

3/25/96 Rereferred to Judiciary

MAR 5 1996
Place On Calendar

HOUSE FILE **2460**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HF 2173)

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

A BILL FOR

1 An Act providing for the modification or termination of certain
2 trusts by the court.

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

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HF 2460

1 Section 1. NEW SECTION. 633.699A MODIFICATION OR
2 TERMINATION OF TESTAMENTARY TRUST.

3 1. On petition by a trustee or beneficiary, and after
4 notice to all interested parties as determined by the court,
5 the court may modify the provisions of a testamentary trust or
6 may terminate a testamentary trust in whole or in part if the
7 continuation of the trust under its terms would defeat or
8 substantially impair the accomplishment of the purposes of the
9 trust, or if the purposes of the trust have been fulfilled, or
10 have become illegal or impossible to fulfill.

11 a. The court may order the trustee to do acts that are not
12 authorized or are forbidden by the will creating the trust, or
13 may order that the trustee be prohibited from performing acts
14 that are required by the terms of the trust.

15 b. The existence of a trust provision restraining transfer
16 of the beneficiary's interest does not prevent application of
17 this subsection.

18 c. If the court orders the termination of the trust,
19 disposition of all property shall be made according to the
20 will provisions that address the disposition of the property
21 in the event the trust is terminated. However, if the will
22 does not address the disposition of the property in the event
23 the trust is terminated, the court shall determine the
24 disposition of the trust property.

25 2. On petition by a trustee or beneficiary, and after
26 notice to all interested parties as determined by the court,
27 if the court determines that the fair market value of a
28 testamentary trust has become so low in relation to the cost
29 of administration that continuation of the trust under its
30 existing terms will defeat or substantially impair the
31 accomplishment of its purposes, the court may, in its
32 discretion, order termination of the trust, modification of
33 the trust, or appointment of a new trustee.

34 a. If the court orders the termination of the trust,
35 disposition of all property shall be made according to the

1 will provisions that address the disposition of the property
2 in the event the trust is terminated. However, if the will
3 does not address the disposition of the property in the event
4 the trust is terminated, the court shall determine the
5 disposition of the trust property.

6 b. The existence of a trust provision restraining transfer
7 of the beneficiary's interest does not prevent application of
8 this subsection.

9 3. In the case of a charitable testamentary trust, the
10 attorney general shall be considered an interested party under
11 this section. This section shall not be construed to limit
12 intervention by the attorney general according to section
13 633.303.

14 EXPLANATION

15 This bill adds a new section to the probate code pertaining
16 to modification or termination of trusts. The section
17 proposes that the court may modify or terminate a trust when
18 the enforcement of the terms of a trust is no longer
19 consistent with the purposes of the trust, or it is impossible
20 to continue the trust, or when the trust has become
21 uneconomical to administer.

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