

3/22/95 Referred to W.d.m.
3/28/95 Do Pass

FILED MAR 20 1995
4/13/95 Unfinished Business
Crewster

SENATE FILE **422**
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 312)

(p.985) Passed Senate, Date 3-30-95 (p.1719) Passed House, Date 4-19-95
Vote: Ayes 40 Nays 9 Vote: Ayes 82 Nays 15
Approved May 1, 1995

A BILL FOR

1 An Act relating to the duties of the county recorder, by
2 transferring certain duties of the clerk of the district court
3 relating to vital statistics and marriage, by providing for
4 fees, by providing for other properly related matters, and
5 providing effective dates.

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

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S.F. 422

1 Section 1. Section 144.5, subsection 3, Code 1995, is
2 amended to read as follows:

3 3. Direct, supervise, and control the activities of clerks
4 of the district court and county recorders related to the
5 operation of the vital statistics system and provide
6 registrars with necessary postage.

7 Sec. 2. Section 144.5, subsection 6, Code 1995, is amended
8 to read as follows:

9 6. Delegate functions and duties vested in the state
10 registrar to officers, to employees of the department, to the
11 clerks of the district court, and to the county registrars as
12 the state registrar deems necessary or expedient.

13 Sec. 3. Section 144.9, unnumbered paragraph 1, Code 1995,
14 is amended to read as follows:

15 The ~~clerk-of-the-district-court~~ county recorder is the
16 county registrar and with respect to the county shall:

17 Sec. 4. NEW SECTION. 144.11 PUBLIC ACCESS TO RECORDS.

18 The county registrar shall allow public access to public
19 records under the custody of the county registrar during
20 normal business hours for county offices in the county.

21 Sec. 5. Section 144.13A, Code 1995, is amended to read as
22 follows:

23 144.13A FEES -- USE OF FUNDS.

24 The county registrar or state registrar shall charge the
25 parent a ten dollar fee for the registration of a certificate
26 of birth and a separate fee established under section 144.46
27 for a certified copy of the certificate except as otherwise
28 provided in section 331.605, subsection 6. The certified copy
29 shall be mailed to the parent by the state registrar. If the
30 person responsible for the filing of the certificate of birth
31 under section 144.13 is not the parent, the person is entitled
32 to collect the fee from the parent. The fee shall be remitted
33 to the appropriate registrar. If the expenses of the birth
34 are reimbursed under the medical assistance program
35 established by chapter 249A, or paid for under the statewide

1 indigent patient care program established by chapter 255, or
2 paid for under the obstetrical and newborn indigent patient
3 care program established by chapter 255A, or if the parent is
4 indigent and unable to pay the expenses of the birth and no
5 other means of payment is available to the parent, the
6 registration fee and certified copy fee are waived. If the
7 person responsible for the filing of the certificate is not
8 the parent, the person is discharged from the duty to collect
9 and remit the fee under this section if the person has made a
10 good faith effort to collect the fee from the parent. The
11 fees collected by the county registrar and state registrar
12 shall be remitted to the treasurer of state for deposit in the
13 general fund of the state. It is the intent of the general
14 assembly that the funds generated from the registration fees
15 be appropriated and used for primary and secondary child abuse
16 prevention programs. It is the intent of the general assembly
17 that the funds generated from the fees as established under
18 section 144.46 for the mailing of the certified copy of the
19 birth certificate be appropriated and used to support the
20 distribution of the automatic birth certificate and the
21 implementation of the electronic birth certificate system.

22 Sec. 6. Section 144.36, subsections 1, 2, and 4, Code
23 1995, are amended to read as follows:

24 1. A certificate recording each marriage performed in this
25 state shall be filed with the state registrar. The ~~clerk-of~~
26 ~~the-district-court~~ county registrar shall prepare the
27 certificate on the form furnished by the state registrar upon
28 the basis of information obtained from the parties to be
29 married, who shall attest to the information by their
30 signatures. The ~~clerk-of-the-district-court~~ county registrar
31 in each county shall keep a record book for marriages. The
32 form of marriage record books shall be uniform throughout the
33 state. A properly indexed permanent record of marriage
34 certificates upon microfilm, electronic computer, or data
35 processing equipment may be kept in lieu of marriage record

1 books.

2 2. Every person who performs a marriage shall certify the
3 fact of marriage and return the certificate to the ~~clerk-of~~
4 ~~the-district-court~~ county registrar within fifteen days after
5 the ceremony. The certificate shall be signed by the
6 witnesses to the ceremony and the person performing the
7 ceremony.

8 4. The ~~clerk-of-the-district-court~~ county registrar shall
9 record and forward to the state registrar on or before the
10 tenth day of each calendar month the original certificates of
11 marriages filed with the ~~clerk~~ county registrar during the
12 preceding calendar month.

13 Sec. 7. Section 144.45, unnumbered paragraph 1, Code 1995,
14 is amended to read as follows:

15 The state registrar and the ~~clerk-of-the-district-court~~
16 county registrar shall, upon written request from any
17 applicant entitled to such a record, issue a certified copy of
18 any certificate or record in the registrar's ~~or-clerk's~~
19 custody or of a part thereof of a certificate or record. Each
20 copy issued shall show the date of registration; and copies
21 issued from records marked "delayed", "amended", or "court
22 order" shall be similarly marked and show the effective date.

23 Sec. 8. Section 144.46, Code 1995, is amended to read as
24 follows:

25 144.46 FEE FOR COPY OF RECORD.

26 The department by rule shall establish fees based on the
27 average administrative cost which shall be collected by the
28 state registrar or the ~~clerk-of-the-district-court~~ county
29 registrar for each certified copy or short form certification
30 of certificates or records, or for a search of the files or
31 records when no copy is made, or when no record is found on
32 file. Fees collected by the state registrar and by the county
33 registrar on behalf of the state under this section shall be
34 deposited in the general fund of the state. ~~Fees-collected-by~~
35 ~~the-clerk-of-the-district-court-shall-be-deposited-in-the~~

1 court-revenue-distribution-account-established-under-section
2 ~~602-8108-~~ Fees collected by the county registrar pursuant to
3 section 331.605, subsection 6, shall be deposited in the
4 county general fund. A fee shall not be collected from a
5 political subdivision or agency of this state.

6 Sec. 9. Section 331.601, Code 1995, is amended by adding
7 the following new subsection:

8 NEW SUBSECTION. 4. In counties in which the office of
9 county recorder has been abolished, the board of supervisors
10 shall reassign the duties of the county recorder who also
11 serves as the county registrar pursuant to chapter 144.

12 Sec. 10. Section 331.602, Code 1995, is amended by adding
13 the following new subsection:

14 NEW SUBSECTION. 40. Accept applications for passports.

15 Sec. 11. Section 331.605, Code 1995, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 6. A county fee of four dollars for the
18 following certificates, records, or services:

19 a. A certified copy of a birth record, death record, or
20 marriage certificate.

21 b. A birth registration.

22 Sec. 12. NEW SECTION. 331.611 VITAL STATISTICS.

23 1. The recorder shall be the county registrar and carry
24 out duties as provided in chapter 144.

25 2. The duties include, but are not limited to, the
26 following:

27 a. Register and maintain certifications of birth as
28 provided in sections 144.13 through 144.18, 144.45, and
29 144.46.

30 b. Register and maintain certifications of death as
31 provided in sections 144.26 through 144.35, 144.45, and
32 144.46.

33 c. Issue and maintain marriage certificates as provided in
34 sections 144.36, 144.45, and 144.46, and chapter 595.

35 Sec. 13. Section 595.3, unnumbered paragraph 1, Code 1995,

1 is amended to read as follows:

2 Previous to the solemnization of any marriage, a license
3 for that purpose must be obtained from the ~~clerk-of-the~~
4 ~~district-court~~ county registrar. ~~Such~~ The license must not be
5 granted in any case:

6 Sec. 14. Section 595.4, Code 1995, is amended to read as
7 follows:

8 595.4 AGE AND QUALIFICATION -- VERIFIED APPLICATION --
9 WAITING PERIOD -- EXCEPTION.

10 Previous to the issuance of any license to marry, the
11 parties desiring ~~such~~ the license shall sign and file a
12 verified application with the ~~clerk-of-the-court~~ county
13 registrar which application either may be mailed to the
14 parties at their request or may be signed by them at the
15 office of the ~~clerk-of-the-district-court~~ county registrar in
16 the county in which the license is to be issued. ~~Such~~ The
17 application shall set forth at least one affidavit of some
18 competent and disinterested person stating ~~such~~ the facts as
19 to age and qualification of the parties ~~as-the-clerk-may-deem~~
20 ~~necessary-to-determine-the-competency-of-the-parties-to~~
21 ~~contract-a-marriage~~. Upon the filing of the application for a
22 license to marry, the ~~clerk-of-the-district-court~~ county
23 registrar shall file the application in a record kept for that
24 purpose.

25 After expiration of three days from the date of filing the
26 application by the parties, the ~~clerk~~ county registrar shall
27 issue the license ~~if-the-clerk-is-satisfied-as-to-the~~
28 ~~competency-of-the-parties-to-contract-a-marriage~~. If the
29 license has not been issued within six months from the date of
30 the application, the application is void.

31 A license to marry may be issued prior to the expiration of
32 three days from the date of filing the application for the
33 license in cases of emergency or extraordinary circumstances.
34 An order authorizing the issuance of a license may be granted
35 by a judge of the district court under conditions of emergency

1 or extraordinary circumstances upon application of the parties
2 filed with the ~~clerk-of-court~~ county registrar. No such order
3 may be granted unless the parties have filed an application
4 for a marriage license in a county within the judicial
5 district. An application for such an order shall be made on
6 forms furnished by the ~~clerk~~ county registrar at the same time
7 the application for the license to marry is made. ~~if-after~~
8 After examining the application for the marriage license the
9 ~~clerk-is-satisfied-as-to-the-competency-of-the-parties-to~~
10 ~~contract-a-marriage~~, the ~~clerk~~ county registrar shall refer
11 the parties to a judge of the district court for action on the
12 application for an order authorizing the issuance of a
13 marriage license prior to expiration of three days from the
14 date of filing the application for the license. The judge
15 shall, if satisfied as to the existence of an emergency or
16 extraordinary circumstances, grant an order authorizing the
17 issuance of a license to marry prior to the expiration of
18 three days from the date of filing the application for the
19 license to marry. The ~~clerk~~ county registrar shall issue a
20 license to marry upon presentation by the parties of the order
21 authorizing a license to be issued. A fee of five dollars
22 shall be paid to the ~~clerk~~ county registrar at the time the
23 application for the order is made, which fee is in addition to
24 the fee prescribed by law for the issuance of a marriage
25 license.

26 Sec. 15. Section 595.5, Code 1995, is amended to read as
27 follows:

28 595.5 SURNAME ADOPTED.

29 A party may request on the application for a marriage
30 license a name change to that of the other party or to some
31 other surname mutually agreed upon by the parties. The names
32 used on the marriage license shall become the legal names of
33 the parties to the marriage. The marriage license shall
34 contain a statement that when a name change is requested and
35 affixed to the marriage license, the new name is the legal

1 name of the requesting party. If a party requests a name
2 change, other than a change of surname to that of the other
3 spouse or to a combination of the surnames of both spouses,
4 the party shall request approval of the court pursuant to
5 chapter 674 and shall submit to the court the information
6 required by section 674.2. Upon approval of the court and
7 solemnization of the marriage, the ~~clerk-of-the-district-court~~
8 county registrar shall send a certified copy of the return of
9 marriage to the recorder's office in every county in this
10 state where real property is owned by either of the parties.
11 The judge may approve the name change. The new names and the
12 immediate former names shall appear on the return of marriage,
13 and the return of marriage shall be recorded in the
14 miscellaneous records in the recorder's office. An individual
15 shall have only one legal name at any one time.

16 Sec. 16. Section 595.6, Code 1995, is amended to read as
17 follows:

18 595.6 FILING AND RECORD REQUIRED.

19 The affidavit or certificate, in each case, shall be filed
20 by the ~~clerk~~ county registrar and constitute a part of the
21 records of the ~~clerk's~~ registrar's office. A memorandum of
22 the affidavit or certificate shall also be entered in the
23 license book.

24 Sec. 17. Section 595.7, Code 1995, is amended to read as
25 follows:

26 595.7 DELIVERY OF BLANK WITH LICENSE.

27 When a license is issued the ~~clerk~~ county registrar shall
28 deliver to the applicant a blank return for the marriage, and
29 give ~~such~~ instructions relative ~~thereto~~ to the blank return as
30 will insure a complete and accurate return.

31 Sec. 18. Section 595.11, Code 1995, is amended to read as
32 follows:

33 595.11 NONSTATUTORY SOLEMNIZATION -- FORFEITURE.

34 Marriages solemnized, with the consent of parties, in any
35 manner other than that prescribed in this chapter, are valid;

1 but the parties, and all persons aiding or abetting them,
2 shall pay to the treasurer of state for deposit in the general
3 fund of the state the sum of fifty dollars each; but this
4 shall not apply to the person conducting the marriage
5 ceremony, if within fifteen days thereafter after the ceremony
6 is conducted, the person makes the required return to the
7 clerk-of-the-district-court county registrar.

8 Sec. 19. Section 595.13, subsection 2, Code 1995, is
9 amended to read as follows:

10 2. Make return of such the marriage within fifteen days to
11 the clerk-of-the-district-court county registrar, who issued
12 the marriage license upon the blank provided for that purpose.

13 Sec. 20. Section 595.15, Code 1995, is amended to read as
14 follows:

15 595.15 INADEQUATE RETURN.

16 If the return of a marriage is not complete in every
17 particular as required by the forms specified in section
18 144.12, the clerk county registrar shall require the person
19 making the same to supply the omitted information.

20 Sec. 21. Section 595.16, Code 1995, is amended to read as
21 follows:

22 595.16 SPOUSE RESPONSIBLE FOR RETURN.

23 When a marriage is consummated without the services of a
24 cleric or magistrate, the required return thereof of the
25 marriage may be made to the clerk county registrar by either
26 spouse.

27 Sec. 22. Section 602.8102, subsection 83, Code 1995, is
28 amended by striking the subsection.

29 Sec. 23. TRANSFER OF RECORDS. All records in the custody
30 of the clerk of the district court which relate to vital
31 statistics duties being transferred to the county recorder
32 shall be transferred to the county recorder on the effective
33 date of this Act.

34 Sec. 24. TRANSITION -- MODERNIZATION OF SYSTEM. During a
35 transitional period prior to July 1, 1997, the clerks of the

1 district court and the county recorders shall cooperate to
2 implement a modernization of the vital statistics records
3 system within the counties.

4 Sec. 25. EFFECTIVE DATES.

5 1. Sections 1 through 23 of this Act take effect July 1,
6 1997.

7 2. Section 24 of this Act, being deemed of immediate
8 importance, takes effect upon enactment.

9 EXPLANATION

10 This bill transfers the duties of the clerk of the district
11 court relating to vital statistics to the office of county
12 recorder. The county recorder serves as the county registrar
13 of vital statistics for the purposes of maintaining birth and
14 death records, issuing marriage licenses, and maintaining
15 related information concerning the solemnization of marriages.
16 The bill also provides for a new fee of \$4 to provide a
17 certified copy of a birth, death, or marriage certificate and
18 a birth registration. This fee will be remitted to the county
19 general fund. Fees currently collected by the department of
20 public health as state registrar and the clerk of the district
21 court will remain unchanged. The bill also provides that the
22 county recorder will provide services related to passport
23 applications which the clerks of the district court have
24 discontinued.

25 The bill amends chapter 144 to divide the duties of the
26 county registrar between the county recorder and the clerk of
27 the district court. The clerks of the district court will
28 keep the duties of the county registrar related to birth and
29 death records where the district court is involved. Chapters
30 331 and 595 are amended to provide cross-references to the
31 county recorder's duties and transfer duties relating to the
32 issuing and keeping of marriage records. The board of
33 supervisors shall assign the duties of county registrar in
34 counties where the office of county recorder is abolished.

35 The bill contains a provision effective upon enactment,

1 which requires the clerks of the district court and the county
2 recorders to implement a modernization of the vital statistics
3 records system within the counties. The remainder of the bill
4 takes effect July 1, 1997.

5 This bill may create a state mandate as provided in chapter
6 25B.

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**SENATE FILE 422
FISCAL NOTE**

A fiscal note for Senate File 422 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 422 relates to the duties of the county recorder and the clerk of the district court relating to vital statistics. The bill adds duties to the county recorder and transfers certain duties of the clerk of the district court to the county recorder.

The duties relating to vital statistics are transferred to the county recorder and the county recorder is to charge a fee of \$4 to provide a certified copy of a birth, death, or marriage certificate.

ASSUMPTIONS

1. The number of certified copies would equal the estimated FY 1993 number of copies which was 164,369. This would generate \$657,476 at \$4.00 per copy. The estimated FY 1995 number of copies is 218,000. This is based upon actual data for the period between July 1, 1994, and February 28, 1995, and extrapolated for the entire fiscal year. However, it is not possible to distinguish what number of copies in FY 1995 would have occurred at the State level compared to the county level within this data.
2. The expiration of the temporary certificate copy fee from the 1993 Iowa Acts, Chapter 55, Section 1 would occur, thereby not actually increasing the fees for certified copies, but rather only changing the deposit of the fee from a separate account in the Department of Public Health to each county.
3. The county recorders would collect the \$4.00 fee for certificates issued for 250 home births per year.
4. No change in the amount of charges which generates revenues for the State, through issuances of marriage licenses, birth certificates, and certified copies. The State would continue to receive \$1.9 million annually from these revenues.
5. The bill sections affecting statutory responsibilities of the county recorder and the transfer of duties from the clerk of the district court take effect July 1, 1997.

FISCAL EFFECT:

Senate File 422 will not have a negative impact to the State General Fund. Beginning in FY 1998, counties would receive an estimated \$658,476 in revenues as a result of the \$4.00 fee for certified copies charged by the county recorder. Because the necessary information is not available, an accurate estimate of additional expenditures that the county recorders may incur as a result of the additional responsibilities cannot be determined. It is also not possible to estimate savings from the transfer of duties from the clerk of the district court.

-2-

(LSB 2347SV, SLL)

FILED MARCH 28, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 422

S-3204

1 Amend Senate File 422 as follows:

2 1. Page 1, by striking line 15 and inserting the
3 following: "The clerk of the district court or, if
4 approved by the board of supervisors in counties
5 having a population of one hundred thousand or more,
6 the county recorder is the".

7 2. Page 4, line 7, by striking the word
8 "subsection" and inserting the following:
9 "subsections".

10 3. Page 4, by inserting before line 12 the
11 following:

12 "NEW SUBSECTION. 5. With approval of the board of
13 supervisors in counties having a population of one
14 hundred thousand or more, the recorder shall serve as
15 the county registrar. If the recorder does not serve
16 as the county registrar, section 331.602, subsection
17 40, section 331.605, subsection 6, and section 331.611
18 do not apply to that county."

19 4. Page 4, line 23, by striking the word "The"
20 and inserting the following: "If approved by the
21 board, the".

22 5. Page 8, line 33, by inserting after the word
23 "Act." the following: "This section does not apply to
24 counties where the recorder does not serve as county
25 registrar."

26 6. Page 9, line 3, by inserting after the word
27 "counties." the following: "This section does not
28 apply to counties where the recorder does not serve as
29 county registrar."

By MARY LUNDBY

S-3204 FILED MARCH 23, 1995

Dist 3-30-95

P. 9

SENATE FILE 422

S-3237

- 1 Amend Senate File 422 as follows:
- 2 1. Page 3, line 12, by inserting after the word
- 3 "month" the following: "and the fees collected by the
- 4 county registrar on behalf of the state for
- 5 applications for a license to marry in accordance with
- 6 section 331.605, subsection 7".
- 7 2. Page 4, line 16, by striking the word
- 8 "subsection" and inserting the following:
- 9 "subsections".
- 10 3. Page 4, by inserting after line 21 the
- 11 following:
- 12 "NEW SUBSECTION. 7. For filing an application for
- 13 the license to marry, thirty dollars. For issuing an
- 14 application for an order of the district court
- 15 authorizing the issuance of a license to marry before
- 16 the expiration of three days from the date of filing
- 17 the application for the license, five dollars. The
- 18 district court shall authorize the issuance of a
- 19 marriage license without the payment of any fees
- 20 imposed in this subsection upon showing that the
- 21 applicant is unable to pay the fees."
- 22 4. Page 8, by inserting after line 28 the
- 23 following:
- 24 "Sec. ____ . Section 602.8105, subsection 2,
- 25 paragraph a, Code 1995, is amended by striking the
- 26 paragraph."
- 27 5. By renumbering as necessary.

By ALBERT SORENSEN

S-3237 FILED MARCH 27, 1995

Adopted
3-30-95

(P 985)

SENATE FILE 422

S-3255

- 1 Amend Senate File 422 as follows:
- 2 1. Page 1, by striking line 15 and inserting the
- 3 following: "The clerk of the district court or, if
- 4 approved by the board of supervisors, the county
- 5 recorder is the".
- 6 2. Page 4, line 7, by striking the word
- 7 "subsection" and inserting the following:
- 8 "subsections".
- 9 3. Page 4, by inserting before line 12 the
- 10 following:
- 11 "NEW SUBSECTION. 5. With approval of the board of
- 12 supervisors, the recorder shall serve as the county
- 13 registrar. If the recorder does not serve as the
- 14 county registrar, section 331.602, subsection 40,
- 15 section 331.605, subsection 6, and section 331.611 do
- 16 not apply to that county."
- 17 4. Page 4, line 23, by striking the word "The"
- 18 and inserting the following: "If approved by the
- 19 board, the".
- 20 5. Page 8, line 33, by inserting after the word
- 21 "Act." the following: "This section does not apply to
- 22 counties where the recorder does not serve as county
- 23 registrar."
- 24 6. Page 9, line 3, by inserting after the word
- 25 "counties." the following: "This section does not
- 26 apply to counties where the recorder does not serve as
- 27 county registrar."

By ANDY MCKEAN

S-3255 FILED MARCH 28, 1995

*Act 3-30-95**(p. 984)*

1 Section 1. Section 144.5, subsection 3, Code 1995, is
2 amended to read as follows:

3 3. Direct, supervise, and control the activities of clerks
4 of the district court and county recorders related to the
5 operation of the vital statistics system and provide
6 registrars with necessary postage.

7 Sec. 2. Section 144.5, subsection 6, Code 1995, is amended
8 to read as follows:

9 6. Delegate functions and duties vested in the state
10 registrar to officers, to employees of the department, to the
11 clerks of the district court, and to the county registrars as
12 the state registrar deems necessary or expedient.

13 Sec. 3. Section 144.9, unnumbered paragraph 1, Code 1995,
14 is amended to read as follows:

15 The ~~clerk-of-the-district-court~~ county recorder is the
16 county registrar and with respect to the county shall:

17 Sec. 4. NEW SECTION. 144.11 PUBLIC ACCESS TO RECORDS.

18 The county registrar shall allow public access to public
19 records under the custody of the county registrar during
20 normal business hours for county offices in the county.

21 Sec. 5. Section 144.13A, Code 1995, is amended to read as
22 follows:

23 144.13A FEES -- USE OF FUNDS.

24 The county registrar or state registrar shall charge the
25 parent a ten dollar fee for the registration of a certificate
26 of birth and a separate fee established under section 144.46
27 for a certified copy of the certificate except as otherwise
28 provided in section 331.605, subsection 6. The certified copy
29 shall be mailed to the parent by the state registrar. If the
30 person responsible for the filing of the certificate of birth
31 under section 144.13 is not the parent, the person is entitled
32 to collect the fee from the parent. The fee shall be remitted
33 to the appropriate registrar. If the expenses of the birth
34 are reimbursed under the medical assistance program
35 established by chapter 249A, or paid for under the statewide

1 indigent patient care program established by chapter 255, or
2 paid for under the obstetrical and newborn indigent patient
3 care program established by chapter 255A, or if the parent is
4 indigent and unable to pay the expenses of the birth and no
5 other means of payment is available to the parent, the
6 registration fee and certified copy fee are waived. If the
7 person responsible for the filing of the certificate is not
8 the parent, the person is discharged from the duty to collect
9 and remit the fee under this section if the person has made a
10 good faith effort to collect the fee from the parent. The
11 fees collected by the county registrar and state registrar
12 shall be remitted to the treasurer of state for deposit in the
13 general fund of the state. It is the intent of the general
14 assembly that the funds generated from the registration fees
15 be appropriated and used for primary and secondary child abuse
16 prevention programs. It is the intent of the general assembly
17 that the funds generated from the fees as established under
18 section 144.46 for the mailing of the certified copy of the
19 birth certificate be appropriated and used to support the
20 distribution of the automatic birth certificate and the
21 implementation of the electronic birth certificate system.

22 Sec. 6. Section 144.36, subsections 1, 2, and 4, Code
23 1995, are amended to read as follows:

24 1. A certificate recording each marriage performed in this
25 state shall be filed with the state registrar. The ~~clerk-of~~
26 ~~the-district-court~~ county registrar shall prepare the
27 certificate on the form furnished by the state registrar upon
28 the basis of information obtained from the parties to be
29 married, who shall attest to the information by their
30 signatures. The ~~clerk-of-the-district-court~~ county registrar
31 in each county shall keep a record book for marriages. The
32 form of marriage record books shall be uniform throughout the
33 state. A properly indexed permanent record of marriage
34 certificates upon microfilm, electronic computer, or data
35 processing equipment may be kept in lieu of marriage record

1 books.

2 2. Every person who performs a marriage shall certify the
3 fact of marriage and return the certificate to the ~~clerk-of~~
4 ~~the-district-court~~ county registrar within fifteen days after
5 the ceremony. The certificate shall be signed by the
6 witnesses to the ceremony and the person performing the
7 ceremony.

8 4. The ~~clerk-of-the-district-court~~ county registrar shall
9 record and forward to the state registrar on or before the
10 tenth day of each calendar month the original certificates of
11 marriages filed with the ~~clerk~~ county registrar during the
12 preceding calendar month and the fees collected by the county
13 registrar on behalf of the state for applications for a
14 license to marry in accordance with section 331.605,
15 subsection 7.

16 Sec. 7. Section 144.45, unnumbered paragraph 1, Code 1995,
17 is amended to read as follows:

18 The state registrar and the ~~clerk-of-the-district-court~~
19 county registrar shall, upon written request from any
20 applicant entitled to such a record, issue a certified copy of
21 any certificate or record in the registrar's ~~or-clerk's~~
22 custody or of a part thereof of a certificate or record. Each
23 copy issued shall show the date of registration; and copies
24 issued from records marked "delayed", "amended", or "court
25 order" shall be similarly marked and show the effective date.

26 Sec. 8. Section 144.46, Code 1995, is amended to read as
27 follows:

28 144.46 FEE FOR COPY OF RECORD.

29 The department by rule shall establish fees based on the
30 average administrative cost which shall be collected by the
31 state registrar or the ~~clerk-of-the-district-court~~ county
32 registrar for each certified copy or short form certification
33 of certificates or records, or for a search of the files or
34 records when no copy is made, or when no record is found on
35 file. Fees collected by the state registrar and by the county

1 registrar on behalf of the state under this section shall be
 2 deposited in the general fund of the state. ~~Fees-collected-by~~
 3 ~~the-clerk-of-the-district-court-shall-be-deposited-in-the~~
 4 ~~court-revenue-distribution-account-established-under-section~~
 5 ~~602-8108.~~ Fees collected by the county registrar pursuant to
 6 section 331.605, subsection 6, shall be deposited in the
 7 county general fund. A fee shall not be collected from a
 8 political subdivision or agency of this state.

9 Sec. 9. Section 331.601, Code 1995, is amended by adding
 10 the following new subsection:

11 NEW SUBSECTION. 4. In counties in which the office of
 12 county recorder has been abolished, the board of supervisors
 13 shall reassign the duties of the county recorder who also
 14 serves as the county registrar pursuant to chapter 144.

15 Sec. 10. Section 331.602, Code 1995, is amended by adding
 16 the following new subsection:

17 NEW SUBSECTION. 40. Accept applications for passports.

18 Sec. 11. Section 331.605, Code 1995, is amended by adding
 19 the following new subsections:

20 NEW SUBSECTION. 6. A county fee of four dollars for the
 21 following certificates, records, or services:

22 a. A certified copy of a birth record, death record, or
 23 marriage certificate.

24 b. A birth registration.

25 NEW SUBSECTION. 7. For filing an application for the
 26 license to marry, thirty dollars. For issuing an application
 27 for an order of the district court authorizing the issuance of
 28 a license to marry before the expiration of three days from
 29 the date of filing the application for the license, five
 30 dollars. The district court shall authorize the issuance of a
 31 marriage license without the payment of any fees imposed in
 32 this subsection upon showing that the applicant is unable to
 33 pay the fees.

34 Sec. 12. NEW SECTION. 331.611 VITAL STATISTICS.

35 1. The recorder shall be the county registrar and carry

1 out duties as provided in chapter 144.

2 2. The duties include, but are not limited to, the
3 following:

4 a. Register and maintain certifications of birth as
5 provided in sections 144.13 through 144.18, 144.45, and
6 144.46.

7 b. Register and maintain certifications of death as
8 provided in sections 144.26 through 144.35, 144.45, and
9 144.46.

10 c. Issue and maintain marriage certificates as provided in
11 sections 144.36, 144.45, and 144.46, and chapter 595.

12 Sec. 13. Section 595.3, unnumbered paragraph 1, Code 1995,
13 is amended to read as follows:

14 Previous to the solemnization of any marriage, a license
15 for that purpose must be obtained from the ~~clerk-of-the~~
16 ~~district-court~~ county registrar. ~~Such~~ The license must not be
17 granted in any case:

18 Sec. 14. Section 595.4, Code 1995, is amended to read as
19 follows:

20 595.4 AGE AND QUALIFICATION -- VERIFIED APPLICATION --
21 WAITING PERIOD -- EXCEPTION.

22 Previous to the issuance of any license to marry, the
23 parties desiring ~~such~~ the license shall sign and file a
24 verified application with the ~~clerk-of-the-court~~ county
25 registrar which application either may be mailed to the
26 parties at their request or may be signed by them at the
27 office of the ~~clerk-of-the-district-court~~ county registrar in
28 the county in which the license is to be issued. ~~Such~~ The
29 application shall set forth at least one affidavit of some
30 competent and disinterested person stating ~~such~~ the facts as
31 to age and qualification of the parties ~~as-the-clerk-may-deem~~
32 ~~necessary-to-determine-the-competency-of-the-parties-to~~
33 ~~contract-a-marriage~~. Upon the filing of the application for a
34 license to marry, the ~~clerk-of-the-district-court~~ county
35 registrar shall file the application in a record kept for that

1 purpose.

2 After expiration of three days from the date of filing the
3 application by the parties, the clerk county registrar shall
4 issue the license ~~if-the-clerk-is-satisfied-as-to-the~~
5 ~~competency-of-the-parties-to-contract-a-marriage~~. If the
6 license has not been issued within six months from the date of
7 the application, the application is void.

8 A license to marry may be issued prior to the expiration of
9 three days from the date of filing the application for the
10 license in cases of emergency or extraordinary circumstances.
11 An order authorizing the issuance of a license may be granted
12 by a judge of the district court under conditions of emergency
13 or extraordinary circumstances upon application of the parties
14 filed with the clerk-of-court county registrar. No such order
15 may be granted unless the parties have filed an application
16 for a marriage license in a county within the judicial
17 district. An application for such an order shall be made on
18 forms furnished by the clerk county registrar at the same time
19 the application for the license to marry is made. ~~if-after~~
20 After examining the application for the marriage license the
21 ~~clerk-is-satisfied-as-to-the-competency-of-the-parties-to~~
22 ~~contract-a-marriage~~, the clerk county registrar shall refer
23 the parties to a judge of the district court for action on the
24 application for an order authorizing the issuance of a
25 marriage license prior to expiration of three days from the
26 date of filing the application for the license. The judge
27 shall, if satisfied as to the existence of an emergency or
28 extraordinary circumstances, grant an order authorizing the
29 issuance of a license to marry prior to the expiration of
30 three days from the date of filing the application for the
31 license to marry. The clerk county registrar shall issue a
32 license to marry upon presentation by the parties of the order
33 authorizing a license to be issued. A fee of five dollars
34 shall be paid to the clerk county registrar at the time the
35 application for the order is made, which fee is in addition to

1 the fee prescribed by law for the issuance of a marriage
2 license.

3 Sec. 15. Section 595.5, Code 1995, is amended to read as
4 follows:

5 595.5 SURNAME ADOPTED.

6 A party may request on the application for a marriage
7 license a name change to that of the other party or to some
8 other surname mutually agreed upon by the parties. The names
9 used on the marriage license shall become the legal names of
10 the parties to the marriage. The marriage license shall
11 contain a statement that when a name change is requested and
12 affixed to the marriage license, the new name is the legal
13 name of the requesting party. If a party requests a name
14 change, other than a change of surname to that of the other
15 spouse or to a combination of the surnames of both spouses,
16 the party shall request approval of the court pursuant to
17 chapter 674 and shall submit to the court the information
18 required by section 674.2. Upon approval of the court and
19 solemnization of the marriage, the ~~clerk-of-the-district-court~~
20 county registrar shall send a certified copy of the return of
21 marriage to the recorder's office in every county in this
22 state where real property is owned by either of the parties.
23 The judge may approve the name change. The new names and the
24 immediate former names shall appear on the return of marriage,
25 and the return of marriage shall be recorded in the
26 miscellaneous records in the recorder's office. An individual
27 shall have only one legal name at any one time.

28 Sec. 16. Section 595.6, Code 1995, is amended to read as
29 follows:

30 595.6 FILING AND RECORD REQUIRED.

31 The affidavit or certificate, in each case, shall be filed
32 by the ~~clerk~~ county registrar and constitute a part of the
33 records of the ~~clerk's~~ registrar's office. A memorandum of
34 the affidavit or certificate shall also be entered in the
35 license book.

1 Sec. 17. Section 595.7, Code 1995, is amended to read as
2 follows:

3 595.7 DELIVERY OF BLANK WITH LICENSE.

4 When a license is issued the ~~clerk~~ county registrar shall
5 deliver to the applicant a blank return for the marriage, and
6 give ~~such~~ instructions relative ~~thereto~~ to the blank return as
7 will insure a complete and accurate return.

8 Sec. 18. Section 595.11, Code 1995, is amended to read as
9 follows:

10 595.11 NONSTATUTORY SOLEMNIZATION -- FORFEITURE.

11 Marriages solemnized, with the consent of parties, in any
12 manner other than that prescribed in this chapter, are valid;
13 but the parties, and all persons aiding or abetting them,
14 shall pay to the treasurer of state for deposit in the general
15 fund of the state the sum of fifty dollars each; but this
16 shall not apply to the person conducting the marriage
17 ceremony, if within fifteen days ~~thereafter~~ after the ceremony
18 is conducted, the person makes the required return to the
19 ~~clerk-of-the-district-court~~ county registrar.

20 Sec. 19. Section 595.13, subsection 2, Code 1995, is
21 amended to read as follows:

22 2. Make return of ~~such~~ the marriage within fifteen days to
23 the ~~clerk-of-the-district-court~~ county registrar, who issued
24 the marriage license upon the blank provided for that purpose.

25 Sec. 20. Section 595.15, Code 1995, is amended to read as
26 follows:

27 595.15 INADEQUATE RETURN.

28 If the return of a marriage is not complete in every
29 particular as required by the forms specified in section
30 144.12, the ~~clerk~~ county registrar shall require the person
31 making the same to supply the omitted information.

32 Sec. 21. Section 595.16, Code 1995, is amended to read as
33 follows:

34 595.16 SPOUSE RESPONSIBLE FOR RETURN.

35 When a marriage is consummated without the services of a

1 cleric or magistrate, the required return thereof of the
2 marriage may be made to the clerk county registrar by either
3 spouse.

4 Sec. 22. Section 602.8102, subsection 83, Code 1995, is
5 amended by striking the subsection.

6 Sec. 23. Section 602.8105, subsection 2, paragraph a, Code
7 1995, is amended by striking the paragraph.

8 Sec. 24. TRANSFER OF RECORDS. All records in the custody
9 of the clerk of the district court which relate to vital
10 statistics duties being transferred to the county recorder
11 shall be transferred to the county recorder on the effective
12 date of this Act.

13 Sec. 25. TRANSITION -- MODERNIZATION OF SYSTEM. During a
14 transitional period prior to July 1, 1997, the clerks of the
15 district court and the county recorders shall cooperate to
16 implement a modernization of the vital statistics records
17 system within the counties.

18 Sec. 26. EFFECTIVE DATES.

19 1. Sections 1 through 24 of this Act take effect July 1,
20 1997.

21 2. Section 25 of this Act, being deemed of immediate
22 importance, takes effect upon enactment.

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SENATE FILE 422

H-3923

- 1 Amend Senate File 422, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 9, line 10, by inserting after the word
 4 "recorder" the following: "or a successor county
 5 officer".
 6 2. Page 9, line 11, by inserting after the word
 7 "recorder" the following: "or a successor county
 8 officer".
 9 3. Page 9, line 15, by inserting after the word
 10 "recorders" the following: "or their successor county
 11 officers".

By RANTS of Woodbury

H-3923 FILED APRIL 12, 1995

*adopted 4-19-95
(P.1719)*

SENATE FILE 422

H-3924

- 1 Amend Senate File 422, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 4, line 19, by striking the word
 4 "subsections" and inserting the following:
 5 "subsection".
 6 2. Page 4, by striking lines 20 through 24.
 7 3. Page 4, line 25, by striking the figure "7"
 8 and inserting the following: "6".

By RANTS of Woodbury

H-3924 FILED APRIL 12, 1995

(P.1719) Lost 4-19-95

SENATE FILE 422

H-3922

- 1 Amend Senate File 422, as amended, passed, and
 2 reprinted by the Senate, as follows:
 3 1. Page 9, by inserting after line 17 the
 4 following: "During the transitional period, the
 5 county recorder or a successor county officer shall
 6 not employ additional personnel to carry out the
 7 provisions of this Act."

By RANTS of Woodbury

H-3922 FILED APRIL 12, 1995

*Lost 4-19-95
(P.1719)*

HOUSE AMENDMENT TO
SENATE FILE 422

S-3500

1 Amend Senate File 422, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 9, line 10, by inserting after the word
4 "recorder" the following: "or a successor county
5 officer".

6 2. Page 9, line 11, by inserting after the word
7 "recorder" the following: "or a successor county
8 officer".

9 3. Page 9, line 15, by inserting after the word
10 "recorders" the following: "or their successor county
11 officers".

RECEIVED FROM THE HOUSE

S-3500 FILED APRIL 19, 1995

Senate concurred 4/20/95 (p.1322)

Sorenson, Chair

SS B 312

Local Govt

Fraiser
Rittner

Succeeded By

SENATE/HIE 422

BY (PROPOSED COMMITTEE ON
LOCAL GOVERNMENT BILL
BY CHAIRPERSON SORENSON)

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

A BILL FOR

1 An Act relating to the duties of the county recorder, by
2 transferring certain duties of the clerk of the district court
3 relating to vital statistics and marriage, by providing for
4 fees, by providing for other properly related matters, and
5 providing effective dates.

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

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1 Section 1. Section 144.5, subsection 3, Code 1995, is
2 amended to read as follows:

3 3. Direct, supervise, and control the activities of clerks
4 of the district court and county recorders related to the
5 operation of the vital statistics system and provide
6 registrars with necessary postage.

7 Sec. 2. Section 144.5, subsection 6, Code 1995, is amended
8 to read as follows:

9 6. Delegate functions and duties vested in the state
10 registrar to officers, to employees of the department, to the
11 clerks of the district court, and to the county registrars as
12 the state registrar deems necessary or expedient.

13 Sec. 3. Section 144.9, unnumbered paragraph 1, Code 1995,
14 is amended to read as follows:

15 ~~The clerk-of-the-district-court~~ county recorder is the
16 county registrar and with respect to the county shall:

17 Sec. 4. NEW SECTION. 144.11 PUBLIC ACCESS TO RECORDS.

18 The county registrar shall allow public access to public
19 records under the custody of the county registrar during
20 normal business hours for county offices in the county.

21 Sec. 5. Section 144.13A, Code 1995, is amended to read as
22 follows:

23 144.13A FEES -- USE OF FUNDS.

24 The county registrar or state registrar shall charge the
25 parent a ten dollar fee for the registration of a certificate
26 of birth and a separate fee established under section 144.46
27 for a certified copy of the certificate except as otherwise
28 provided in section 331.605, subsection 6. The certified copy
29 shall be mailed to the parent by the state registrar. If the
30 person responsible for the filing of the certificate of birth
31 under section 144.13 is not the parent, the person is entitled
32 to collect the fee from the parent. The fee shall be remitted
33 to the appropriate registrar. If the expenses of the birth
34 are reimbursed under the medical assistance program
35 established by chapter 249A, or paid for under the statewide

1 indigent patient care program established by chapter 255, or
2 paid for under the obstetrical and newborn indigent patient
3 care program established by chapter 255A, or if the parent is
4 indigent and unable to pay the expenses of the birth and no
5 other means of payment is available to the parent, the
6 registration fee and certified copy fee are waived. If the
7 person responsible for the filing of the certificate is not
8 the parent, the person is discharged from the duty to collect
9 and remit the fee under this section if the person has made a
10 good faith effort to collect the fee from the parent. The
11 fees collected by the county registrar and state registrar
12 shall be remitted to the treasurer of state for deposit in the
13 general fund of the state. It is the intent of the general
14 assembly that the funds generated from the registration fees
15 be appropriated and used for primary and secondary child abuse
16 prevention programs. It is the intent of the general assembly
17 that the funds generated from the fees as established under
18 section 144.46 for the mailing of the certified copy of the
19 birth certificate be appropriated and used to support the
20 distribution of the automatic birth certificate and the
21 implementation of the electronic birth certificate system.

22 Sec. 6. Section 144.36, subsections 1, 2, and 4, Code
23 1995, are amended to read as follows:

24 1. A certificate recording each marriage performed in this
25 state shall be filed with the state registrar. The ~~clerk-of~~
26 ~~the-district-court~~ county registrar shall prepare the
27 certificate on the form furnished by the state registrar upon
28 the basis of information obtained from the parties to be
29 married, who shall attest to the information by their
30 signatures. The ~~clerk-of-the-district-court~~ county registrar
31 in each county shall keep a record book for marriages. The
32 form of marriage record books shall be uniform throughout the
33 state. A properly indexed permanent record of marriage
34 certificates upon microfilm, electronic computer, or data
35 processing equipment may be kept in lieu of marriage record

1 books.

2 2. Every person who performs a marriage shall certify the
3 fact of marriage and return the certificate to the ~~clerk-of~~
4 ~~the-district-court~~ county registrar within fifteen days after
5 the ceremony. The certificate shall be signed by the
6 witnesses to the ceremony and the person performing the
7 ceremony.

8 4. The ~~clerk-of-the-district-court~~ county registrar shall
9 record and forward to the state registrar on or before the
10 tenth day of each calendar month the original certificates of
11 marriages filed with the ~~clerk~~ county registrar during the
12 preceding calendar month.

13 Sec. 7. Section 144.45, unnumbered paragraph 1, Code 1995,
14 is amended to read as follows:

15 The state registrar and the ~~clerk-of-the-district-court~~
16 county registrar shall, upon written request from any
17 applicant entitled to such a record, issue a certified copy of
18 any certificate or record in the registrar's ~~or-clerk's~~
19 custody or of a part thereof of a certificate or record. Each
20 copy issued shall show the date of registration; and copies
21 issued from records marked "delayed", "amended", or "court
22 order" shall be similarly marked and show the effective date.

23 Sec. 8. Section 144.46, Code 1995, is amended to read as
24 follows:

25 144.46 FEE FOR COPY OF RECORD.

26 The department by rule shall establish fees based on the
27 average administrative cost which shall be collected by the
28 state registrar or the ~~clerk-of-the-district-court~~ county
29 registrar for each certified copy or short form certification
30 of certificates or records, or for a search of the files or
31 records when no copy is made, or when no record is found on
32 file. Fees collected ~~by-the-state-registrar~~ under this
33 section shall be deposited in the general fund of the state.
34 ~~Fees-collected-by-the-clerk-of-the-district-court-shall-be~~
35 ~~deposited-in-the-court-revenue-distribution-account~~

1 ~~established under section 602.8108.~~ Fees collected by the
2 county registrar shall be deposited in the county general
3 fund. A fee shall not be collected from a political
4 subdivision or agency of this state.

5 Sec. 9. Section 331.602, Code 1995, is amended by adding
6 the following new subsection:

7 NEW SUBSECTION. 40. Accept applications for passports.

8 Sec. 10. Section 331.605, Code 1995, is amended by adding
9 the following new subsection:

10 NEW SUBSECTION. 6. A county fee of four dollars for the
11 following certificates, records, or services:

12 a. A certified copy of a birth record, death record, or
13 marriage certificate.

14 b. A birth registration.

15 Sec. 11. NEW SECTION. 331.611 VITAL STATISTICS.

16 1. The recorder shall be the county registrar and carry
17 out duties as provided in chapter 144.

18 2. The duties include, but are not limited to, the
19 following:

20 a. Register and maintain certifications of birth as
21 provided in sections 144.13 through 144.18, 144.45, and
22 144.46.

23 b. Register and maintain certifications of death as
24 provided in sections 144.26 through 144.35, 144.45, and
25 144.46.

26 c. Issue and maintain marriage certificates as provided in
27 sections 144.36, 144.45, and 144.46, and chapter 595.

28 Sec. 12. Section 595.3, unnumbered paragraph 1, Code 1995,
29 is amended to read as follows:

30 Previous to the solemnization of any marriage, a license
31 for that purpose must be obtained from the ~~clerk-of-the~~
32 ~~district-court~~ county registrar. ~~Such~~ The license must not be
33 granted in any case:

34 Sec. 13. Section 595.4, Code 1995, is amended to read as
35 follows:

1 595.4 AGE AND QUALIFICATION -- VERIFIED APPLICATION --
2 WAITING PERIOD -- EXCEPTION.

3 Previous to the issuance of any license to marry, the
4 parties desiring such the license shall sign and file a
5 verified application with the ~~clerk-of-the-court~~ county
6 registrar which application either may be mailed to the
7 parties at their request or may be signed by them at the
8 office of the ~~clerk-of-the-district-court~~ county registrar in
9 the county in which the license is to be issued. ~~Such~~ The
10 application shall set forth at least one affidavit of some
11 competent and disinterested person stating such the facts as
12 to age and qualification of the parties ~~as-the-clerk-may-deem~~
13 ~~necessary-to-determine-the-competency-of-the-parties-to~~
14 ~~contract-a-marriage~~. Upon the filing of the application for a
15 license to marry, the ~~clerk-of-the-district-court~~ county
16 registrar shall file the application in a record kept for that
17 purpose.

18 After expiration of three days from the date of filing the
19 application by the parties, the ~~clerk~~ county registrar shall
20 issue the license ~~if-the-clerk-is-satisfied-as-to-the~~
21 ~~competency-of-the-parties-to-contract-a-marriage~~. If the
22 license has not been issued within six months from the date of
23 the application, the application is void.

24 A license to marry may be issued prior to the expiration of
25 three days from the date of filing the application for the
26 license in cases of emergency or extraordinary circumstances.
27 An order authorizing the issuance of a license may be granted
28 by a judge of the district court under conditions of emergency
29 or extraordinary circumstances upon application of the parties
30 filed with the ~~clerk-of-court~~ county registrar. No ~~such~~ order
31 may be granted unless the parties have filed an application
32 for a marriage license in a county within the judicial
33 district. An application for such an order shall be made on
34 forms furnished by the ~~clerk~~ county registrar at the same time
35 the application for the license to marry is made. ~~if-after~~

1 After examining the application for the marriage license the
2 ~~clerk-is-satisfied-as-to-the-competency-of-the-parties-to~~
3 ~~contract-a-marriage~~, the clerk county registrar shall refer
4 the parties to a judge of the district court for action on the
5 application for an order authorizing the issuance of a
6 marriage license prior to expiration of three days from the
7 date of filing the application for the license. The judge
8 shall, if satisfied as to the existence of an emergency or
9 extraordinary circumstances, grant an order authorizing the
10 issuance of a license to marry prior to the expiration of
11 three days from the date of filing the application for the
12 license to marry. The clerk county registrar shall issue a
13 license to marry upon presentation by the parties of the order
14 authorizing a license to be issued. A fee of five dollars
15 shall be paid to the clerk county registrar at the time the
16 application for the order is made, which fee is in addition to
17 the fee prescribed by law for the issuance of a marriage
18 license.

19 Sec. 14. Section 595.5, Code 1995, is amended to read as
20 follows:

21 595.5 SURNAME ADOPTED.

22 A party may request on the application for a marriage
23 license a name change to that of the other party or to some
24 other surname mutually agreed upon by the parties. The names
25 used on the marriage license shall become the legal names of
26 the parties to the marriage. The marriage license shall
27 contain a statement that when a name change is requested and
28 affixed to the marriage license, the new name is the legal
29 name of the requesting party. If a party requests a name
30 change, other than a change of surname to that of the other
31 spouse or to a combination of the surnames of both spouses,
32 the party shall request approval of the court pursuant to
33 chapter 674 and shall submit to the court the information
34 required by section 674.2. Upon approval of the court and
35 solemnization of the marriage, the ~~clerk-of-the-district-court~~

1 county registrar shall send a certified copy of the return of
2 marriage to the recorder's office in every county in this
3 state where real property is owned by either of the parties.
4 The judge may approve the name change. The new names and the
5 immediate former names shall appear on the return of marriage,
6 and the return of marriage shall be recorded in the
7 miscellaneous records in the recorder's office. An individual
8 shall have only one legal name at any one time.

9 Sec. 15. Section 595.6, Code 1995, is amended to read as
10 follows:

11 595.6 FILING AND RECORD REQUIRED.

12 The affidavit or certificate, in each case, shall be filed
13 by the ~~clerk~~ county registrar and constitute a part of the
14 records of the ~~clerk's~~ registrar's office. A memorandum of
15 the affidavit or certificate shall also be entered in the
16 license book.

17 Sec. 16. Section 595.7, Code 1995, is amended to read as
18 follows:

19 595.7 DELIVERY OF BLANK WITH LICENSE.

20 When a license is issued the ~~clerk~~ county registrar shall
21 deliver to the applicant a blank return for the marriage, and
22 give ~~such~~ instructions relative ~~thereto~~ to the blank return as
23 will insure a complete and accurate return.

24 Sec. 17. Section 595.11, Code 1995, is amended to read as
25 follows:

26 595.11 NONSTATUTORY SOLEMNIZATION -- FORFEITURE.

27 Marriages solemnized, with the consent of parties, in any
28 manner other than that prescribed in this chapter, are valid;
29 but the parties, and all persons aiding or abetting them,
30 shall pay to the treasurer of state for deposit in the general
31 fund of the state the sum of fifty dollars each; but this
32 shall not apply to the person conducting the marriage
33 ceremony, if within fifteen days ~~thereafter~~ after the ceremony
34 is conducted, the person makes the required return to the
35 ~~clerk-of-the-district-court~~ county registrar.

1 Sec. 18. Section 595.13, subsection 2, Code 1995, is
2 amended to read as follows:

3 2. Make return of ~~such~~ the marriage within fifteen days to
4 the ~~clerk-of-the-district-court~~ county registrar, who issued
5 the marriage license upon the blank provided for that purpose.

6 Sec. 19. Section 595.15, Code 1995, is amended to read as
7 follows:

8 595.15 INADEQUATE RETURN.

9 If the return of a marriage is not complete in every
10 particular as required by the forms specified in section
11 144.12, the ~~clerk~~ county registrar shall require the person
12 making the same to supply the omitted information.

13 Sec. 20. Section 595.16, Code 1995, is amended to read as
14 follows:

15 595.16 SPOUSE RESPONSIBLE FOR RETURN.

16 When a marriage is consummated without the services of a
17 cleric or magistrate, the required return ~~thereof~~ of the
18 marriage may be made to the ~~clerk~~ county registrar by either
19 spouse.

20 Sec. 21. Section 602.8102, subsection 83, Code 1995, is
21 amended by striking the subsection.

22 Sec. 22. TRANSFER OF RECORDS. All records in the custody
23 of the clerk of the district court which relate to vital
24 statistics duties being transferred to the county recorder
25 shall be transferred to the county recorder on the effective
26 date of this Act.

27 Sec. 23. TRANSITION -- MODERNIZATION OF SYSTEM. During a
28 transitional period prior to July 1, 1997, the clerks of the
29 district court and the county recorders shall cooperate to
30 implement a modernization of the vital statistics records
31 system within the counties.

32 Sec. 24. EFFECTIVE DATE.

33 1. Sections 1 through 22 of this Act take effect July 1,
34 1997.

35 2. Section 23 of this Act, being deemed of immediate

1 importance, takes effect upon enactment.

2

EXPLANATION

3 This bill transfers the duties of the clerk of the district
4 court relating to vital statistics to the office of county
5 recorder. The county recorder serves as the county registrar
6 of vital statistics for the purposes of maintaining birth and
7 death records, issuing marriage licenses, and maintaining
8 related information concerning the solemnization of marriages.
9 The bill also provides for a new fee of \$4 to provide a
10 certified copy of a birth, death, or marriage certificate and
11 a birth registration. This fee will be remitted to the county
12 general fund. Fees currently collected by the department of
13 public health as state registrar and the clerk of the district
14 court will remain unchanged. The bill also provides that the
15 county recorder will provide services related to passport
16 applications which the clerks of the district court have
17 discontinued.

18 The bill amends chapter 144 to divide the duties of the
19 county registrar between the county recorder and the clerk of
20 the district court. The clerks of the district court will
21 keep the duties of the county registrar related to birth and
22 death records where the district court is involved. Chapters
23 331 and 595 are amended to provide cross-references to the
24 county recorder's duties and transfer duties relating to the
25 issuing and keeping of marriage records.

26 The bill contains a provision effective upon enactment,
27 which requires the clerks of the district court and the county
28 recorders to implement a modernization of the vital statistics
29 records system within the counties. The remainder of the bill
30 takes effect July 1, 1997.

31 This bill may create a state mandate as provided in chapter
32 25B.

33

34

35

SENATE FILE 422

AN ACT

RELATING TO THE DUTIES OF THE COUNTY RECORDER, BY TRANSFERRING CERTAIN DUTIES OF THE CLERK OF THE DISTRICT COURT RELATING TO VITAL STATISTICS AND MARRIAGE, BY PROVIDING FOR FEES, BY PROVIDING FOR OTHER PROPERLY RELATED MATTERS, AND PROVIDING EFFECTIVE DATES.

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

Section 1. Section 144.5, subsection 3, Code 1995, is amended to read as follows:

3. Direct, supervise, and control the activities of clerks of the district court and county recorders related to the operation of the vital statistics system and provide registrars with necessary postage.

Sec. 2. Section 144.5, subsection 6, Code 1995, is amended to read as follows:

6. Delegate functions and duties vested in the state registrar to officers, to employees of the department, to the clerks of the district court, and to the county registrars as the state registrar deems necessary or expedient.

Sec. 3. Section 144.9, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The ~~clerk-of-the-district-court~~ county recorder is the county registrar and with respect to the county shall:

Sec. 4. NEW SECTION. 144.11 PUBLIC ACCESS TO RECORDS.

The county registrar shall allow public access to public records under the custody of the county registrar during normal business hours for county offices in the county.

Sec. 5. Section 144.13A, Code 1995, is amended to read as follows:

144.13A FEES -- USE OF FUNDS.

The county registrar or state registrar shall charge the parent a ten dollar fee for the registration of a certificate of birth and a separate fee established under section 144.46 for a certified copy of the certificate except as otherwise provided in section 331.605, subsection 6. The certified copy shall be mailed to the parent by the state registrar. If the person responsible for the filing of the certificate of birth under section 144.13 is not the parent, the person is entitled to collect the fee from the parent. The fee shall be remitted to the appropriate registrar. If the expenses of the birth are reimbursed under the medical assistance program established by chapter 249A, or paid for under the statewide indigent patient care program established by chapter 255, or paid for under the obstetrical and newborn indigent patient care program established by chapter 255A, or if the parent is indigent and unable to pay the expenses of the birth and no other means of payment is available to the parent, the registration fee and certified copy fee are waived. If the person responsible for the filing of the certificate is not the parent, the person is discharged from the duty to collect and remit the fee under this section if the person has made a good faith effort to collect the fee from the parent. The fees collected by the county registrar and state registrar shall be remitted to the treasurer of state for deposit in the general fund of the state. It is the intent of the general assembly that the funds generated from the registration fees be appropriated and used for primary and secondary child abuse prevention programs. It is the intent of the general assembly that the funds generated from the fees as established under section 144.46 for the mailing of the certified copy of the birth certificate be appropriated and used to support the distribution of the automatic birth certificate and the implementation of the electronic birth certificate system.

Sec. 6. Section 144.36, subsections 1, 2, and 4, Code 1995, are amended to read as follows:

1. A certificate recording each marriage performed in this state shall be filed with the state registrar. The ~~clerk-of-the-district-court~~ county registrar shall prepare the certificate on the form furnished by the state registrar upon the basis of information obtained from the parties to be married, who shall attest to the information by their signatures. The ~~clerk-of-the-district-court~~ county registrar in each county shall keep a record book for marriages. The form of marriage record books shall be uniform throughout the state. A properly indexed permanent record of marriage certificates upon microfilm, electronic computer, or data processing equipment may be kept in lieu of marriage record books.

2. Every person who performs a marriage shall certify the fact of marriage and return the certificate to the ~~clerk-of-the-district-court~~ county registrar within fifteen days after the ceremony. The certificate shall be signed by the witnesses to the ceremony and the person performing the ceremony.

4. The ~~clerk-of-the-district-court~~ county registrar shall record and forward to the state registrar on or before the tenth day of each calendar month the original certificates of marriages filed with the ~~clerk~~ county registrar during the preceding calendar month and the fees collected by the county registrar on behalf of the state for applications for a license to marry in accordance with section 331.605, subsection 7.

Sec. 7. Section 144.45, unnumbered paragraph 1, Code 1995, is amended to read as follows:

The state registrar and the ~~clerk-of-the-district-court~~ county registrar shall, upon written request from any applicant entitled to such a record, issue a certified copy of any certificate or record in the registrar's ~~or clerk's~~

custody or of a part thereof of a certificate or record. Each copy issued shall show the date of registration; and copies issued from records marked "delayed", "amended", or "court order" shall be similarly marked and show the effective date.

Sec. 8. Section 144.46, Code 1995, is amended to read as follows:

144.46 . FEE FOR COPY OF RECORD.

The department by rule shall establish fees based on the average administrative cost which shall be collected by the state registrar or the ~~clerk-of-the-district-court~~ county registrar for each certified copy or short form certification of certificates or records, or for a search of the files or records when no copy is made, or when no record is found on file. Fees collected by the state registrar and by the county registrar on behalf of the state under this section shall be deposited in the general fund of the state. ~~Fees collected by the clerk-of-the-district-court shall be deposited in the court-revenue-distribution-account-established-under-section 602-0100.~~ Fees collected by the county registrar pursuant to section 331.605, subsection 6, shall be deposited in the county general fund. A fee shall not be collected from a political subdivision or agency of this state.

Sec. 9. Section 331.601, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 4. In counties in which the office of county recorder has been abolished, the board of supervisors shall reassign the duties of the county recorder who also serves as the county registrar pursuant to chapter 144.

Sec. 10. Section 331.602, Code 1995, is amended by adding the following new subsection:

NEW SUBSECTION. 40. Accept applications for passports.

Sec. 11. Section 331.605, Code 1995, is amended by adding the following new subsections:

NEW SUBSECTION. 6. A county fee of four dollars for the following certificates, records, or services:

a. A certified copy of a birth record, death record, or marriage certificate.

b. A birth registration.

NEW SUBSECTION. 7. For filing an application for the license to marry, thirty dollars. For issuing an application for an order of the district court authorizing the issuance of a license to marry before the expiration of three days from the date of filing the application for the license, five dollars. The district court shall authorize the issuance of a marriage license without the payment of any fees imposed in this subsection upon showing that the applicant is unable to pay the fees.

Sec. 12. NEW SECTION. 331.611 VITAL STATISTICS.

1. The recorder shall be the county registrar and carry out duties as provided in chapter 144.

2. The duties include, but are not limited to, the following:

a. Register and maintain certifications of birth as provided in sections 144.13 through 144.18, 144.45, and 144.46.

b. Register and maintain certifications of death as provided in sections 144.26 through 144.35, 144.45, and 144.46.

c. Issue and maintain marriage certificates as provided in sections 144.36, 144.45, and 144.46, and chapter 595.

Sec. 13. Section 595.3, unnumbered paragraph 1, Code 1995, is amended to read as follows:

Previous to the solemnization of any marriage, a license for that purpose must be obtained from the ~~clerk-of-the district-court~~ county registrar. ~~Such The~~ license must not be granted in any case:

Sec. 14. Section 595.4, Code 1995, is amended to read as follows:

595.4 AGE AND QUALIFICATION -- VERIFIED APPLICATION -- WAITING PERIOD -- EXCEPTION.

Previous to the issuance of any license to marry, the parties desiring ~~such the~~ license shall sign and file a verified application with the ~~clerk-of-the-court~~ county registrar which application either may be mailed to the parties at their request or may be signed by them at the office of the ~~clerk-of-the-district-court~~ county registrar in the county in which the license is to be issued. ~~Such The~~ application shall set forth at least one affidavit of some competent and disinterested person stating ~~such the~~ facts as to age and qualification of the parties ~~as-the-clerk-may-deem necessary-to-determine-the-competency-of-the-parties-to contract-a-marriage~~. Upon the filing of the application for a license to marry, the ~~clerk-of-the-district-court~~ county registrar shall file the application in a record kept for that purpose.

After expiration of three days from the date of filing the application by the parties, the ~~clerk~~ county registrar shall issue the license ~~if-the-clerk-is-satisfied-as-to-the competency-of-the-parties-to-contract-a-marriage~~. If the license has not been issued within six months from the date of the application, the application is void.

A license to marry may be issued prior to the expiration of three days from the date of filing the application for the license in cases of emergency or extraordinary circumstances. An order authorizing the issuance of a license may be granted by a judge of the district court under conditions of emergency or extraordinary circumstances upon application of the parties filed with the ~~clerk-of-court~~ county registrar. No such order may be granted unless the parties have filed an application for a marriage license in a county within the judicial district. An application for such an order shall be made on forms furnished by the ~~clerk~~ county registrar at the same time the application for the license to marry is made. ~~if-after~~ After examining the application for the marriage license the ~~clerk-is-satisfied-as-to-the-competency-of-the-parties-to~~

~~contract-a-marriage~~, the clerk county registrar shall refer the parties to a judge of the district court for action on the application for an order authorizing the issuance of a marriage license prior to expiration of three days from the date of filing the application for the license. The judge shall, if satisfied as to the existence of an emergency or extraordinary circumstances, grant an order authorizing the issuance of a license to marry prior to the expiration of three days from the date of filing the application for the license to marry. The clerk county registrar shall issue a license to marry upon presentation by the parties of the order authorizing a license to be issued. A fee of five dollars shall be paid to the clerk county registrar at the time the application for the order is made, which fee is in addition to the fee prescribed by law for the issuance of a marriage license.

Sec. 15. Section 595.5, Code 1995, is amended to read as follows:

595.5 SURNAME ADOPTED.

A party may request on the application for a marriage license a name change to that of the other party or to some other surname mutually agreed upon by the parties. The names used on the marriage license shall become the legal names of the parties to the marriage. The marriage license shall contain a statement that when a name change is requested and affixed to the marriage license, the new name is the legal name of the requesting party. If a party requests a name change, other than a change of surname to that of the other spouse or to a combination of the surnames of both spouses, the party shall request approval of the court pursuant to chapter 674 and shall submit to the court the information required by section 674.2. Upon approval of the court and solemnization of the marriage, the ~~clerk-of-the-district-court~~ county registrar shall send a certified copy of the return of marriage to the recorder's office in every county in this

state where real property is owned by either of the parties. The judge may approve the name change. The new names and the immediate former names shall appear on the return of marriage, and the return of marriage shall be recorded in the miscellaneous records in the recorder's office. An individual shall have only one legal name at any one time.

Sec. 16. Section 595.6, Code 1995, is amended to read as follows:

595.6 FILING AND RECORD REQUIRED.

The affidavit or certificate, in each case, shall be filed by the clerk county registrar and constitute a part of the records of the clerk's registrar's office. A memorandum of the affidavit or certificate shall also be entered in the license book.

Sec. 17. Section 595.7, Code 1995, is amended to read as follows:

595.7 DELIVERY OF BLANK WITH LICENSE.

When a license is issued the clerk county registrar shall deliver to the applicant a blank return for the marriage, and give such instructions relative thereto to the blank return as will insure a complete and accurate return.

Sec. 18. Section 595.11, Code 1995, is amended to read as follows:

595.11 NONSTATUTORY SOLEMNIZATION -- FORFEITURE.

Marriages solemnized, with the consent of parties, in any manner other than that prescribed in this chapter, are valid; but the parties, and all persons aiding or abetting them, shall pay to the treasurer of state for deposit in the general fund of the state the sum of fifty dollars each; but this shall not apply to the person conducting the marriage ceremony, if within fifteen days ~~thereafter~~ after the ceremony is conducted, the person makes the required return to the ~~clerk-of-the-district-court~~ county registrar.

Sec. 19. Section 595.13, subsection 2, Code 1995, is amended to read as follows:

2. Make return of such the marriage within fifteen days to the ~~clerk-of-the-district-court~~ county registrar, who issued the marriage license upon the blank provided for that purpose.

Sec. 20. Section 595.15, Code 1995, is amended to read as follows:

595.15 INADEQUATE RETURN.

If the return of a marriage is not complete in every particular as required by the forms specified in section 144.12, the ~~clerk~~ county registrar shall require the person making the same to supply the omitted information.

Sec. 21. Section 595.16, Code 1995, is amended to read as follows:

595.16 SPOUSE RESPONSIBLE FOR RETURN.

When a marriage is consummated without the services of a cleric or magistrate, the required return thereof of the marriage may be made to the ~~clerk~~ county registrar by either spouse.

Sec. 22. Section 602.8102, subsection 83, Code 1995, is amended by striking the subsection.

Sec. 23. Section 602.8105, subsection 2, paragraph a, Code 1995, is amended by striking the paragraph.

Sec. 24. TRANSFER OF RECORDS. All records in the custody of the clerk of the district court which relate to vital statistics duties being transferred to the county recorder or a successor county officer shall be transferred to the county recorder or a successor county officer on the effective date of this Act.

Sec. 25. TRANSITION -- MODERNIZATION OF SYSTEM. During a transitional period prior to July 1, 1997, the clerks of the district court and the county recorders or their successor county officers shall cooperate to implement a modernization of the vital statistics records system within the counties.

Sec. 26. EFFECTIVE DATES.

1. Sections 1 through 24 of this Act take effect July 1, 1997.

2. Section 25 of this Act, being deemed of immediate importance, takes effect upon enactment.

LEONARD L. BOSWELL
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 422, Seventy-sixth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved  , 1995

TERRY E. BRANSTAD
Governor