

FEB 18 1998

3/19/98 Unfinished Business Calendar

Place On Calendar

HOUSE FILE 2338
BY COMMITTEE ON JUDICIARY

Substituted for by SF2235
3/24/98 (P.880)

WITHDRAWN
3/24/98 (P.880)

(SUCCESSOR TO HSB 627)

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

A BILL FOR

1 An Act concerning judicial administration.
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
- 23

WITHDRAWN

HF 2338

1 Section 1. Section 235A.15, subsection 2, paragraph d,
2 subparagraph (5), Code Supplement 1997, is amended to read as
3 follows:

4 (5) To a probation or parole officer, juvenile court
5 officer, court appointed special advocate as defined in
6 section 232.2, or adult correctional officer having custody or
7 supervision of, or conducting an investigation for a court or
8 the board of parole regarding, a person named in a report as a
9 victim of child abuse or as having abused a child.

10 Sec. 2. Section 421.17, subsection 29, paragraph g, Code
11 Supplement 1997, is amended by adding the following new
12 unnumbered paragraph:

13 NEW UNNUMBERED PARAGRAPH. However, upon submission of an
14 allegation of the liability of a person which is owing and
15 payable to the clerk of the district court and upon the
16 determination by the department that the person allegedly
17 liable is entitled to payment from a state agency, the
18 department shall send written notification to the person which
19 states the assertion by the clerk of the district court of
20 rights to all or a portion of the payment, the clerk's
21 entitlement to recover the liability through the setoff
22 procedure, the basis of the assertions, the person's
23 opportunity to request within fifteen days of the mailing of
24 the notice that the department divide a jointly or commonly
25 owned right to payment between owners, the opportunity to
26 contest the liability to the clerk by written application to
27 the clerk within fifteen days of the mailing of the notice,
28 and the person's opportunity to contest the department's
29 setoff procedure.

30 Sec. 3. Section 421.17, subsection 29, paragraph i, Code
31 Supplement 1997, is amended to read as follows:

32 i. The department shall, after the state agency has sent
33 notice to the person liable or, if the liability is owing and
34 payable to the clerk of the district court, the department has
35 sent notice to the person liable, set off the amount owed to

1 the agency against any amount which a state agency owes that
2 person. The department shall refund any balance of the amount
3 to the person. The department shall periodically transfer
4 amounts set off to the state agencies entitled to them. If a
5 person liable to a state agency gives written notice of intent
6 to contest an allegation, a state agency shall hold a refund
7 or rebate until final disposition of the allegation. Upon
8 completion of the setoff, a state agency shall notify in
9 writing the person who was liable or, if the liability is
10 owing and payable to the clerk of the district court, shall
11 comply with the procedures as provided in paragraph "k".

12 Sec. 4. Section 421.17, subsection 29, Code Supplement
13 1997, is amended by adding the following new paragraph:

14 NEW PARAGRAPH. k. If the alleged liability is owing and
15 payable to the clerk of the district court and setoff as
16 provided in this subsection is sought, all of the following
17 shall apply:

18 (1) The judicial department shall prescribe procedures to
19 permit a person to contest the amount of the person's
20 liability to the clerk of the district court.

21 (2) The department shall, except for the procedures
22 described in subparagraph (1), prescribe any other applicable
23 procedures concerning setoff as provided in this subsection.

24 (3) Upon completion of the setoff, the department shall
25 file, at least monthly, with the clerk of the district court a
26 notice of satisfaction of each obligation to the full extent
27 of all moneys collected in satisfaction of the obligation.
28 The clerk shall record the notice and enter a satisfaction for
29 the amounts collected and no separate written notice is
30 required.

31 Sec. 5. Section 602.4304, subsection 1, Code 1997, is
32 amended to read as follows:

33 1. The supreme court may appoint ~~not-more-than-nine~~
34 attorneys or graduates of a reputable law school to act as
35 legal assistants to the justices of the supreme court.

1 Sec. 6. Section 602.6301, Code 1997, is amended to read as
2 follows:

3 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
4 JUDGES.

5 There shall be one district associate judge in counties
6 having a population ~~7 according to the most recent federal~~
7 ~~decennial census~~ of more than thirty-five thousand and less
8 than eighty thousand; two in counties having a population of
9 eighty thousand or more and less than one hundred twenty-five
10 thousand; three in counties having a population of one hundred
11 twenty-five thousand or more and less than two hundred
12 thousand; four in counties having a population of two hundred
13 thousand or more and less than two hundred thirty-five
14 thousand; five in counties having a population of two hundred
15 thirty-five thousand or more and less than two hundred seventy
16 thousand; six in counties having a population of two hundred
17 seventy thousand or more and less than three hundred five
18 thousand; and seven in counties having a population of three
19 hundred five thousand or more. However, a county shall not
20 lose a district associate judgeship solely because of a
21 reduction in the county's population. If the formula provided
22 in this section results in the allocation of an additional
23 district associate judgeship to a county, implementation of
24 the allocation shall be subject to prior approval of the
25 supreme court and availability of funds to the judicial
26 department. A district associate judge appointed pursuant to
27 section 602.6302 or 602.6303 shall not be counted for purposes
28 of this section.

29 Sec. 7. Section 602.6304, Code 1997, is amended by adding
30 the following new subsection:

31 NEW SUBSECTION. 2A. A district associate judge who seeks
32 to resign from the office of district associate judge shall
33 notify in writing the chief judge of the judicial district as
34 to the district associate judge's intention to resign and the
35 effective date of the resignation. The chief judge of the

1 the agency against any amount which a state agency owes that
2 person. The department shall refund any balance of the amount
3 to the person. The department shall periodically transfer
4 amounts set off to the state agencies entitled to them. If a
5 person liable to a state agency gives written notice of intent
6 to contest an allegation, a state agency shall hold a refund
7 or rebate until final disposition of the allegation. Upon
8 completion of the setoff, a state agency shall notify in
9 writing the person who was liable or, if the liability is
10 owing and payable to the clerk of the district court, shall
11 comply with the procedures as provided in paragraph "k".

12 Sec. 4. Section 421.17, subsection 29, Code Supplement
13 1997, is amended by adding the following new paragraph:

14 NEW PARAGRAPH. k. If the alleged liability is owing and
15 payable to the clerk of the district court and setoff as
16 provided in this subsection is sought, all of the following
17 shall apply:

18 (1) The judicial department shall prescribe procedures to
19 permit a person to contest the amount of the person's
20 liability to the clerk of the district court.

21 (2) The department shall, except for the procedures
22 described in subparagraph (1), prescribe any other applicable
23 procedures concerning setoff as provided in this subsection.

24 (3) Upon completion of the setoff, the department shall
25 file, at least monthly, with the clerk of the district court a
26 notice of satisfaction of each obligation to the full extent
27 of all moneys collected in satisfaction of the obligation.
28 The clerk shall record the notice and enter a satisfaction for
29 the amounts collected and no separate written notice is
30 required.

31 Sec. 5. Section 602.4304, subsection 1, Code 1997, is
32 amended to read as follows:

33 1. The supreme court may appoint ~~not-more-than-nine~~
34 attorneys or graduates of a reputable law school to act as
35 legal assistants to the justices of the supreme court.

1 Sec. 6. Section 602.6301, Code 1997, is amended to read as
2 follows:

3 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
4 JUDGES.

5 There shall be one district associate judge in counties
6 having a population~~7--according-to-the-most-recent-federal~~
7 ~~decennial-census~~7 of more than thirty-five thousand and less
8 than eighty thousand; two in counties having a population of
9 eighty thousand or more and less than one hundred twenty-five
10 thousand; three in counties having a population of one hundred
11 twenty-five thousand or more and less than two hundred
12 thousand; four in counties having a population of two hundred
13 thousand or more and less than two hundred thirty-five
14 thousand; five in counties having a population of two hundred
15 thirty-five thousand or more and less than two hundred seventy
16 thousand; six in counties having a population of two hundred
17 seventy thousand or more and less than three hundred five
18 thousand; and seven in counties having a population of three
19 hundred five thousand or more. However, a county shall not
20 lose a district associate judgeship solely because of a
21 reduction in the county's population. If the formula provided
22 in this section results in the allocation of an additional
23 district associate judgeship to a county, implementation of
24 the allocation shall be subject to prior approval of the
25 supreme court and availability of funds to the judicial
26 department. A district associate judge appointed pursuant to
27 section 602.6302 or 602.6303 shall not be counted for purposes
28 of this section.

29 Sec. 7. Section 602.6304, Code 1997, is amended by adding
30 the following new subsection:

31 NEW SUBSECTION. 2A. A district associate judge who seeks
32 to resign from the office of district associate judge shall
33 notify in writing the chief judge of the judicial district as
34 to the district associate judge's intention to resign and the
35 effective date of the resignation. The chief judge of the

1 judicial district, upon receipt of the notice, shall notify
2 the county magistrate appointing commission and the state
3 court administrator of the actual or impending vacancy in the
4 office of district associate judge due to resignation.

5 Sec. 8. Section 602.6403, subsection 1, Code 1997, is
6 amended to read as follows:

7 1. ~~In~~ By June 1 of each year in which magistrates' terms
8 expire, the county magistrate appointing commission shall
9 appoint, except as otherwise provided in section 602.6302, the
10 number of magistrates apportioned to the county by the state
11 court administrator under section 602.6401, and may appoint an
12 additional magistrate when allowed by section 602.6402. The
13 commission shall not appoint more magistrates than are
14 authorized for the county by this article.

15 Sec. 9. Section 602.6403, Code 1997, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 2A. A magistrate who seeks to resign from
18 the office of magistrate shall notify in writing the chief
19 judge of the judicial district as to the magistrate's
20 intention to resign and the effective date of the resignation.
21 The chief judge of the judicial district, upon receipt of the
22 notice, shall notify the county magistrate appointing
23 commission and the state court administrator of the vacancy in
24 the office of magistrate due to resignation.

25 Sec. 10. Section 602.8102, Code Supplement 1997, is
26 amended by adding the following new subsection:

27 NEW SUBSECTION. 126A. Upon the failure of a person
28 charged to appear in person or by counsel to defend against
29 the offense charged pursuant to a uniform citation and
30 complaint as provided in section 805.6, enter a conviction and
31 render a judgment in the amount of the appearance bond in
32 satisfaction of the penalty plus court costs.

33

EXPLANATION

34 This bill provides that a court appointed special advocate
35 is entitled to receive otherwise confidential child abuse

1 information.

2 The bill also amends the provisions dealing with the
3 ability of the judicial department through the clerk of the
4 district court to obtain a setoff of any claim owed to a
5 person by a state agency in order to satisfy a liability that
6 the person owes the clerk of the district court. The bill
7 provides that the department of revenue and finance, and not
8 the judicial department, shall send notice of a potential
9 offset to the person liable, provides for the procedures to
10 follow once a setoff is complete, and provides for the
11 adoption of applicable procedures governing setoff by the
12 judicial department and the department of revenue and finance.

13 The bill eliminates the limitation on the number of
14 attorneys or law school graduates the supreme court may
15 employ as legal assistants to the justices of the
16 supreme court.

17 The bill eliminates the requirement that the most recent
18 federal decennial census be used to determine a county's
19 eligibility for apportionment of district associate judges.

20 The bill provides that a district associate judge or
21 magistrate who seeks to resign from that office shall notify
22 the chief judge of the applicable judicial district of the
23 resignation. The chief judge is then required to forward this
24 information to the state court administrator and the
25 applicable county magistrate appointing commission.

26 The bill also changes the deadline for appointing
27 magistrates from any day in June to June 1.

28 The bill also provides that the clerk of the district court
29 shall enter a conviction and judgment upon the failure of a
30 person charged pursuant to a uniform citation and complaint as
31 provided in Code section 805.6 to appear in person or through
32 an attorney to defend against the offense charged.

33

34

35

HOUSE FILE 2338

-8085

1 Amend House File 2338 as follows:

2 1. Page 1, by inserting before line 1 the
3 following:

4 "Section 101. Section 2B.5, subsection 2, Code
5 1997, is amended to read as follows:

6 2. Cause the Iowa court rules to be published, as
7 directed by the supreme court after consultation with
8 the legislative council. The Iowa court rules shall
9 consist of all rules prescribed by the supreme court.
10 The court rules shall be published in loose-leaf form,
11 ~~appropriately-indexed,~~ and supplements shall be
12 prepared and distributed as directed by the supreme
13 court. The Iowa court rules and supplements to the
14 court rules shall be priced as provided in section
15 7A.22.

16 Sec. 102. Section 2B.10, subsection 3, Code 1997,
17 is amended by striking the subsection."

18 2. Page 2, by inserting after line 30 the
19 following:

20 "Sec. 103. Section 602.4102, subsections 3 and 5,
21 Code 1997, are amended to read as follows:

22 3. The supreme court shall prescribe rules for the
23 transfer of matters to the court of appeals. These
24 rules may provide for the selective transfer of
25 individual cases and may provide for the transfer of
26 cases according to subject matter or other general
27 criteria. ~~Rules-relating-to-the-transfer-of-cases-are~~
28 ~~subject-to-section-602.4202.~~ A rule shall not provide
29 for the transfer of a matter other than by an order of
30 transfer under subsection 2.

31 5. The supreme court shall prescribe rules of
32 appellate procedure which shall govern further review
33 by the supreme court of decisions of the court of
34 appeals. These rules shall contain, but need not be
35 limited to, a specification of the grounds upon which
36 further review may, in the discretion of the supreme
37 court, be granted. ~~These-rules-are-subject-to-section~~
38 ~~602.4202.~~

39 Sec. 104. Section 602.4201, Code 1997, is amended
40 to read as follows:

41 602.4201 RULES GOVERNING ACTIONS AND PROCEEDINGS.

42 1. The supreme court may prescribe all rules of
43 pleading, practice, evidence, and procedure, and the
44 forms of process, writs, and notices, for all
45 proceedings in all courts of this state, for the
46 purposes of simplifying the proceedings and promoting
47 the speedy determination of litigation upon its
48 merits. ~~Rules-are-subject-to-section-602.4202.~~

49 2. Rules of appellate procedure relating to
50 appeals to and review by the supreme court,

-8085

-1-

H-8085

Page 2

1 discretionary review by the courts of small claims
2 actions, review by the supreme court by writ of
3 certiorari to inferior courts, appeal to or review by
4 the court of appeals of a matter transferred to that
5 court by the supreme court, and further review by the
6 supreme court of decisions of the court of appeals,
7 shall be known as "Rules of Appellate Procedure", and
8 shall be published as provided in section 2B.5.

9 3. The following rules are subject to section

10 602.4202:

- 11 a. Rules of civil procedure.
- 12 b. Rules of criminal procedure.
- 13 c. Rules of evidence.
- 14 d. Rules of appellate procedure 1 through 9.
- 15 e. Rules of probate procedure.
- 16 f. Juvenile procedure.
- 17 g. Involuntary hospitalization of mentally ill.
- 18 h. Involuntary commitment or treatment of

19 substance abusers.

20 Sec. 105. Section 602.4202, Code 1997, is amended
21 to read as follows:

22 602.4202 RULEMAKING PROCEDURE.

23 1. The supreme court shall submit a rule or form
24 prescribed by the supreme court under section
25 602.4201, subsection 3, or pursuant to any other
26 rulemaking authority specifically made subject to this
27 section to the legislative council and shall at the
28 same time report the rule or form to the chairpersons
29 and ranking members of the senate and house committees
30 on judiciary. The legislative service bureau shall
31 make recommendations to the supreme court on the
32 proper style and format of rules and forms required to
33 be submitted to the legislative council under this
34 subsection.

35 2. A rule or form submitted as required under
36 subsection 1 takes effect sixty days after submission
37 to the legislative council, or at a later date
38 specified by the supreme court, unless the legislative
39 council, within sixty days after submission and by a
40 majority vote of its members, delays the effective
41 date of the rule or form to a date as provided in
42 subsection 3.

43 3. The effective date of a rule or form submitted
44 during the period of time beginning February 15 and
45 ending February 14 of the next calendar year may be
46 delayed by the legislative council until May 1 of that
47 next calendar year.

48 ~~4. A rule or form submitted as required under~~
49 ~~subsection 1 and effective on or before July 1 shall~~
50 ~~be bound with the Acts of the general assembly meeting~~

H-8085

-2-

H-8085

Page 3

1 ~~in-regular-session-in-the-calendar-year-in-which-the~~
2 ~~July-1-falls-~~

3 5. 4. If the general assembly enacts a bill
4 changing a rule or form, the general assembly's
5 enactment supersedes a conflicting provision in the
6 rule or form as submitted by the supreme court.

7 Sec. 106. Section 602.4303, subsection 2, Code
8 1997, is amended by striking the subsection."

9 3. Page 4, by inserting after line 32 the
10 following:

11 "Sec. 107. Section 684A.6, Code 1997, is amended
12 to read as follows:

13 684A.6 PROCEDURE.

14 The supreme court may prescribe rules of procedure
15 concerning the answering and certification of
16 questions of law under this chapter, ~~subject to~~
17 ~~section-602-4202.~~

18 Sec. 108. Section 101 through 108 of this Act,
19 being deemed of immediate importance, take effect upon
20 enactment."

By LAMBERTI of Polk

H-8085 FILED FEBRUARY 24, 1998

HSB 627

JUDICIARY

*Dinkla, Ch
veestra
Chapman*

SENATE/HOUSE FILE SF/ 2338
BY (PROPOSED JUDICIAL
DEPARTMENT BILL)

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

A BILL FOR

1 An Act concerning judicial administration.
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
- 23
- 24

1 Section 1. Section 235A.15, subsection 2, paragraph d,
2 subparagraph (5), Code Supplement 1997, is amended to read as
3 follows:

4 (5) To a probation or parole officer, juvenile court
5 officer, court appointed special advocate as defined in
6 section 232.2, or adult correctional officer having custody or
7 supervision of, or conducting an investigation for a court or
8 the board of parole regarding, a person named in a report as a
9 victim of child abuse or as having abused a child.

10 Sec. 2. Section 421.17, subsection 29, paragraph g, Code
11 Supplement 1997, is amended by adding the following new
12 unnumbered paragraph:

13 NEW UNNUMBERED PARAGRAPH. However, upon submission of an
14 allegation of the liability of a person which is owing and
15 payable to the clerk of the district court and upon the
16 determination by the department that the person allegedly
17 liable is entitled to payment from a state agency, the
18 department shall send written notification to the person which
19 states the assertion by the clerk of the district court of
20 rights to all or a portion of the payment, the clerk's
21 entitlement to recover the liability through the setoff
22 procedure, the basis of the assertions, the person's
23 opportunity to request within fifteen days of the mailing of
24 the notice that the department divide a jointly or commonly
25 owned right to payment between owners, the opportunity to
26 contest the liability to the clerk by written application to
27 the clerk within fifteen days of the mailing of the notice,
28 and the person's opportunity to contest the department's
29 setoff procedure.

30 Sec. 3. Section 421.17, subsection 29, paragraph i, Code
31 Supplement 1997, is amended to read as follows:

32 i. The department shall, after the state agency has sent
33 notice to the person liable or, if the liability is owing and
34 payable to the clerk of the district court, the department has
35 sent notice to the person liable, set off the amount owed to

1 the agency against any amount which a state agency owes that
2 person. The department shall refund any balance of the amount
3 to the person. The department shall periodically transfer
4 amounts set off to the state agencies entitled to them. If a
5 person liable to a state agency gives written notice of intent
6 to contest an allegation, a state agency shall hold a refund
7 or rebate until final disposition of the allegation. Upon
8 completion of the setoff, a state agency shall notify in
9 writing the person who was liable or, if the liability is
10 owing and payable to the clerk of the district court, shall
11 comply with the procedures as provided in paragraph "k".

12 Sec. 4. Section 421.17, subsection 29, Code Supplement
13 1997, is amended by adding the following new paragraph:

14 NEW PARAGRAPH. k. If the alleged liability is owing and
15 payable to the clerk of the district court and setoff as
16 provided in this subsection is sought, all of the following
17 shall apply:

18 (1) The judicial department shall prescribe procedures to
19 permit a person to contest the amount of the person's
20 liability to the clerk of the district court.

21 (2) The department shall, except for the procedures
22 described in subparagraph (1), prescribe any other applicable
23 procedures concerning setoff as provided in this subsection.

24 (3) Upon completion of the setoff, the department shall
25 file, at least monthly, with the clerk of the district court a
26 notice of satisfaction of each obligation to the full extent
27 of all moneys collected in satisfaction of the obligation.
28 The clerk shall record the notice and enter a satisfaction for
29 the amounts collected and no separate written notice is
30 required.

31 Sec. 5. Section 602.4304, subsection 1, Code 1997, is
32 amended to read as follows:

33 1. The supreme court may appoint ~~not-more-than-nine~~
34 attorneys or graduates of a reputable law school to act as
35 legal assistants to the justices of the supreme court.

1 Sec. 6. Section 602.6301, Code 1997, is amended to read as
2 follows:

3 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE
4 JUDGES.

5 There shall be one district associate judge in counties
6 having a population~~7-according-to-the-most-recent-federal~~
7 ~~decennial-census~~₇ of more than thirty-five thousand and less
8 than eighty thousand; two in counties having a population of
9 eighty thousand or more and less than one hundred twenty-five
10 thousand; three in counties having a population of one hundred
11 twenty-five thousand or more and less than two hundred
12 thousand; four in counties having a population of two hundred
13 thousand or more and less than two hundred thirty-five
14 thousand; five in counties having a population of two hundred
15 thirty-five thousand or more and less than two hundred seventy
16 thousand; six in counties having a population of two hundred
17 seventy thousand or more and less than three hundred five
18 thousand; and seven in counties having a population of three
19 hundred five thousand or more. However, a county shall not
20 lose a district associate judgeship solely because of a
21 reduction in the county's population. If the formula provided
22 in this section results in the allocation of an additional
23 district associate judgeship to a county, implementation of
24 the allocation shall be subject to prior approval of the
25 supreme court and availability of funds to the judicial
26 department. A district associate judge appointed pursuant to
27 section 602.6302 or 602.6303 shall not be counted for purposes
28 of this section.

29 Sec. 7. Section 602.6304, Code 1997, is amended by adding
30 the following new subsection:

31 NEW SUBSECTION. 2A. A district associate judge who seeks
32 to resign from the office of district associate judge shall
33 notify in writing the chief judge of the judicial district as
34 to the district associate judge's intention to resign and the
35 effective date of the resignation. The chief judge of the

1 judicial district, upon receipt of the notice, shall notify
2 the county magistrate appointing commission and the state
3 court administrator of the actual or impending vacancy in the
4 office of district associate judge due to resignation.

5 Sec. 8. Section 602.6403, subsection 1, Code 1997, is
6 amended to read as follows:

7 1. ~~In~~ By June 1 of each year in which magistrates' terms
8 expire, the county magistrate appointing commission shall
9 appoint, except as otherwise provided in section 602.6302, the
10 number of magistrates apportioned to the county by the state
11 court administrator under section 602.6401, and may appoint an
12 additional magistrate when allowed by section 602.6402. The
13 commission shall not appoint more magistrates than are
14 authorized for the county by this article.

15 Sec. 9. Section 602.6403, Code 1997, is amended by adding
16 the following new subsection:

17 NEW SUBSECTION. 2A. A magistrate who seeks to resign from
18 the office of magistrate shall notify in writing the chief
19 judge of the judicial district as to the magistrate's
20 intention to resign and the effective date of the resignation.
21 The chief judge of the judicial district, upon receipt of the
22 notice, shall notify the county magistrate appointing
23 commission and the state court administrator of the vacancy in
24 the office of magistrate due to resignation.

25 Sec. 10. Section 602.8102, Code Supplement 1997, is
26 amended by adding the following new subsection:

27 NEW SUBSECTION. 126A. Upon the failure of a person
28 charged to appear in person or by counsel to defend against
29 the offense charged pursuant to a uniform citation and
30 complaint as provided in section 805.6, enter a conviction and
31 render a judgment in the amount of the appearance bond in
32 satisfaction of the penalty plus court costs.

33 EXPLANATION

34 This bill provides that a court appointed special advocate
35 is entitled to receive otherwise confidential child abuse

1 information.

2 The bill also amends the provisions dealing with the
3 ability of the judicial department through the clerk of the
4 district court to obtain a setoff of any claim owed to a
5 person by a state agency in order to satisfy a liability that
6 the person owes the clerk of the district court. The bill
7 provides that the department of revenue and finance, and not
8 the judicial department, shall send notice of a potential
9 offset to the person liable, provides for the procedures to
10 follow once a setoff is complete, and provides for the
11 adoption of applicable procedures governing setoff by the
12 judicial department and the department of revenue and finance.

13 The bill eliminates the limitation on the number of
14 attorneys or law school graduates the supreme court may
15 employ to act as legal assistants to the justices of the
16 supreme court.

17 The bill eliminates the requirement that the most recent
18 federal decennial census be used to determine a county's
19 eligibility for apportionment of district associate judges.

20 The bill provides that a district associate judge or
21 magistrate who seeks to resign from that office shall notify
22 the chief judge of the applicable judicial district of the
23 resignation. The chief judge is then required to forward this
24 information to the state court administrator and the
25 applicable county magistrate appointing commission.

26 The bill also changes the deadline for appointing
27 magistrates from any day in June to June 1.

28 The bill also provides that the clerk of the district court
29 shall enter a conviction and judgment upon the failure of a
30 person charged pursuant to a uniform citation and complaint as
31 provided in Code section 805.6 to appear in person or through
32 an attorney to defend against the offense charged.

33
34
35



STATE COURT ADMINISTRATOR

STATE CAPITOL
DES MOINES, IOWA 50319

WILLIAM J. O'BRIEN
State Court Administrator

MEMORANDUM

TO: MEMBERS OF GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: JANUARY 27, 1998

RE: LSB NO. 3298 DP

This bill makes eight (8) changes concerning the operation of the judicial branch. Section 1 provides that a court appointed special advocate is entitled to receive confidential child abuse information. A court appointed special advocate (CASA) is a trained volunteer who is assigned to assist the juvenile court in investigating child in need of assistance and child abuse cases. A CASA acts as an advocate on behalf of the child. Iowa Code section 235A.2(d)(5) allows certain persons to receive copies of child abuse reports. CASAs are not specifically authorized to get copies of such reports. Access to abuse reports will provide a CASA with more complete information about a child's situation and needs.

Sections 2, 3 and 4 of the bill amend provisions of the vendor setoff program administered by the department of revenue and finance as it affects the collection of debt owed to the state through the court system. The changes to these sections would codify an agreed upon division of labor between the department of revenue and finance and the judicial branch as it relates to implementation of Iowa Code section 421.17(29). Also, the changes ensure providing due process to a vendor or individual who challenges a setoff.

Section 5 of this bill would eliminate the limit on the number of law clerks employed by the supreme court. In 1997, the legislature eliminated the cap on the number of court of appeals law clerks and appropriated funds for two additional clerks. This was done to allow the court to hire more law clerks to help the judges of the court of appeals dispose of more cases. The supreme court is not presently contemplating hiring more law clerks. However, the amendment would provide the option of hiring more clerks, subject to legislative approval, should the need arise.

Section 6 of the bill deals with the population formula for determining district associate judgeships found in Iowa Code section 602.6301. Currently this section requires use of the most recent decennial census to determine the population of a county when determining the county's eligibility for district associate judges. This can delay making adjustments to the district associate judge formula from a few years to nearly ten years. By eliminating the requirement to rely on the most recent decennial census, the district associate judgeship formula could be adjusted more frequently if current population figures justify the change and if, as the statute already requires, the

judgeship is approved by the supreme court and funded by the general assembly.

Section 7 of the bill provides that a district associate judge who seeks to resign from that office shall notify the chief judge of the judicial district of the resignation. Presently, the Code does not specify to whom a district associate judge should send a letter of resignation. This has caused some confusion and delays in replacing these judicial officers. The bill provides that district associate judges should resign to the chief judge of the applicable judicial district, who in turn would be responsible for notifying the state court administrator and the appropriate judicial magistrate nominating commission.

Section 8 changes the deadline for appointing magistrates from any day in June to June 1 of the year in which all judicial magistrates are subject to appointment. Each year the judicial branch conducts a magistrate school at the end of June. All judicial magistrate positions are up for appointment once every four years. Pursuant to Code section 602.6403(1) those appointments may be made any time during the month of June. Magistrates appointed late in the month may not be able to attend this mandatory educational program. Section 8 of the bill simply requires judicial magistrate appointing commissions to complete their appointment process by June 1st.

Section 9 of the bill is similar to Section 7. It simply clarifies the fact that judicial magistrates should tender their resignation to the chief judge of the appropriate judicial district.

Section 10 clarifies provisions of the Code regarding the clerk of court's authority to enter a judgment for the amount of an appearance bond when the defendant has not appeared within the time provided in the uniform citation. Pursuant to Section 805.6(1)(b) a uniform citation and complaint form shall contain the following statement: "I hereby give my unsecured appearance bond in the amount of \$_____ and enter my written appearance. I agree that if I fail to appear in person or by counsel to defend against this citation the court is authorized to enter a conviction and render judgment for the amount of my appearance bond in satisfaction of the penalty plus court costs". A defendant is required to sign an acknowledgment of this statement. The amount of an appearance bond is fixed by statute and involves no discretion. Therefore, the defendant authorizes a conviction and judgment for the amount of the appearance bond to be entered against him or her for failure to appear. Many clerks of the district court enter judgments in these cases because it is a ministerial task and there is no discretion concerning the amount of the bond. Having the clerk enter judgment saves court time and resources. However, there is no statutory authority for the clerk to do so.

For further information, contact David Boyd, 281-5241.