

Substituted for HF 2338
3/24/98
(P. 880)

FILED FEB 17 1998

SENATE FILE **2235**
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2077)

Passed Senate, Date ^(P. 468) 3/2/98 Passed House, Date ^(P. 884) 3/24/98
Vote: Ayes 49 Nays 0 Vote: Ayes 95 Nays 0

^(P. 1057) Passed 4-6-98 Approved April 17, 1998
Vote 47-0

A BILL FOR

1 An Act concerning judicial administration.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 2235

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 employ
15 to act as legal assistants to the justices of the supreme
16 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

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SENATE FILE 2235

H-8278

1 Amend Senate File 2235, as passed by the Senate, as
2 follows:

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

5 "Section 101. Section 2B.5, subsection 2, Code
6 1997, is amended to read as follows:

7 2. Cause the Iowa court rules to be published, as
8 directed by the supreme court after consultation with
9 the legislative council. The Iowa court rules shall
10 consist of all rules prescribed by the supreme court.
11 The court rules shall be published in loose-leaf form,
12 ~~appropriately-indexed,~~ and supplements shall be
13 prepared and distributed as directed by the supreme
14 court. The Iowa court rules and supplements to the
15 court rules shall be priced as provided in section
16 7A.22.

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

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

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

23 3. The supreme court shall prescribe rules for the
24 transfer of matters to the court of appeals. These
25 rules may provide for the selective transfer of
26 individual cases and may provide for the transfer of
27 cases according to subject matter or other general
28 criteria. ~~Rules-relating-to-the-transfer-of-cases-are~~
29 ~~subject-to-section-602-4202.~~ A rule shall not provide
30 for the transfer of a matter other than by an order of
31 transfer under subsection 2.

32 5. The supreme court shall prescribe rules of
33 appellate procedure which shall govern further review
34 by the supreme court of decisions of the court of
35 appeals. These rules shall contain, but need not be
36 limited to, a specification of the grounds upon which
37 further review may, in the discretion of the supreme
38 court, be granted. ~~These-rules-are-subject-to-section~~
39 ~~602-4202.~~

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

42 602.4201 RULES GOVERNING ACTIONS AND PROCEEDINGS.

43 1. The supreme court may prescribe all rules of
44 pleading, practice, evidence, and procedure, and the
45 forms of process, writs, and notices, for all
46 proceedings in all courts of this state, for the
47 purposes of simplifying the proceedings and promoting
48 the speedy determination of litigation upon its
49 merits. ~~Rules-are-subject-to-section-602-4202.~~

50 2. Rules of appellate procedure relating to

H-8278

H-8278

Page 2

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

10 3. The following rules are subject to section
11 602.4202:

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

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

23 602.4202 RULEMAKING PROCEDURE.

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

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

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

49 ~~4.---A rule or form submitted as required under~~
50 ~~subsection 1 and effective on or before July 1 shall~~

H-8278

-2-

H-8278

Page 3

1 ~~be-bound-with-the-Acts-of-the-general-assembly-meeting~~
2 ~~in-regular-session-in-the-calendar-year-in-which-the~~
3 ~~July-1-falls.~~

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

8 Sec. 106. Section 602.4303, subsection 2, Code
9 1997, is amended by striking the subsection."

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

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

14 684A.6 PROCEDURE.

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

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

22 4. Title page, line 1, by inserting after the
23 word "administration" the following: "and providing
24 an effective date".

25 5. By renumbering as necessary.

By LAMBERTI of Polk

H-8278 FILED MARCH 10, 1998

*Adopted
3/24/98
(p. 882)*

SENATE FILE 2235

H-8580

1 Amend Senate File 2235, as passed by the Senate, as
2 follows:

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

5 "Sec. ____ . Section 804.21, subsection 3, Code
6 1997, is amended to read as follows:

7 3. If the magistrate who issued the warrant is
8 absent or unable to act, the arrested person shall be
9 taken to the nearest or most accessible magistrate in
10 the judicial district where the offense occurred or a
11 magistrate in an approved judicial district, and all
12 documents on which the warrant was issued must be sent
13 to such magistrate, or if they cannot be procured, the
14 informant and the informant's witnesses must be
15 subpoenaed to make new affidavits. For purposes of
16 this subsection, an "approved judicial district"
17 means, as to any particular arrest of a person
18 described in this subsection, any judicial district in
19 this state in which the chief judge of that judicial
20 district and the chief judge of the judicial district
21 in which the offense occurred have previously entered
22 an order permitting a person arrested or described in
23 this subsection to be taken to a magistrate from any
24 judicial district subject to the order.

25 Sec. ____ . Section 804.22, unnumbered paragraph 1,
26 Code 1997, is amended to read as follows:

27 When an arrest is made without a warrant, the
28 person arrested shall, without unnecessary delay, be
29 taken before the nearest or most accessible magistrate
30 in the judicial district in which such arrest was made
31 or before a magistrate in an approved judicial
32 district, and the grounds on which the arrest was made
33 shall be stated to the magistrate by complaint,
34 subscribed and sworn to by the complainant, or
35 supported by the complainant's affirmation, and such
36 magistrate shall proceed as follows:

37 Sec. ____ . Section 804.22, Code 1997, is amended by
38 adding the following new unnumbered paragraph:

39 NEW UNNUMBERED PARAGRAPH. For purposes of this
40 section, an "approved judicial district" means, as to
41 any particular arrest of a person made without a
42 warrant, any judicial district in this state in which
43 the chief judge of that judicial district and the
44 chief judge of the judicial district in which the
45 arrest was made have previously entered an order
46 permitting a person arrested without warrant to be
47 taken to a magistrate from any judicial district
48 subject to the order."

49 2. By renumbering as necessary.

By DIX of Butler

H-8580 FILED MARCH 23, 1998

adopted
3/24/98

(p.884)

S-5346

1 Amend Senate File 2235, as passed by the Senate, as
2 follows:

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

5 "Section 101. Section 2B.5, subsection 2, Code
6 1997, is amended to read as follows:

7 2. Cause the Iowa court rules to be published, as
8 directed by the supreme court after consultation with
9 the legislative council. The Iowa court rules shall
10 consist of all rules prescribed by the supreme court.
11 The court rules shall be published in loose-leaf form,
12 ~~appropriately-indexed,~~ and supplements shall be
13 prepared and distributed as directed by the supreme
14 court. The Iowa court rules and supplements to the
15 court rules shall be priced as provided in section
16 7A.22.

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

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

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

23 3. The supreme court shall prescribe rules for the
24 transfer of matters to the court of appeals. These
25 rules may provide for the selective transfer of
26 individual cases and may provide for the transfer of
27 cases according to subject matter or other general
28 criteria. ~~Rules-relating-to-the-transfer-of-cases-are~~
29 ~~subject-to-section-602-4202-~~ A rule shall not provide
30 for the transfer of a matter other than by an order of
31 transfer under subsection 2.

32 5. The supreme court shall prescribe rules of
33 appellate procedure which shall govern further review
34 by the supreme court of decisions of the court of
35 appeals. These rules shall contain, but need not be
36 limited to, a specification of the grounds upon which
37 further review may, in the discretion of the supreme
38 court, be granted. ~~These-rules-are-subject-to-section~~
39 ~~602-4202-~~

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

42 602.4201 RULES GOVERNING ACTIONS AND PROCEEDINGS.

43 1. The supreme court may prescribe all rules of
44 pleading, practice, evidence, and procedure, and the
45 forms of process, writs, and notices, for all
46 proceedings in all courts of this state, for the
47 purposes of simplifying the proceedings and promoting
48 the speedy determination of litigation upon its
49 merits. ~~Rules-are-subject-to-section-602-4202-~~

50 2. Rules of appellate procedure relating to

S-5346

S-5346

Page 2

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

10 3. The following rules are subject to section
11 602.4202:

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

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

23 602.4202 RULEMAKING PROCEDURE.

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

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

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

49 ~~4.---A rule or form submitted as required under~~
50 ~~subsection 1 and effective on or before July 1 shall~~

S-5346

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S-5346

Page 3

~~1 be-bound-with-the-Acts-of-the-general-assembly-meeting~~
~~2 in-regular-session-in-the-calendar-year-in-which-the~~
~~3 July-1-falls-~~

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

8 Sec. 106. Section 602.4303, subsection 2, Code
9 1997, is amended by striking the subsection."

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

12 "Sec. _____. Section 804.21, subsection 3, Code
13 1997, is amended to read as follows:

14 3. If the magistrate who issued the warrant is
15 absent or unable to act, the arrested person shall be
16 taken to the nearest or most accessible magistrate in
17 the judicial district where the offense occurred or a
18 magistrate in an approved judicial district, and all
19 documents on which the warrant was issued must be sent
20 to such magistrate, or if they cannot be procured, the
21 informant and the informant's witnesses must be
22 subpoenaed to make new affidavits. For purposes of
23 this subsection, an "approved judicial district"
24 means, as to any particular arrest of a person
25 described in this subsection, any judicial district in
26 this state in which the chief judge of that judicial
27 district and the chief judge of the judicial district
28 in which the offense occurred have previously entered
29 an order permitting a person arrested or described in
30 this subsection to be taken to a magistrate from any
31 judicial district subject to the order.

32 Sec. _____. Section 804.22, unnumbered paragraph 1,
33 Code 1997, is amended to read as follows:

34 When an arrest is made without a warrant, the
35 person arrested shall, without unnecessary delay, be
36 taken before the nearest or most accessible magistrate
37 in the judicial district in which such arrest was made
38 or before a magistrate in an approved judicial
39 district, and the grounds on which the arrest was made
40 shall be stated to the magistrate by complaint,
41 subscribed and sworn to by the complainant, or
42 supported by the complainant's affirmation, and such
43 magistrate shall proceed as follows:

44 Sec. _____. Section 804.22, Code 1997, is amended by
45 adding the following new unnumbered paragraph:

46 NEW UNNUMBERED PARAGRAPH. For purposes of this
47 section, an "approved judicial district" means, as to
48 any particular arrest of a person made without a
49 warrant, any judicial district in this state in which
50 the chief judge of that judicial district and the

S-5346

S-5346

Page 4

1 chief judge of the judicial district in which the
2 arrest was made have previously entered an order
3 permitting a person arrested without warrant to be
4 taken to a magistrate from any judicial district
5 subject to the order."

6 4. Page 4, by inserting after line 32 the
7 following:

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

10 684A.6 PROCEDURE.

11 The supreme court may prescribe rules of procedure
12 concerning the answering and certification of
13 questions of law under this chapter ~~7-subject-to~~
14 ~~section-602-4202.~~

15 Sec. 108. Section 101 through 108 of this Act,
16 being deemed of immediate importance, take effect upon
17 enactment."

18 5. Title page, line 1, by inserting after the
19 word "administration" the following: "and providing
20 an effective date".

21 6. By renumbering, relettering, or redesignating
22 and correcting internal references as necessary.

RECEIVED FROM THE HOUSE

S-5346 FILED MARCH 24, 1998

Senate Concurred
4-6-98
(p. 1057)

McKibben
Neubauer
Redfern

SSB 2077

Judiciary

Succeeded By

SENATE/HOUSE FILE SE/HE 2235

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:

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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, ~~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 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

2077



STATE COURT ADMINISTRATOR

WILLIAM J. O'BRIEN
State Court Administrator

STATE CAPITOL
DES MOINES, IOWA 50319

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.

SENATE FILE 2235

AN ACT
CONCERNING JUDICIAL ADMINISTRATION AND PROVIDING AN EFFECTIVE
DATE.

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

Section 1. Section 2B.5, subsection 2, Code 1997, is amended to read as follows:

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

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

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

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

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

NEW UNNUMBERED PARAGRAPH. However, upon submission of an allegation of the liability of a person which is owing and payable to the clerk of the district court and upon the

determination by the department that the person allegedly liable is entitled to payment from a state agency, the department shall send written notification to the person which states the assertion by the clerk of the district court of rights to all or a portion of the payment, the clerk's entitlement to recover the liability through the setoff procedure, the basis of the assertions, the person's opportunity to request within fifteen days of the mailing of the notice that the department divide a jointly or commonly owned right to payment between owners, the opportunity to contest the liability to the clerk by written application to the clerk within fifteen days of the mailing of the notice, and the person's opportunity to contest the department's setoff procedure.

Sec. 5. Section 421.17, subsection 29, paragraph i, Code Supplement 1997, is amended to read as follows:

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

Sec. 6. Section 421.17, subsection 29, Code Supplement 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. If the alleged liability is owing and payable to the clerk of the district court and setoff as

provided in this subsection is sought, all of the following shall apply:

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

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

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

Sec. 7. Section 602.4102, subsections 3 and 5, Code 1997, are amended to read as follows:

3. The supreme court shall prescribe rules for the transfer of matters to the court of appeals. These rules may provide for the selective transfer of individual cases and may provide for the transfer of cases according to subject matter or other general criteria. ~~Rules-relating-to-the-transfer-of cases-are-subject-to-section-602-4202-~~ A rule shall not provide for the transfer of a matter other than by an order of transfer under subsection 2.

5. The supreme court shall prescribe rules of appellate procedure which shall govern further review by the supreme court of decisions of the court of appeals. These rules shall contain, but need not be limited to, a specification of the grounds upon which further review may, in the discretion of the supreme court, be granted. ~~These-rules-are-subject-to section-602-4202-~~

Sec. 8. Section 602.4201, Code 1997, is amended to read as follows:

602.4201 RULES GOVERNING ACTIONS AND PROCEEDINGS.

1. The supreme court may prescribe all rules of pleading, practice, evidence, and procedure, and the forms of process, writs, and notices, for all proceedings in all courts of this state, for the purposes of simplifying the proceedings and promoting the speedy determination of litigation upon its merits. ~~Rules-are-subject-to-section-602-4202-~~

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

3. The following rules are subject to section 602.4202:

a. Rules of civil procedure.

b. Rules of criminal procedure.

c. Rules of evidence.

d. Rules of appellate procedure 1 through 9.

e. Rules of probate procedure.

f. Juvenile procedure.

g. Involuntary hospitalization of mentally ill.

h. Involuntary commitment or treatment of substance abusers.

Sec. 9. Section 602.4202, Code 1997, is amended to read as follows:

602.4202 RULEMAKING PROCEDURE.

1. The supreme court shall submit a rule or form prescribed by the supreme court under section 602.4201, subsection 3, or pursuant to any other rulemaking authority specifically made subject to this section to the legislative council and shall at the same time report the rule or form to the chairpersons and ranking members of the senate and house committees on judiciary. The legislative service bureau shall

make recommendations to the supreme court on the proper style and format of rules and forms required to be submitted to the legislative council under this subsection.

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

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

~~4. A rule or form submitted as required under subsection 1 and effective on or before July 1 shall be bound with the Acts of the general assembly meeting in regular session in the calendar year in which the July 1 falls.~~

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

Sec. 10. Section 602.4303, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 11. Section 602.4304, subsection 1, Code 1997, is amended to read as follows:

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

Sec. 12. Section 602.6301, Code 1997, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population according to the most recent federal

decennial census, of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than two hundred thousand; four in counties having a population of two hundred thousand or more and less than two hundred thirty-five thousand; five in counties having a population of two hundred thirty-five thousand or more and less than two hundred seventy thousand; six in counties having a population of two hundred seventy thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial department. A district associate judge appointed pursuant to section 602.6302 or 602.6303 shall not be counted for purposes of this section.

Sec. 13. Section 602.6304, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A district associate judge who seeks to resign from the office of district associate judge shall notify in writing the chief judge of the judicial district as to the district associate judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of district associate judge due to resignation.

Sec. 14. Section 602.6403, subsection 1, Code 1997, is amended to read as follows:

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

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

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

Sec. 16. Section 602.8102, Code Supplement 1997, is amended by adding the following new subsection:

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

Sec. 17. Section 684A.6, Code 1997, is amended to read as follows:

684A.6 PROCEDURE.

The supreme court may prescribe rules of procedure concerning the answering and certification of questions of law under this chapter, ~~subject to section 602.4202.~~

Sec. 18. Section 804.21, subsection 3, Code 1997, is amended to read as follows:

3. If the magistrate who issued the warrant is absent or unable to act, the arrested person shall be taken to the nearest or most accessible magistrate in the judicial district where the offense occurred or a magistrate in an approved judicial district, and all documents on which the warrant was issued must be sent to such magistrate, or if they cannot be procured, the informant and the informant's witnesses must be subpoenaed to make new affidavits. For purposes of this subsection, an "approved judicial district" means, as to any particular arrest of a person described in this subsection, any judicial district in this state in which the chief judge of that judicial district and the chief judge of the judicial district in which the offense occurred have previously entered an order permitting a person arrested or described in this subsection to be taken to a magistrate from any judicial district subject to the order.

Sec. 19. Section 804.22, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When an arrest is made without a warrant, the person arrested shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the judicial district in which such arrest was made or before a magistrate in an approved judicial district, and the grounds on which the arrest was made shall be stated to the magistrate by complaint, subscribed and sworn to by the complainant, or supported by the complainant's affirmation, and such magistrate shall proceed as follows:

Sec. 20. Section 804.22, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, an "approved judicial district" means, as to any particular arrest of a person made without a warrant, any judicial district in this state in which the chief judge of that judicial district and the chief judge of the judicial district in which the arrest was made have previously entered an order

permitting a person arrested without warrant to be taken to a magistrate from any judicial district subject to the order.

Sec. 21. Sections 1, 2, 7, 8, 9, 10, and 17 of this Act, being deemed of immediate importance, take effect upon enactment.

MARY E. KRAMER
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 2235, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved April 17, 1998

TERRY E. BRANSTAD
Governor