of
16 another state may be proved by the attestation of the clerk
17 and the seal of the court annexed, if there is a seal, together
18 with a certificate of a judge, chief justice, or presiding
19 magistrate that the attestation is in due form of law.

20 Sec. 6. Section 622.54, Code 1983, is amended to read
21 as follows:

22 622.54 CERTIFICATE OF A JUSTICE OF THE PEACE. The official
23 certificate of a justice of the peace of any ~~of the United~~
24 States state to any judgment and the preliminary proceedings
25 before ~~him~~ the justice, supported by the official certificate
26 of the clerk of any a court of record within the county in
27 which ~~such~~ the justice resides, stating that ~~he~~ the justice
28 is an acting justice of the peace of that county, and that
29 the signature ~~to his certificate~~ is genuine, is sufficient
30 evidence of ~~such~~ the proceedings and judgment, or pursuant
31 to Iowa rule of evidence 902(2), Ia. Ct. Rules, 2d ed.

32 Sec. 7. Section 622.55, Code 1983, is amended by adding
33 the following new subsection:

34 NEW SUBSECTION.

35 4. Pursuant to Iowa rule of evidence 902(3), Ia. Ct.

1 Rules, 2d ed.

2 Sec. 8. Section 622.57, Code 1983, is amended to read
3 as follows:

4 622.57 EXECUTIVE ACTS. Acts of the executive of the
5 United States, or of this or any other state ~~of-the-Union~~,
6 or of a foreign government, are proved by the records of the
7 state department of the respective governments, or pursuant
8 to Iowa rule of evidence 902(4), Ia. Ct. Rules, 2d ed., or
9 by public documents purporting to have been printed by order
10 of the legislatures of those governments, respectively, or
11 by either branch thereof, or pursuant to Iowa rule of evidence
12 902(5), Ia. Ct. Rules, 2d ed.

13 Sec. 9. Section 622.58, Code 1983, is amended to read
14 as follows:

15 622.58 PROCEEDINGS OF LEGISLATURE. The proceedings of
16 the legislature of this or any other state ~~of-the-Union~~, or
17 of the United States, or of any foreign government, are proved
18 by the journals of those bodies, respectively, or of either
19 branch thereof, and either by copies officially certified
20 by the clerk of the house in which the proceeding was had,
21 or by a copy purporting to have been printed by its order,
22 or pursuant to Iowa rule of evidence 902(5), Ia. Ct. Rules,
23 2d ed.

24 Sec. 10. Section 622.59, Code 1983, is amended to read
25 as follows:

26 622.59 PRINTED COPIES OF STATUTES. Printed copies of
27 the statute laws of this or any other ~~of-the-United-States~~
28 state, or of Congress, or of any foreign government, purporting
29 or proved to have been published under the authority thereof,
30 or proved to be commonly admitted as evidence of the existing
31 laws in the courts of ~~such~~ that state or government, shall
32 be admitted in the courts of this state as presumptive evidence
33 of such laws, or shall be admitted pursuant to Iowa rule
34 of evidence 902(5) and (10), Ia. Ct. Rules, 2d ed.

35 Sec. 11. Section 622.60, Code 1983, is amended to read

1 as follows:

2 622.60 WRITTEN LAW OR PUBLIC WRITING. The public seal
3 of the state or county, affixed to a copy of the written law
4 or other public writing, is admissible as evidence of such
5 the law or writing, respectively. The public seal shall also
6 be admissible as evidence pursuant to Iowa rule of evidence
7 902(1), (5), and (10), Ia. Ct. Rules, 2d ed.

8 Sec. 12. Section 622.61, Code 1983, is amended to read
9 as follows:

10 622.61 FOREIGN UNWRITTEN LAW. The unwritten laws of any
11 other state or government may be proved as facts by parol
12 evidence, or by the books of reports of cases adjudged in
13 their courts, or pursuant to Iowa rule of evidence 902(3),
14 Ia. Ct. Rules, 2d ed.

15 Sec. 13. Section 622.62, Code 1983, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 4. The ordinances of a city may also
18 be admitted pursuant to Iowa rule of evidence 902(1), (2),
19 (4), and (5), Ia. Ct. Rules, 2d ed.

20 Sec. 14. Section 624.14, Code 1983, is amended to read
21 as follows:

22 624.14 JUROR AS WITNESS--GROUNDS TO SET ASIDE VERDICT.
23 If a juror has personal knowledge respecting a fact in
24 controversy in a cause, the juror must declare the same fact
25 of the knowledge in open court during the trial and shall
26 not testify as a witness before that jury, and if, during
27 the retirement of the jury, a juror declares any a fact which
28 could be evidence in the cause, as of the juror's own
29 knowledge, the jury must return into court, and the juror
30 must be sworn as a witness and examined in the presence of
31 the parties, if the juror's evidence be is admissible; and
32 in support of a motion to set aside a verdict, proof of such
33 a declaration may be made by any juror. If, however, the
34 juror is called to testify, the opposing party shall be
35 afforded an opportunity to object out of the presence of the

1 jury.

2 Sec. 15. Section 726.4, Code 1983, is amended to read
3 as follows:

4 726.4 HUSBAND OR WIFE MAY BE WITNESS. In all prosecutions
5 under section 726.3, 726.5 or 726.6, the husband or wife shall
6 be is a competent witness for the state and may testify to
7 any relevant acts or communications between them, ~~anything~~
8 ~~in previous statutes to the contrary notwithstanding, provided,~~
9 ~~however, that no.~~ However, a husband or wife shall not be
10 called or compelled to testify against the other under section
11 726.3, 726.5 or 726.6 except upon consent of ~~such~~ the spouse
12 called as witness.

13 Sec. 16. Sections 622.1, 622.4, 622.5, 622.7, 622.12,
14 622.17, 622.18, 622.19, 622.20, 622.37, 622.38, 622.39, 622.40,
15 Code 1983, and R.Cr.P. 20(5) are repealed.

16 EXPLANATION

17 This bill prescribes modification or repeal of existing
18 statutes to provide consistency with the proposed Iowa rules
19 of evidence.

20 This bill takes effect July 1 following its enactment.

21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

the Judiciary 3/31/83

Senate File 504

Judiciary and Law Enforcement: McIntee, Chair; Clark and Halvorson of Clayton.

Do Pass 4/7/83

SENATE FILE 504

BY COMMITTEE ON JUDICIARY

(AS AMENDED AND PASSED BY THE SENATE MARCH 30, 1983)

Passed Senate, Date 3-30-83 (p. 1036) Passed House, Date 4-12-83 (p. 1241)

Vote: Ayes 47 Nays 0 Vote: Ayes 98 Nays 0

Approved April 28, 1983 (p. 1473)

A BILL FOR

1 An Act relating to the repeal or modification of statutes
 2 and rules affected by the proposed Iowa rules of evidence.
 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

_____ = New Language
 by the Senate

* = Language Stricken
 by the Senate

1 Section 1. Section 232.74, Code 1983, is amended to read
2 as follows:

3 232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED. Sections
4 ~~622.77~~ 622.9 and 622.10 and any other statute or rule of
5 evidence which excludes or makes privileged the testimony
6 of a husband or wife against the other or the testimony of
7 a health practitioner as to confidential communications, ~~shall~~
8 do not apply to evidence regarding a child's injuries or the
9 cause ~~thereof~~ of the injuries in any judicial proceeding,
10 civil or criminal, resulting from a report pursuant to this
11 chapter or relating to the subject matter of such a report.

12 Sec. 2. Section 554.2724, Code 1983, is amended to read
13 as follows:

14 554.2724 ADMISSIBILITY OF MARKET QUOTATIONS. ~~Whenever~~
15 If the prevailing price or value of ~~any~~ goods regularly bought
16 and sold in ~~any~~ an established commodity market is in issue,
17 reports in official publications or trade journals or in
18 newspapers or periodicals of general circulation published
19 as the reports of ~~such~~ that market ~~shall-be~~ are admissible
20 in evidence. The circumstances of the preparation of such
21 a report may be shown to affect its weight but not its
22 admissibility. Reports are also admissible under Iowa rule
* 23 of evidence 803(17).

* 24 Sec. 3. Section 622.52, Code 1983, is amended by striking
25 the section and inserting in lieu thereof the following:

26 622.52 EFFECT ON RULES. Sections 622.53 through 622.63,
27 are not a limitation of the Iowa rules of evidence.

28 Sec. 4. Section 622.53, Code 1983, is amended by striking
29 the section and inserting in lieu thereof the following:

30 622.53 JUDICIAL RECORD--STATE OR FEDERAL COURTS. A
31 judicial record of this state, including the filed certified
32 shorthand notes of the official court reporter as transcribed
33 or a court of the United States may be proved by the production
34 of the original, or a copy of it certified by the clerk or
35 person having the legal custody of it, authenticated by the

1 custodian's seal of office, if there is a seal. That of
2 another state may be proved by the attestation of the clerk
3 and the seal of the court annexed, if there is a seal, together
4 with a certificate of a judge, chief justice, or presiding
* 5 magistrate that the attestation is in due form of law.

6 Sec. 5. Section 624.14, Code 1983, is amended to read
7 as follows:

8 624.14 JUROR AS WITNESS--GROUNDS TO SET ASIDE VERDICT.

9 If a juror has personal knowledge respecting a fact in
10 controversy in a cause, the juror must declare the same in
11 open court during the trial, and if, during the retirement
12 of the jury, a juror declares any fact which could be evidence
13 in the cause, as of the juror's own knowledge, the jury must
14 return into court, and the juror must be sworn as a witness
15 and examined in the presence of the parties, if the juror's
16 evidence be admissible, and in support of a motion to set
17 aside a verdict, proof fact of the knowledge in accordance
18 with Iowa rule of evidence 606(A), and the juror may not
19 testify in the trial of the case in which the juror is sitting.
20 Proof of such a declaration may be made by any juror in support
21 of a motion to set aside a verdict.

22 Sec. 6. Section 726.4, Code 1983, is amended to read as
23 follows:

24 726.4 HUSBAND OR WIFE MAY BE WITNESS. In all prosecutions
25 under section 726.3, 726.5 or 726.6, the husband or wife shall
26 be is a competent witness for the state and may testify to
27 any relevant acts or communications between them, anything
28 in previous statutes to the contrary notwithstanding, provided,
29 however, that no husband or wife shall be called or compelled
30 to testify against the other under section 726.3, 726.5 or
31 726.6 except upon consent of such witness.

32 Sec. 7. Sections 622.1, 622.4, 622.5, 622.6, 622.7, 622.12,
33 622.17, 622.18, 622.19, 622.20, 622.37, 622.38, 622.39, 622.40,
34 Code 1983, and R.Cr.P. 20(5) are repealed.

35

SENATE FILE 504

AN ACT

RELATING TO THE REPEAL OR MODIFICATION OF STATUTES AND RULES
AFFECTED BY THE PROPOSED IOWA RULES OF EVIDENCE.

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

Section 1. Section 232.74, Code 1983, is amended to read as follows:

232.74 EVIDENCE NOT PRIVILEGED OR EXCLUDED. Sections ~~622.7~~ 622.9 and 622.10 and any other statute or rule of evidence which excludes or makes privileged the testimony of a husband or wife against the other or the testimony of a health practitioner as to confidential communications, ~~shall~~ do not apply to evidence regarding a child's injuries or the cause ~~thereof of the injuries~~ in any judicial proceeding, civil or criminal, resulting from a report pursuant to this chapter or relating to the subject matter of such a report.

Sec. 2. Section 554.2724, Code 1983, is amended to read as follows:

554.2724 ADMISSIBILITY OF MARKET QUOTATIONS. ~~Whenever~~ If the prevailing price or value of any goods regularly bought and sold in any an established commodity market is in issue, reports in official publications or trade journals or in newspapers or periodicals of general circulation published as the reports of ~~such~~ that market ~~shall be~~ are admissible in evidence. The circumstances of the preparation of such a report may be shown to affect its weight but not its admissibility. Reports are also admissible under Iowa rule of evidence 803(17).

Sec. 3. Section 622.52, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

622.52 EFFECT ON RULES. Sections 622.53 through 622.53, are not a limitation of the Iowa rules of evidence.

Sec. 4. Section 622.53, Code 1983, is amended by striking the section and inserting in lieu thereof the following:

622.53 JUDICIAL RECORD--STATE OR FEDERAL COURTS. A judicial record of this state, including the filed certified shorthand notes of the official court reporter as transcribed or a court of the United States may be proved by the production of the original, or a copy of it certified by the clerk or person having the legal custody of it, authenticated by the custodian's seal of office, if there is a seal. That of another state may be proved by the attestation of the clerk and the seal of the court annexed, if there is a seal, together with a certificate of a judge, chief justice, or presiding magistrate that the attestation is in due form of law.

Sec. 5. Section 624.14, Code 1983, is amended to read as follows:

624.14 JUROR AS WITNESS--GROUNDS TO SET ASIDE VERDICT. If a juror has personal knowledge respecting a fact in controversy in a cause, the juror must declare the ~~same in open court during the trial and if during the retirement of the jury, a juror declares any fact which could be evidence in the cause, as of the juror's own knowledge, the jury must return into court, and the juror must be sworn as a witness and examined in the presence of the parties, if the juror's evidence be admissible and in support of a motion to set aside a verdict, proof fact of the knowledge in accordance with Iowa rule of evidence 606(A), and the juror may not testify in the trial of the case in which the juror is sitting. Proof of such a declaration may be made by any juror in support of a motion to set aside a verdict.~~

Sec. 6. Section 726.4, Code 1983, is amended to read as follows:

726.4 HUSBAND OR WIFE MAY BE WITNESS. In all prosecutions under section 726.3, 726.5 or 726.6, the husband or wife ~~shall~~ be ~~is~~ a competent witness for the state and may testify to any relevant acts or communications between them, ~~anything~~

S.F. 504

~~in previous statutes to the contrary notwithstanding, provided, however, that no husband or wife shall be called or compelled to testify against the other under section 726.3, 726.5 or 726.6 except upon consent of such witness.~~

Sec. 7. Sections 622.1, 622.4, 622.5, 622.6, 622.7, 622.12, 622.17, 622.18, 622.19, 622.20, 622.37, 622.38, 622.39, 622.40, Code 1983, and R.Cr.P. 20(5) are repealed.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 504, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved April 28, 1983

TERRY E. BRANSTAD
Governor