

3/29/93, Senate - Judiciary
4/3/93 Senate - Des Pass

MAR 15 1993

Place On Calendar

HOUSE FILE 527
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 167)

Passed House, ^(P. 820) Date 3/25/93 Passed Senate, ^(P. 1183) Date 4-15-93
Vote: Ayes 97 Nays 0 Vote: Ayes 47 Nays 0
Approved April 28, 1993

A BILL FOR

1 An Act relating to the duties of the clerk of the district court
2 and the appointment of an associate probate judge.

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

HF 527

1 Section 1. Section 62.7, Code 1993, is amended to read as
2 follows:

3 62.7 WHEN AUDITOR IS PARTY.

4 When the auditor is a party, the ~~clerk-of-the-district~~
5 court county treasurer shall receive such statement and
6 approve such bond.

7 Sec. 2. Section 62.11, Code 1993, is amended to read as
8 follows:

9 62.11 SUBPOENAS.

10 Subpoenas for witnesses may be issued at any time after the
11 notice of trial is served, either by the ~~clerk-of-the-district~~
12 court county treasurer or by the county auditor, and shall
13 command the witnesses to appear at, on, to
14 testify in relation to a contested election, wherein A
15 B is contestant and C D
16 is incumbent.

17 Sec. 3. Section 64.19, subsection 3, Code 1993, is amended
18 to read as follows:

19 3. By a judge ~~or-the-clerk~~ of the district court of for
20 the county in question, in case of members of the board of
21 supervisors.

22 Sec. 4. Section 64.23, subsection 5, Code 1993, is amended
23 to read as follows:

24 5. For members of the board of supervisors, with the ~~clerk~~
25 of-the-district-court county auditor.

26 Sec. 5. Section 85.49, unnumbered paragraph 1, Code 1993,
27 is amended to read as follows:

28 When a minor or mentally incompetent dependent is entitled
29 to weekly benefits under this chapter, or chapter 85A or
30 chapter 85B, payment shall be made to the ~~clerk-of-the~~
31 district-court-for-the-county-in-which-the-injury-occurred
32 parent, guardian, or conservator, who shall act as trustee,
33 and the money coming into the ~~clerk's~~ trustee's hands shall be
34 expended for the use and benefit of the person entitled to it
35 under the direction and orders of a district judge. The ~~clerk~~

~~1 of-the-district-court-as trustee, shall qualify and give bond
2 in an amount as the district judge directs, which may be
3 increased or diminished from time to time. If-the-domicile-or
4 residence-of-the-minor-or-mentally-incompetent-dependent-is
5 within-the-state-but-in-a-county-other-than-that-in-which-the
6 injury-to-the-employee-occurred-the-industrial-commissioner
7 may-order-and-direct-that-weekly-benefits-be-paid-to-the-clerk
8 of-the-district-court-of-the-county-of-domicile-or-residence.~~

9 Sec. 6. Section 85.50, Code 1993, is amended to read as
10 follows:

11 85.50 REPORT OF TRUSTEE.

12 The ~~clerk-of-the-district-court-as-such~~ trustee shall, on
13 or before September 30 of each year, make annual reports, at
14 such times as designated by the court, to the court of all
15 money or property received or expended for each the person for
16 whom the clerk parent, guardian, or conservator is acting as
17 trustee.

18 A ~~clerk-of-the-district-court-shall, upon-resigning-or
19 being-removed-from-office-or-otherwise-becoming-disqualified
20 as-clerk, make-an-accounting-and-final-report-to-be-approved
21 by-the-chief-judge-of-the-judicial-district-and-all-funds-and
22 other-property-shall-be-delivered-to-the-successor-in-the
23 office-of-clerk-of-the-district-court.~~

24 Sec. 7. Section 255.18, Code 1993, is amended to read as
25 follows:

26 255.18 REPORTS.

27 One duplicate copy of each of the reports named in sections
28 255.15 and 255.17 shall be preserved in the records of said
29 the hospital, ~~and-the-other-transmitted-to-the-clerk-of-the
30 court-where-said-order-committing-the-patient-to-said-hospital
31 was-entered, and-by-the-clerk-filed-and-preserved-among-the
32 records-in-the-cause.~~

33 Sec. 8. Section 602.8102, subsection 98, Code 1993, is
34 amended to read as follows:

35 98. Carry out duties relating to trials and judgments as

1 provided in sections 624.8 through ~~624.21~~ 624.20 and 624.37.

2 Sec. 9. Section 602.8102, subsections 16, 17, 18, and 22,
3 Code 1993, are amended by striking the subsections.

4 Sec. 10. Section 633.16, Code 1993, is amended to read as
5 follows:

6 633.16 CONTROL OF PROBATE RECORDS.

7 The court shall have jurisdiction and supervision of the
8 probate records of the clerk, and may direct the destruction
9 of records it deems to be old, obsolete or unnecessary, ~~except~~
10 ~~that the probate record provided for in section 633.29 and the~~
11 ~~will record provided for in section 633.30 or a copy thereof,~~
12 ~~shall be preserved at all times.~~

13 Sec. 11. Section 633.20, Code 1993, is amended by adding
14 the following new subsection:

15 NEW SUBSECTION. 3. The chief judge of a judicial district
16 may appoint an associate probate judge and may remove the
17 associate probate judge for cause following a hearing. The
18 associate probate judge shall be an attorney admitted to
19 practice law in this state and shall be qualified for the
20 position by training and experience. The associate probate
21 judge shall have jurisdiction to audit accounts of fiduciaries
22 and to perform ministerial duties and judicial functions as
23 the court prescribes.

24 Sec. 12. Section 633.29, Code 1993, is amended to read as
25 follows:

26 633.29 PROBATE RECORD.

27 The clerk shall also keep a book to be known as the Probate
28 Record that shall contain ~~full and complete~~ journal entries of
29 all orders ~~made in relation to the business of each estate.~~
30 When and journal entries when real estate is sold or mortgaged
31 by a fiduciary under an order of court ~~therefor, a complete~~
32 ~~record of the same shall be made in the probate record,~~
33 ~~including the petition, the notice, the returns of service,~~
34 ~~and all other papers filed, with the orders made relating~~
35 thereto.

1 conservator shall be named as trustee instead. In addition,
2 the bill provides that the clerk of the district court is no
3 longer responsible for filing a copy of the reports required
4 under chapter 255 regarding medical treatment of indigents or
5 keeping a separate record of the proceedings of the district
6 court for signing by the judge.

7 The bill also eliminates the requirements that clerks of
8 the district court keep a complete record of the whole cause
9 of action where title to land is involved.

10 Finally, the bill provides that a duplicate record in
11 probate is not kept by the clerk including the record of bonds
12 in probate.

13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

Dinkla, Chair
Hurley
Brammer

HSB 167

Judiciary & Law Enforcement

HOUSE FILE 527
BY (PROPOSED COMMITTEE ON
JUDICIARY AND LAW ENFORCE-
MENT BILL BY CHAIRPERSON
McNEAL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the duties of the clerk of the district court.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22

1 Section 1. Section 62.7, Code 1993, is amended to read as
2 follows:

3 62.7 WHEN AUDITOR IS PARTY.

4 When the auditor is a party, the ~~clerk-of-the-district~~
5 court county treasurer shall receive such statement and
6 approve such bond.

7 Sec. 2. Section 62.11, Code 1993, is amended to read as
8 follows:

9 62.11 SUBPOENAS.

10 Subpoenas for witnesses may be issued at any time after the
11 notice of trial is served, either by the ~~clerk-of-the-district~~
12 court county treasurer or by the county auditor, and shall
13 command the witnesses to appear at, on, to
14 testify in relation to a contested election, wherein A
15 B is contestant and C D
16 is incumbent.

17 Sec. 3. Section 64.19, subsection 3, Code 1993, is amended
18 to read as follows:

19 3. By a judge ~~or-the-clerk~~ of the district court ~~of for~~
20 the county in question, in case of members of the board of
21 supervisors.

22 Sec. 4. Section 64.23, subsection 5, Code 1993, is amended
23 to read as follows:

24 5. For members of the board of supervisors, with the ~~clerk~~
25 ~~of-the-district-court~~ county auditor.

26 Sec. 5. Section 85.49, unnumbered paragraph 1, Code 1993,
27 is amended to read as follows:

28 When a minor or mentally incompetent dependent is entitled
29 to weekly benefits under this chapter, or chapter 85A or
30 chapter 85B, payment shall be made to the ~~clerk-of-the~~
31 ~~district-court-for-the-county-in-which-the-injury-occurred~~
32 parent, guardian, or conservator, who shall act as trustee,
33 and the money coming into the ~~clerk's~~ trustee's hands shall be
34 expended for the use and benefit of the person entitled to it
35 under the direction and orders of a district judge. The ~~clerk~~

~~1 of-the-district-court, as trustee, shall qualify and give bond
2 in an amount as the district judge directs, which may be
3 increased or diminished from time to time. If-the-domicile-or
4 residence-of-the-minor-or-mentally-incompetent-dependent-is
5 within-the-state-but-in-a-county-other-than-that-in-which-the
6 injury-to-the-employee-occurred-the-industrial-commissioner
7 may-order-and-direct-that-weekly-benefits-be-paid-to-the-clerk
8 of-the-district-court-of-the-county-of-domicile-or-residence.~~

9 Sec. 6. Section 85.50, Code 1993, is amended to read as
10 follows:

11 85.50 REPORT OF TRUSTEE.

12 The ~~clerk-of-the-district-court-as-such~~ trustee shall, on
13 or before September 30 of each year, make annual reports to
14 the court of all money or property received or expended for
15 each the person for whom the clerk parent, guardian, or
16 conservator is acting as trustee.

17 ~~A-clerk-of-the-district-court-shall, upon-resigning-or
18 being-removed-from-office-or-otherwise-becoming-disqualified
19 as-clerk, make-an-accounting-and-final-report-to-be-approved
20 by-the-chief-judge-of-the-judicial-district-and-all-funds-and
21 other-property-shall-be-delivered-to-the-successor-in-the
22 office-of-clerk-of-the-district-court.~~

23 Sec. 7. Section 255.18, Code 1993, is amended to read as
24 follows:

25 255.18 REPORTS.

26 One duplicate copy of each of the reports named in sections
27 255.15 and 255.17 shall be preserved in the records of said
28 the hospital, ~~and-the-other-transmitted-to-the-clerk-of-the
29 court-where-said-order-committing-the-patient-to-said-hospital
30 was-entered, and-by-the-clerk-filed-and-preserved-among-the
31 records-in-the-cause.~~

32 Sec. 8. Section 331.512, subsection 1, paragraph c, Code
33 1993, is amended by striking the paragraph.

34 Sec. 9. Section 602.8102, subsection 98, Code 1993, is
35 amended to read as follows:

1 98. Carry out duties relating to trials and judgments as
2 provided in sections 624.8 through ~~624.21~~ 624.20 and 624.37.

3 Sec. 10. Section 602.8102, subsections 16, 17, 18, 22, and
4 24, Code 1993, are amended by striking the subsections.

5 Sec. 11. Section 633.16, Code 1993, is amended to read as
6 follows:

7 633.16 CONTROL OF PROBATE RECORDS.

8 The court shall have jurisdiction and supervision of the
9 probate records of the clerk, and may direct the destruction
10 of records it deems to be old, obsolete or unnecessary, ~~except~~
11 ~~that the probate record provided for in section 633.29 and the~~
12 ~~will record provided for in section 633.301 or a copy thereof,~~
13 ~~shall be preserved at all times.~~

14 Sec. 12. Sections 99.27 through 99.31, 602.6203, 624.21,
15 633.29, 633.300, 633.301 and 633.302, Code 1993, are repealed.

16 EXPLANATION

17 This bill provides that in election contests in which the
18 auditor is a party, the county treasurer, instead of the clerk
19 of the district court shall perform the auditor's duties. The
20 bill also provides that bonds of county supervisors are to be
21 approved by a judge of the district court for the county and
22 filed with the county auditor, instead of both functions being
23 performed by the clerk of the district court. The bill also
24 provides that the clerk of the district court is no longer to
25 act as trustee for a minor or incompetent dependent for the
26 purpose of receiving weekly workers' compensation benefits.
27 The minor or incompetent dependent's parent, guardian, or
28 conservator shall be named as trustee instead. In addition,
29 the bill provides that the clerk of the district court is no
30 longer responsible for filing a copy of the reports required
31 under chapter 255 regarding medical treatment of indigents or
32 keeping a separate record of the proceedings of the district
33 court for signing by the judge.

34 Also, the bill repeals the mulct tax on nuisances and
35 eliminates the requirement that clerks of the district court

1 collect it. Finally, the bill eliminates the requirements
2 that clerks of the district court keep a complete record of
3 the whole cause of action where title to land is involved,
4 keep a probate record book, file a certificate of probate of a
5 will and give a copy to the executor, and file a duplicate
6 copy of the will.

7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 527

AN ACT

RELATING TO THE DUTIES OF THE CLERK OF THE DISTRICT COURT AND THE APPOINTMENT OF AN ASSOCIATE PROBATE JUDGE.

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

Section 1. Section 62.7, Code 1993, is amended to read as follows:

62.7 WHEN AUDITOR IS PARTY.

When the auditor is a party, the clerk-of-the-district court county treasurer shall receive such statement and approve such bond.

Sec. 2. Section 62.11, Code 1993, is amended to read as follows:

62.11 SUBPOENAS.

Subpoenas for witnesses may be issued at any time after the notice of trial is served, either by the clerk-of-the-district court county treasurer or by the county auditor, and shall command the witnesses to appear at, on, to testify in relation to a contested election, wherein A B is contestant and C D is incumbent.

Sec. 3. Section 64.19, subsection 3, Code 1993, is amended to read as follows:

3. By a judge ~~or the clerk~~ of the district court of for the county in question, in case of members of the board of supervisors.

Sec. 4. Section 64.23, subsection 5, Code 1993, is amended to read as follows:

5. For members of the board of supervisors, with the clerk of-the-district-court county auditor.

Sec. 5. Section 85.49, unnumbered paragraph 1, Code 1993, is amended to read as follows:

When a minor or mentally incompetent dependent is entitled to weekly benefits under this chapter, or chapter 85A or chapter 85B, payment shall be made to the ~~clerk-of-the district-court-for-the-county-in-which-the-injury-occurred~~ parent, guardian, or conservator, who shall act as trustee, and the money coming into the clerk's trustee's hands shall be expended for the use and benefit of the person entitled to it under the direction and orders of a district judge. The ~~clerk of-the-district-court, as trustee~~ shall qualify and give bond in an amount as the district judge directs, which may be increased or diminished from time to time. ~~if-the-domicile-or residence-of-the-minor-or-mentally-incompetent-dependent-is within-the-state-but-in-a-county-other-than-that-in-which-the injury-to-the-employee-occurred-the-industrial-commissioner may-order-and-direct-that-weekly-benefits-be-paid-to-the-clerk of-the-district-court-of-the-county-of-domicile-or-residence-~~

Sec. 6. Section 85.50, Code 1993, is amended to read as follows:

85.50 REPORT OF TRUSTEE.

The ~~clerk-of-the-district-court-as-such~~ trustee shall, on or before September 30 of each year, make annual reports, at such times as designated by the court, to the court of all money or property received or expended for each the person for whom the clerk parent, guardian, or conservator is acting as trustee.

~~A-clerk-of the district-court-shall, upon resigning or being removed from office or otherwise becoming disqualified as clerk, make an accounting and final report to be approved by the chief judge of the judicial district and all funds and~~

~~other property shall be delivered to the successor in the office of clerk of the district court:~~

Sec. 7. Section 255.18, Code 1993, is amended to read as follows:

255.18 REPORTS.

One duplicate copy of each of the reports named in sections 255.15 and 255.17 shall be preserved in the records of said ~~the hospital and the other transmitted to the clerk of the court where said order committing the patient to said hospital was entered, and by the clerk filed and preserved among the records in the cause.~~

Sec. 8. Section 602.8102, subsection 98, Code 1993, is amended to read as follows:

98. Carry out duties relating to trials and judgments as provided in sections 624.8 through ~~624.21~~ 624.20 and 624.37.

Sec. 9. Section 602.8102, subsections 16, 17, 18, and 22, Code 1993, are amended by striking the subsections.

Sec. 10. Section 633.16, Code 1993, is amended to read as follows:

633.16 CONTROL OF PROBATE RECORDS.

The court shall have jurisdiction and supervision of the probate records of the clerk, and may direct the destruction of records it deems to be old, obsolete or unnecessary, ~~except that the probate record provided for in section 633.29 and the will record provided for in section 633.301 or a copy thereof shall be preserved at all times.~~

Sec. 11. Section 633.20, Code 1993, is amended by adding the following new subsection:

NEW SUBSECTION. 3. The chief judge of a judicial district may appoint an associate probate judge and may remove the associate probate judge for cause following a hearing. The associate probate judge shall be an attorney admitted to practice law in this state and shall be qualified for the position by training and experience. The associate probate judge shall have jurisdiction to audit accounts of fiduciaries

and to perform ministerial duties and judicial functions as the court prescribes.

Sec. 12. Section 633.29, Code 1993, is amended to read as follows:

633.29 PROBATE RECORD.

The clerk shall also keep a book to be known as the Probate Record that shall contain ~~full and complete~~ journal entries of all orders ~~made in relation to the business of each estate.~~ When and journal entries when real estate is sold or mortgaged by a fiduciary under an order of court ~~therefor, a complete record of the same shall be made in the probate record, including the petition, the notice, the returns of service, and all other papers filed, with the orders made relating thereto.~~

Sec. 13. Section 633.300, Code 1993, is amended to read as follows:

633.300 CERTIFICATE OF PROBATE.

When a will has been admitted to probate the clerk shall have a certificate of such fact, endorsed thereon or annexed thereto, signed by the clerk and attested by the seal of the court; and, when so certified, it, ~~or the record thereof,~~ or the transcript of such ~~the~~ record properly authenticated, may be read in evidence in all courts without further proof.

Sec. 14. Section 633.301, Code 1993, is amended to read as follows:

633.301 RECORDED--- COPY OF WILL FOR EXECUTOR.

When a will has been admitted to probate, ~~it, together with the certificate herein required, shall be recorded in a book kept for that purpose,~~ and certified pursuant to section 633.300, the clerk shall cause an authenticated copy thereof to be placed in the hands of the executor to whom letters are issued. The clerk shall retain the will in a separate file provided for that purpose until the time for contest has expired, and promptly thereafter shall place it with the files of ~~said the~~ estate.

Sec. 15. Sections 602.6203, 624.21, and 633.30, Code 1993,
are repealed.

HAROLD VAN MAANEN
Speaker of the House

LEONARD L. BOSWELL
President of the Senate

I hereby certify that this bill originated in the House and
is known as House File 527, Seventy-fifth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved April 28, 1993

TERRY E. BRANSTAD
Governor

HF 527