

JUDICIARY: Mann, Chair; Small and Ritsema

MAR 11 1985

Place On Calendar

HOUSE FILE 550

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(Formerly House Study Bill 115)

Passed House, Date 3-19-85 (p. 890) Passed Senate, Date 4-16-85 (p. 1401)

Vote: Ayes 89 Nays _____ Vote: Ayes 45 Nays 0

Approved May 20, 1985

A BILL FOR

1 An Act making appellate procedure in discretionary reviews,
2 criminal appeals, postconviction relief appeals and civil
3 appeals more uniform and consistent.

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

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HF 550

1 Section 1. Section 631.16, subsections 4 and 5, Code 1985,
2 are amended by striking the subsections.

3 Sec. 2. Section 631.16, subsections 6, 7, 8, and 9, Code
4 1985, are amended to read as follows:

5 6. The record and case shall be presented to the supreme
6 appellate court as provided by the rules of appellate
7 procedure; and the provisions of law in civil procedure
8 relating to the filing of decisions and opinions of the
9 supreme appellate court shall apply in such cases. ~~The case~~
10 ~~may be transferred to the court of appeals by the supreme~~
11 ~~court.~~

12 7. ~~An application shall not be dismissed for an~~
13 ~~informality or defect in taking it if corrected as directed by~~
14 ~~the appellate court.~~ The appellate court, after an
15 examination of the entire record, may dispose of the case by
16 affirmation, reversal or modification of the lower court
17 judgment, and may order a new trial. ~~It also may dismiss the~~
18 ~~application if both of the following are true:~~

19 a. ~~The court determines that there has been no substantial~~
20 ~~miscarriage of justice.~~

21 b. ~~The arguments do not present definite grounds for a~~
22 ~~hearing.~~

23 8. The decision of the appellate court with any opinion
24 filed or judgment rendered must be recorded by the supreme
25 court clerk. ~~After the expiration of the period allowed for a~~
26 ~~rehearing, or as ordered by the court or provided by its~~
27 ~~rules, a certified copy of the decision and opinion shall be~~
28 ~~transmitted to the clerk of the trial court, and filed and~~
29 ~~entered of record in the district court.~~ Procedendo shall be
30 issued as provided in the rules of appellate procedure.

31 9. The jurisdiction of the appellate court shall cease
32 ~~after the certified copy of the decision and opinion is~~
33 ~~transmitted to the clerk of the trial court~~ when procedendo is
34 issued. All proceedings for executing the judgment shall be
35 had in the trial court or by its clerk.

1 Sec. 3. Section 663A.9, Code 1985, is amended to read as
2 follows:

3 663A.9 APPEAL.

4 A An appeal from a final judgment entered under this
5 chapter may be reviewed-by-the-supreme-court-of-this-state-on
6 appeal,-brought taken, perfected and prosecuted either by the
7 applicant or by the state within-sixty-days-from-the-entry-of
8 the-judgment in the manner and within the time after judgment
9 as provided in the rules of appellate procedure for appeals
10 from final judgments in criminal cases.

11 Sec. 4. Section 814.15, Code 1985, is amended to read as
12 follows:

13 814.15 APPEALS AND APPLICATIONS -- WHEN DOCKETED -- WHEN
14 DETERMINED.

15 When-a-proper-appeal-is-perfected-in-a-criminal-case-and
16 the-clerk's-transcript-of-the-record-as-required-by-section
17 814.7-is-filed-in-the-appellate-court,-the-cause-shall-be
18 docketed. Appeals and applications for discretionary review
19 in criminal cases shall be docketed in the supreme court as
20 provided in the rules of appellate procedure. Such causes
21 shall take precedence over other business, and the appellate
22 court shall hear consider and determine appeals and
23 applications for discretionary review in criminal actions at
24 the earliest time it may be done considering the rights of
25 parties and proper administration of justice. A-similar-rule
26 shall-apply-to-applications-for-discretionary-review.

27 Sec. 5. Section 814.20, Code 1985, is amended to read as
28 follows:

29 814.20 DECISIONS ON APPEALS OR APPLICATIONS BY DEFENDANT.

30 An appeal or application taken by the defendant shall not
31 be dismissed for an informality or defect in taking it if
32 corrected as directed by the appellate court. The appellate
33 court, after an examination of the entire record, may dispose
34 of the case by affirmation, reversal or modification of the
35 district court judgment. It-may-also-dismiss-the-appeal-or

1 application-if-it-determines-that-there-has-been-no
2 substantial-miscarriage-of-justice,-and-no-violation-of-the
3 rights-of-the-accused,-and-that-the-arguments-do-not-present
4 definite-grounds-for-a-hearing. The appellate court may also
5 order a new trial, or reduce the punishment, but cannot shall
6 not increase it.

7 Sec. 6. Section 814.21, Code 1985, is amended to read as
8 follows:

9 814.21 COSTS TO THE SUCCESSFUL DEFENDANT.

10 ~~If-on-appeal-or-application-by-the-defendant,-the-judgment~~
11 ~~of-the-trial-court-is-reversed-or-modified-in-the-defendant's~~
12 ~~favor,-the-defendant-shall-recover-the-cost-of-printing~~
13 ~~abstract-and-briefs-(to-a-maximum-of-one-dollar-per-page)-to~~
14 ~~be-paid-by-the-county-wherein-the-trial-occurred. Costs shall~~
15 ~~be taxed as provided by the rules of appellate procedure.~~

16 Sec. 7. Section 814.24, Code 1985, is amended to read as
17 follows:

18 814.24 DECISION RECORDED AND TRANSMITTED PROCEDENDO.

19 The decision of the appellate court with any opinion filed
20 or judgment rendered must be recorded by its clerk. ~~After-the~~
21 ~~expiration-of-the-period-allowed-for-a-rehearing,-or-as~~
22 ~~ordered-by-the-court-or-provided-by-its-rules,-a-certified~~
23 ~~copy-of-the-decision-and-opinion-shall-be-transmitted-to-the~~
24 ~~clerk-of-the-district-court,-filed-and-entered-of-record-by~~
25 ~~the-clerk. Procedendo shall be issued as provided in the~~
26 ~~rules of appellate procedure.~~

27 Sec. 8. Section 814.25, Code 1985, is amended to read as
28 follows:

29 814.25 CESSATION OF JURISDICTION OF APPELLATE COURT CEASES
30 AFTER-JUDGMENT.

31 The jurisdiction of the appellate court shall cease ~~after~~
32 ~~the-certified-copy-of-the-decision-and-opinion-is-transmitted~~
33 ~~to-the-clerk-of-the-district-court when procedendo is issued.~~
34 All proceedings for executing the judgment shall be had in the
35 district court or by its clerk.

1 Sec. 9. Sections 814.4, 814.7, 814.16 and 814.18, Code
2 1985, are repealed.

3 EXPLANATION

4 This bill makes appellate procedures in the areas of
5 discretionary review, postconviction relief proceedings, and
6 criminal appeal and application for discretionary review more
7 consistent with each other and with the rules of appellate
8 procedure relating to interlocutory appeals and appeals in
9 civil cases.

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Now
HF 550

HSB 115
Judiciary & Law Enforcement

SENATE HOUSE FILE _____

BY (PROPOSED COMMITTEE ON JUDICIARY
AND COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT BILL)

Study Bill 115

Judiciary and Law Enforcement: Rosenberg, Chair; Carl Halvorson of Clayton,
McIntee, Peterson, Schnekloth and Tabor.

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

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S.F. _____ H.F. _____

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6 appellate court as provided by the rules of appellate
7 procedure; and the provisions of law in civil procedure
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9 supreme appellate court shall apply in such cases. ~~The case~~
10 ~~may be transferred to the court of appeals by the supreme~~
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13 ~~informality or defect in taking it if corrected as directed by~~
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15 examination of the entire record, may dispose of the case by
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17 judgment, and may order a new trial. ~~It also may dismiss the~~
18 ~~application if both of the following are true:~~

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HOUSE FILE 550

AN ACT

MAKING APPELLATE PROCEDURE IN DISCRETIONARY REVIEWS, CRIMINAL APPEALS, POSTCONVICTION RELIEF APPEALS AND CIVIL APPEALS MORE UNIFORM AND CONSISTENT.

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

Section 1. Section 631.16, subsections 4 and 5, Code 1985, are amended by striking the subsections.

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6. The record and case shall be presented to the supreme appellate court as provided by the rules of appellate procedure; and the provisions of law in civil procedure relating to the filing of decisions and opinions of the supreme appellate court shall apply in such cases. ~~The case may be transferred to the court of appeals by the supreme court.~~

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~~a. The court determines that there has been no substantial miscarriage of justice.~~

~~b. The arguments do not present definite grounds for a hearing.~~

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~~entered of record in the district court. Procedendo shall be issued as provided in the rules of appellate procedure.~~

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Sec. 3. Section 663A.9, Code 1985, is amended to read as follows:

663A.9 APPEAL.

A An appeal from a final judgment entered under this chapter may be reviewed by the supreme court of this state on appeal, brought taken, perfected and prosecuted either by the applicant or by the state ~~within sixty days from the entry of the judgment in the manner and within the time after judgment as provided in the rules of appellate procedure for appeals from final judgments in criminal cases.~~

Sec. 4. Section 814.15, Code 1985, is amended to read as follows:

814.15 APPEALS AND APPLICATIONS -- WHEN DOCKETED -- WHEN DETERMINED.

~~When a proper appeal is perfected in a criminal case and the clerk's transcript of the record as required by section 814.7 is filed in the appellate court, the cause shall be docketed. Appeals and applications for discretionary review in criminal cases shall be docketed in the supreme court as provided in the rules of appellate procedure.~~ Such causes shall take precedence over other business, and the appellate court shall hear consider and determine appeals and applications for discretionary review in criminal actions at the earliest time it may be done considering the rights of parties and proper administration of justice. ~~A similar rule shall apply to applications for discretionary review.~~

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814.21 COSTS TO THE SUCCESSFUL DEFENDANT.

~~If on appeal or application by the defendant, the judgment of the trial court is reversed or modified in the defendant's favor, the defendant shall recover the cost of printing abstract and briefs (to a maximum of one dollar per page) to be paid by the county wherein the trial occurred. Costs shall be taxed as provided by the rules of appellate procedure.~~

Sec. 7. Section 814.24, Code 1985, is amended to read as follows:

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The decision of the appellate court with any opinion filed or judgment rendered must be recorded by its clerk. ~~After the expiration of the period allowed for a rehearing, or as ordered by the court or provided by its rules, a certified copy of the decision and opinion shall be transmitted to the clerk of the district court, filed and entered of record by the clerk. Procedendo shall be issued as provided in the rules of appellate procedure.~~

Sec. 8. Section 814.25, Code 1985, is amended to read as follows:

814.25 CESSATION OF JURISDICTION OF APPELLATE COURT CEASES AFTER JUDGMENT.

The jurisdiction of the appellate court shall cease ~~after the certified copy of the decision and opinion is transmitted to the clerk of the district court when procedendo is issued.~~ All proceedings for executing the judgment shall be had in the district court or by its clerk.

Sec. 9. Sections 814.4, 814.7, 814.16 and 814.18, Code 1985, are repealed.

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 550, Seventy-first General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 20, 1985

TERRY E. BRANSTAD
Governor