

Am. Judiciary 3/21 D. Pass 3/25 (p. 879)

MAR 10 1986

Place On Calendar

HOUSE FILE 2426

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(Formerly House File 2089)

Passed House, Date 3-18-86 (p. 871) Passed Senate, Date 4-2-86 (p. 986)
Vote: Ayes 88 Nays 2 Vote: Ayes 48 Nays 0
Approved April 16, 1986 (p. 1533)

A BILL FOR

1 An Act relating to the deferral of fees, costs, or security in
2 civil or criminal actions, and providing a penalty.

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

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HF 2426

1 Section 1. NEW SECTION. 669.1 AFFIDAVIT -- CONTENTS.
2 A court of the district court, court of appeals, or supreme
3 court shall authorize the commencement, prosecution, or
4 defense of a suit, action, proceeding, or appeal, whether
5 civil or criminal, without the prepayment of fees, costs, or
6 security upon a showing that the person is unable to pay such
7 costs or give security. The person shall submit an affidavit
8 stating the nature of the suit, action, proceeding, or appeal
9 and the affiant's belief that there is an entitlement to
10 redress. Such affidavit shall also include a brief financial
11 statement showing the person's inability to pay costs, fees,
12 or give security. Any authorization to proceed without
13 prepayment of fees, costs, or security under this chapter may
14 be made by the court without hearing. The filing of an
15 affidavit to proceed without the prepayment of fees, costs, or
16 security tolls the applicable statute of limitations. Upon
17 the denial of an application and affidavit to proceed without
18 the prepayment of fees, costs, or security, the person shall
19 have the remainder of the limitations period in which to pay
20 fees, costs, or give security.

21 Sec. 2. NEW SECTION. 669.2 FILING OF AFFIDAVIT --
22 DIRECTIONS BY COURT.
23 When an affidavit pursuant to this chapter is filed with
24 the court in a civil or criminal action, the court shall
25 direct the appropriate officers of the court to issue and
26 serve all necessary writs, process, and proceedings.

27 Sec. 3. NEW SECTION. 669.3 DEFERRAL OF COSTS.
28 When an affidavit is filed and a civil or criminal
29 proceeding is instituted, the court shall order that all fees,
30 costs, and security be deferred until final disposition of the
31 proceeding.

32 Sec. 4. NEW SECTION. 669.4 ORDER TO PAY FEES, COSTS, OR
33 SECURITY -- DISMISSAL FOR FAILURE.
34 If after entry of an order authorizing prosecution of the
35 case without prepayment of fees, costs, or security, the court

1 finds that the affidavit of inability to pay was without
2 merit, the court may order the person to pay the fees, costs,
3 or security within fourteen days or the case will be
4 dismissed.

5 Sec. 5. NEW SECTION. 669.6 PENALTY.

6 A person who knowingly and wrongfully invokes the
7 privileges of this chapter without just cause, or who
8 knowingly makes a false statement regarding the person's
9 inability to pay fees, costs, or security, is guilty of
10 perjury and shall be punished as provided in section 720.2.

11 EXPLANATION

12 This bill creates a new chapter 669 which provides that a
13 person may institute a civil or criminal action or proceeding
14 without the prepayment of applicable fees, costs, or security
15 if the person files an affidavit of inability to pay the fees,
16 costs, or security. The bill also provides that the
17 applicable fees, costs, and security will be deferred until
18 final disposition of the action or proceeding.

19 The bill also provides that a person who wrongfully invokes
20 the privileges of the chapter or who knowingly makes false
21 statements commits perjury (a class "D" felony).

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HOUSE FILE 2426

AN ACT

RELATING TO THE DEFERRAL OF FEES, COSTS, OR SECURITY IN CIVIL OR CRIMINAL ACTIONS, AND PROVIDING A PENALTY.

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

Section 1. NEW SECTION. 669.1 AFFIDAVIT -- CONTENTS.

A court of the district court, court of appeals, or supreme court shall authorize the commencement, prosecution, or defense of a suit, action, proceeding, or appeal, whether civil or criminal, without the prepayment of fees, costs, or security upon a showing that the person is unable to pay such costs or give security. The person shall submit an affidavit stating the nature of the suit, action, proceeding, or appeal and the affiant's belief that there is an entitlement to redress. Such affidavit shall also include a brief financial statement showing the person's inability to pay costs, fees, or give security. Any authorization to proceed without prepayment of fees, costs, or security under this chapter may be made by the court without hearing. The filing of an affidavit to proceed without the prepayment of fees, costs, or security tolls the applicable statute of limitations. Upon the denial of an application and affidavit to proceed without the prepayment of fees, costs, or security, the person shall have the remainder of the limitations period in which to pay fees, costs, or give security.

Sec. 2. NEW SECTION. 669.2 FILING OF AFFIDAVIT -- DIRECTIONS BY COURT.

When an affidavit pursuant to this chapter is filed with the court in a civil or criminal action, the court shall direct the appropriate officers of the court to issue and serve all necessary writs, process, and proceedings.

Sec. 3. NEW SECTION. 669.3 DEFERRAL OF COSTS.

When an affidavit is filed and a civil or criminal proceeding is instituted, the court shall order that all fees, costs, and security be deferred until final disposition of the proceeding.

Sec. 4. NEW SECTION. 669.4 ORDER TO PAY FEES, COSTS, OR SECURITY -- DISMISSAL FOR FAILURE.

If after entry of an order authorizing prosecution of the case without prepayment of fees, costs, or security, the court finds that the affidavit of inability to pay was without merit, the court may order the person to pay the fees, costs, or security within fourteen days or the case will be dismissed.

Sec. 5. NEW SECTION. 669.6 PENALTY.

A person who knowingly and wrongfully invokes the privileges of this chapter without just cause, or who knowingly makes a false statement regarding the person's inability to pay fees, costs, or security, is guilty of perjury and shall be punished as provided in section 720.2.

DONALD D. AVENSON
Speaker of the House

ROBERT T. ANDERSON
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2426, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 16, 1986

TERRY E. BRANSTAD
Governor

H.F. 2426