

HSB 4

JUDICIARY

Succeeded By
SF/WF 172

Boddicker, Ch
Raecker
Parmenter

HOUSE FILE _____
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL BY
CHAIRPERSON LARSON)

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

A BILL FOR

1 An Act relating to adoption procedural requirements including
2 those related to investigations, reports, and counseling.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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be record
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1 Section 1. Section 600.8, subsection 1, paragraph c, Code
2 1999, is amended by striking the paragraph and inserting in
3 lieu thereof the following:

4 c. A background information investigation and a report of
5 the investigation shall be made by the agency, the person
6 making an independent placement, or an investigator. The
7 background information investigation and report shall not
8 disclose the identity of the biological parents of the minor
9 person to be adopted. The report shall be completed and filed
10 with the court prior to the holding of the adoption hearing
11 prescribed in section 600.12. The report shall be in
12 substantial conformance with the prescribed medical and social
13 history forms designed by the department pursuant to section
14 600A.4, subsection 2, paragraph "f". A copy of the background
15 information investigation report shall be furnished to the
16 adoption petitioners within thirty days after the filing of
17 the adoption petition. Any person, including a juvenile
18 court, who has gained relevant background information
19 concerning a minor person subject to an adoption petition
20 shall, upon request, fully cooperate with the conducting of a
21 background information investigation by disclosing any
22 relevant background information, whether contained in sealed
23 records or not.

24 Sec. 2. Section 600.8, subsections 4, 5, and 6, Code 1999,
25 are amended to read as follows:

26 4. A postplacement investigation ~~and-a-background~~
27 ~~information-investigation~~ and the ~~reports-of-these~~
28 ~~investigations~~ report of the investigation shall be completed
29 and ~~the-reports~~ filed with the court prior to the holding of
30 the adoption hearing prescribed in section 600.12. Upon the
31 filing of an adoption petition pursuant to section 600.5, the
32 court shall immediately appoint ~~the-department,-an-agency,-or~~
33 an investigator to conduct and complete the postplacement and
34 ~~background-information-investigations-and-reports~~ report. In
35 ~~addition-to-filing-the-background-information-report-with-the~~

1 court-prior-to-the-holding-of-the-adoption-hearing, the
2 department, agency, or investigator appointed to conduct the
3 background information investigation shall complete the
4 background information investigation and report and furnish a
5 copy to the adoption petitioner within thirty days after the
6 filing of the adoption petition. Any person, including a
7 juvenile court, who has gained relevant background information
8 concerning a minor person subject to an adoption petition
9 shall, upon request, fully co-operate with the conducting of
10 the background information postplacement investigation and
11 report by disclosing any relevant background information
12 requested, whether contained in sealed records or not.

13 5. Any person conducting an investigation under
14 subsections subsection 1, paragraph "c", subsection 3, and or
15 subsection 4 may, in the investigation or subsequent report,
16 include, utilize, or rely upon any reports, studies, or
17 examinations to the extent they are relevant.

18 6. Any person conducting an investigation under
19 subsections subsection 1, paragraph "c", subsection 3, and or
20 subsection 4 may charge a fee which does not exceed the
21 reasonable cost of the services rendered and which is based on
22 a sliding scale schedule relating to the investigated person's
23 ability to pay.

24 Sec. 3. Section 600.9, subsection 2, paragraph e, Code
25 1999, is amended to read as follows:

26 e. Costs of the counseling provided to the biological
27 parents prior to the birth of the child, ~~in accordance with~~
28 ~~section 600A.4, subsection 2, to the biological parents prior~~
29 to the release of custody, and any counseling provided to the
30 biological parents for not more than sixty days after the
31 birth of the child.

32 Sec. 4. Section 600.16, subsection 1, unnumbered paragraph
33 1, Code 1999, is amended to read as follows:

34 Any information compiled under section 600.8, subsection 1,
35 paragraph "c", ~~subparagraphs (1) and (2)~~, relating to medical

1 and developmental histories shall be made available at any
2 time by the clerk of court, the department, or any agency
3 which made the placement to:

4 Sec. 5. Section 600A.4, subsection 2, paragraph d, Code
5 1999, is amended to read as follows:

6 d. ~~Shall be preceded by the offering of~~ contain written
7 acknowledgment of the biological parents that after the birth
8 of the child, three hours of counseling has been offered to
9 the biological parents by the agency, the person making an
10 independent placement, an investigator as defined in section
11 600.2, or other qualified counselor regarding the decision to
12 release custody and the alternatives available to the
13 biological parents ~~in disposition of the child~~. The release
14 of custody shall also contain written acknowledgment of the
15 ~~offering of counseling to the biological parent and of~~
16 acceptance or refusal of the counseling. If accepted, the
17 counseling shall be provided after the birth of the child and
18 prior to the signing of a release of custody or the filing of
19 a petition for termination of parental rights as applicable.
20 Counseling shall be provided only by a person who is qualified
21 under rules adopted by the department of human services which
22 shall include a requirement that the person complete a minimum
23 number of hours of training in the area of adoption-related
24 counseling approved by the department ~~or, in the alternative,~~
25 ~~that the person has a minimum level of experience, as~~
26 ~~determined by rule of the department, in the provision of~~
27 adoption-related counseling. The If counseling is accepted,
28 the counselor shall provide an affidavit, which shall be
29 attached to the release of custody, when practicable,
30 certifying that the counselor has provided the biological
31 parent with the requested counseling ~~or that the biological~~
32 ~~parent has refused counseling prior to the signing of the~~
33 ~~release of custody~~ and documentation that the person is
34 qualified to provide the requested counseling as prescribed by
35 this paragraph. The requirements of this paragraph do not

1 apply to a release of custody which is executed for the
2 purposes of a stepparent adoption.

3 EXPLANATION

4 This bill makes changes relating to adoption
5 investigations, reports, and counseling. The requirements of
6 a postplacement investigation and a background information
7 investigation, which were previously included in the same
8 subsection, are rewritten separately. The bill specifies the
9 individuals who may perform a background information
10 investigation and report, requires that the report be filed
11 with the court prior to the adoption hearing, and requires
12 that a copy of the report be provided to the adoption
13 petitioner within 30 days after the filing of the adoption
14 petition.

15 The language relating to the postplacement investigation
16 and report of the investigation is rewritten to specify that
17 the individual who completes the investigation and report is
18 an investigator who is to be appointed by the court following
19 the filing of an adoption petition.

20 The language pertaining to the offering of three hours of
21 counseling prior to a decision to release custody is also
22 rewritten and specifies by whom the counseling may be offered,
23 requires written acknowledgment of the offering and the
24 acceptance or refusal of counseling by the biological parents,
25 and provides that, when practicable, the person who provides
26 counseling is to provide an affidavit certifying that
27 counseling was provided.

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FEB 1 1999

Place On Calendar

S. 2-9-99 Judiciary
S. 3/31/99 Do Pass
H. 4/21/99 Motion to R/C Boddicker
4/21/99 Motion - Prevails

HOUSE FILE 172
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 4)

(P. 313)
Passed House, Date 2/9/99
Vote: Ayes 94 Nays 0

(P. 1202)
Passed Senate, Date 4/19/99
Vote: Ayes 47 Nays 0

(P. 1521) Repassed 4/21/99
Vote 55-43
(P. 1525) Repassed 4/21/99
Vote 94-0

Approved May 18, 1999
Repassed 4/21/99
A BILL FOR
Revote 99-0

Repassed 4/28/99 (P. 1377)
Vote 49-0

1 An Act relating to adoption procedural requirements including
2 those related to investigations, reports, and counseling.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Conf. Comm. (P. 1329)
4-27-99
Boddicker ch.
Larson
Dovis
Kreimon
Joerge

Senate Conf. Comm. 4-27-99
(P. 1329)
Boettger ch
Lombardi
Miller
McCoy
Hammond

HF 172

1 Section 1. Section 600.8, subsection 1, paragraph c, Code
2 1999, is amended by striking the paragraph and inserting in
3 lieu thereof the following:

4 c. A background information investigation and a report of
5 the investigation shall be made by the agency, the person
6 making an independent placement, or an investigator. The
7 background information investigation and report shall not
8 disclose the identity of the biological parents of the minor
9 person to be adopted. The report shall be completed and filed
10 with the court prior to the holding of the adoption hearing
11 prescribed in section 600.12. The report shall be in
12 substantial conformance with the prescribed medical and social
13 history forms designed by the department pursuant to section
14 600A.4, subsection 2, paragraph "f". A copy of the background
15 information investigation report shall be furnished to the
16 adoption petitioners within thirty days after the filing of
17 the adoption petition. Any person, including a juvenile
18 court, who has gained relevant background information
19 concerning a minor person subject to an adoption petition
20 shall, upon request, fully cooperate with the conducting of a
21 background information investigation by disclosing any
22 relevant background information, whether contained in sealed
23 records or not.

24 Sec. 2. Section 600.8, subsections 4, 5, and 6, Code 1999,
25 are amended to read as follows:

26 4. A postplacement investigation ~~and-a-background~~
27 ~~information-investigation~~ and the ~~reports-of-these~~
28 ~~investigations~~ report of the investigation shall be completed
29 and ~~the-reports~~ filed with the court prior to the holding of
30 the adoption hearing prescribed in section 600.12. Upon the
31 filing of an adoption petition pursuant to section 600.5, the
32 court shall immediately appoint the department, an agency, or
33 an investigator to conduct and complete the postplacement and
34 ~~background-information-investigations-and-reports~~ report. In
35 ~~addition-to-filing-the-background-information-report-with-the~~

1 court-prior-to-the-holding-of-the-adoption-hearing, the
2 department, agency, or investigator appointed to conduct the
3 background information investigation shall complete the
4 background information investigation and report and furnish a
5 copy to the adoption petitioner within thirty days after the
6 filing of the adoption petition. Any person, including a
7 juvenile court, who has gained relevant background information
8 concerning a minor person subject to an adoption petition
9 shall, upon request, fully co-operate with the conducting of
10 the background information postplacement investigation and
11 report by disclosing any relevant background information
12 requested, whether contained in sealed records or not.

13 5. Any person conducting an investigation under
14 subsections subsection 1, paragraph "c", subsection 3, and or
15 subsection 4 may, in the investigation or subsequent report,
16 include, utilize, or rely upon any reports, studies, or
17 examinations to the extent they are relevant.

18 6. Any person conducting an investigation under
19 subsections subsection 1, paragraph "c", subsection 3, and or
20 subsection 4 may charge a fee which does not exceed the
21 reasonable cost of the services rendered and which is based on
22 a sliding scale schedule relating to the investigated person's
23 ability to pay.

24 Sec. 3. Section 600.9, subsection 2, paragraph e, Code
25 1999, is amended to read as follows:

26 e. Costs of the counseling provided to the biological
27 parents prior to the birth of the child, ~~in accordance with~~
28 ~~section 600A:47-subsection-2, to the biological parents prior~~
29 to the release of custody, and any counseling provided to the
30 biological parents for not more than sixty days after the
31 birth of the child.

32 Sec. 4. Section 600.15, subsection 1, paragraph c, Code
33 1999, is amended by striking the paragraph and inserting in
34 lieu thereof the following:

35 c. Documentation demonstrating that a child has been

1 legally released or approved for adoption by the child's
2 country of origin shall be accepted as evidence that
3 termination of parental rights has been completed in that
4 country and shall be recognized in this state.

5 Sec. 5. Section 600.16, subsection 1, unnumbered paragraph
6 1, Code 1999, is amended to read as follows:

7 Any information compiled under section 600.8, subsection 1,
8 paragraph "c", ~~subparagraphs-(1)-and-(2)~~, relating to medical
9 and developmental histories shall be made available at any
10 time by the clerk of court, the department, or any agency
11 which made the placement to:

12 Sec. 6. Section 600A.4, subsection 2, paragraph d, Code
13 1999, is amended to read as follows:

14 ~~d. Shall be preceded by the offering of~~ contain written
15 acknowledgment of the biological parents that after the birth
16 of the child, three hours of counseling has been offered to
17 the biological parents by the agency, the person making an
18 independent placement, an investigator as defined in section
19 600.2, or other qualified counselor regarding the decision to
20 release custody and the alternatives available to the
21 biological parents ~~in disposition of the child~~. The release
22 of custody shall also contain written acknowledgment of the
23 ~~offering of counseling to the biological parent and of~~
24 acceptance or refusal of the counseling. If accepted, the
25 counseling shall be provided after the birth of the child and
26 prior to the signing of a release of custody or the filing of
27 a petition for termination of parental rights as applicable.
28 Counseling shall be provided only by a person who is qualified
29 under rules adopted by the department of human services which
30 shall include a requirement that the person complete a minimum
31 number of hours of training in the area of adoption-related
32 counseling approved by the department ~~or, in the alternative,~~
33 ~~that the person has a minimum level of experience, as~~
34 ~~determined by rule of the department, in the provision of~~
35 adoption-related counseling. The If counseling is accepted,

1 the counselor shall provide an affidavit, which shall be
2 attached to the release of custody, when practicable,
3 certifying that the counselor has provided the biological
4 parent with the requested counseling ~~or-that-the-biological~~
5 ~~parent-has-refused-counseling-prior-to-the-signing-of-the~~
6 ~~release-of-custody~~ and documentation that the person is
7 qualified to provide the requested counseling as prescribed by
8 this paragraph. The requirements of this paragraph do not
9 apply to a release of custody which is executed for the
10 purposes of a stepparent adoption.

11 EXPLANATION

12 This bill makes changes relating to adoption
13 investigations, reports, and counseling. The requirements of
14 a postplacement investigation and a background information
15 investigation, which were previously included in the same
16 subsection, are rewritten separately. The bill specifies the
17 individuals who may perform a background information
18 investigation and report, requires that the report be filed
19 with the court prior to the adoption hearing, and requires
20 that a copy of the report be provided to the adoption
21 petitioner within 30 days after the filing of the adoption
22 petition.

23 The bill strikes existing language pertaining to the
24 official immigration documentation necessary in the adoption
25 of a child whose country of origin is other than the United
26 States. Language is substituted allowing the state to accept
27 documentation from the country of origin demonstrating a legal
28 release or approval for adoption.

29 The language pertaining to the offering of three hours of
30 counseling prior to a decision to release custody is also
31 rewritten and specifies by whom the counseling may be offered,
32 requires written acknowledgment of the offering and the
33 acceptance or refusal of counseling by the biological parents,
34 and provides that, when practicable, the person who provides
35 counseling is to provide an affidavit certifying that

1 counseling was provided.

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HOUSE FILE 172

S-3401

1 Amend House File 172 as passed by the House, as
2 follows:

3 1. Page 2, by inserting after line 31, the
4 following:

5 "Sec. ____ . NEW SECTION. 600.14A FINALITY OF
6 ADOPTION DECREE.

7 1. After the expiration of thirty days following
8 the entry of the final adoption decree, the final
9 adoption decree shall not be attacked by reason of any
10 jurisdictional or procedural defect, fraud, duress, or
11 misrepresentation, and any such defect shall be deemed
12 cured. This subsection shall not apply to section
13 600A.9, subsection 3.

14 2. If a final adoption decree is attacked on any
15 basis at any time, the paramount consideration of the
16 court shall be the best interest of the child, and the
17 court shall sustain the final adoption decree unless
18 the court is presented with clear and convincing
19 evidence that the adoption is not in the best interest
20 of the child."

21 2. By renumbering as necessary.

By NANCY BOETTGER

S-3401 FILED APRIL 15, 1999

adopted 4-20-99 (P. 1201)

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 172

S-3455

1 Amend the amendment, H-1703, to House File 172, as
2 passed by the House, as follows:

3 1. Page 1, line 7, by striking the words "thirty
4 days" and inserting the following: "one year".

5 2. Page 1, line 10, by striking the word
6 "fraud,".

Senate Refused 4/26/99

RECEIVED FROM THE HOUSE

House Amended 4-27-99 (P. 1758)

S-3455 FILED APRIL 21, 1999

(P. 1758)

REPORT OF THE CONFERENCE COMMITTEE
ON HOUSE FILE 172

To the Speaker of the House of Representatives and the
President of the Senate:

We, the undersigned members of the conference committee
appointed to resolve the differences between the House of
Representatives and the Senate on House File 172, a bill for
An Act relating to adoption procedural requirements including
those related to investigations, reports, and counseling,
respectfully make the following report:

- 1. That the House recedes from its amendment, S-3455.
- 2. That the Senate recedes from its amendment, H-1703.

ON THE PART OF THE HOUSE:

ON THE PART OF THE SENATE:

DAN BODDICKER, Chairperson
 GALEN DAVIS
 RO FOEGE
 KEITH KREIMAN
 CHUCK LARSON

NANCY BOETTGER, Chairperson
 JOHNIE HAMMOND
 JEFF LAMBERTI
 MATT McCOY
 DAVID MILLER

CCH-172 FILED APRIL 28, 1999
 ADOPTED

(P. 1823)

adopted
 4/28/99
 (P. 1377)

HOUSE FILE 172

H-1732

- 1 Amend the amendment, H-1703, to House File 172, as
- 2 passed by the House, as follows:
- 3 1. Page 1, line 7, by striking the words "thirty
- 4 days" and inserting the following: "one year".
- 5 2. Page 1, line 10, by striking the word
- 6 "fraud,".

By BODDICKER of Cedar
KREIMAN of Davis

H-1732 FILED APRIL 21, 1999

adopted
~~file~~ 4/21/99 (P.1525)

SENATE AMENDMENT TO HOUSE FILE 172

H-1703

- 1 Amend House File 172 as passed by the House, as
- 2 follows:
- 3 1. Page 2, by inserting after line 31, the
- 4 following:
- 5 "Sec. ____ . NEW SECTION. 600.14A FINALITY OF
- 6 ADOPTION DECREE.
- 7 1. After the expiration of thirty days following
- 8 the entry of the final adoption decree, the final
- 9 adoption decree shall not be attacked by reason of any
- 10 jurisdictional or procedural defect, fraud, duress, or
- 11 misrepresentation, and any such defect shall be deemed
- 12 cured. This subsection shall not apply to section
- 13 600A.9, subsection 3.
- 14 2. If a final adoption decree is attacked on any
- 15 basis at any time, the paramount consideration of the
- 16 court shall be the best interest of the child, and the
- 17 court shall sustain the final adoption decree unless
- 18 the court is presented with clear and convincing
- 19 evidence that the adoption is not in the best interest
- 20 of the child."
- 21 2. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-1703 FILED APRIL 20, 1999

House Concurred
4/21/99
(P.1521)

AN ACT

RELATING TO ADOPTION PROCEDURAL REQUIREMENTS INCLUDING
THOSE RELATED TO INVESTIGATIONS, REPORTS, AND COUNSELING.

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

Section 1. Section 600.8, subsection 1, paragraph c, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

c. A background information investigation and a report of the investigation shall be made by the agency, the person making an independent placement, or an investigator. The background information investigation and report shall not disclose the identity of the biological parents of the minor

person to be adopted. The report shall be completed and filed with the court prior to the holding of the adoption hearing prescribed in section 600.12. The report shall be in substantial conformance with the prescribed medical and social history forms designed by the department pursuant to section 600A.4, subsection 2, paragraph "f". A copy of the background information investigation report shall be furnished to the adoption petitioners within thirty days after the filing of the adoption petition. Any person, including a juvenile court, who has gained relevant background information concerning a minor person subject to an adoption petition shall, upon request, fully cooperate with the conducting of a background information investigation by disclosing any relevant background information, whether contained in sealed records or not.

Sec. 2. Section 600.8, subsections 4, 5, and 6, Code 1999, are amended to read as follows:

4. A postplacement investigation ~~and-a-background information-investigation~~ and the reports ~~of-these investigations~~ report of the investigation shall be completed and the reports filed with the court prior to the holding of the adoption hearing prescribed in section 600.12. Upon the filing of an adoption petition pursuant to section 600.5, the court shall immediately appoint the department, an agency, or an investigator to conduct and complete the postplacement and ~~background-information-investigations-and-reports~~ report. ~~In addition-to-filing-the-background-information-report-with-the court-prior-to-the-holding-of-the-adoption-hearing,-the department,-agency,-or-investigator-appointed-to-conduct-the background-information-investigation-shall-complete-the background-information-investigation-and-report-and-furnish-a copy-to-the-adoption-petitioner-within-thirty-days-after-the filing-of-the-adoption-petition-~~ Any person, including a juvenile court, who has gained relevant background information concerning a minor person subject to an adoption petition

shall, upon request, fully co-operate with the conducting of the background-information postplacement investigation and report by disclosing any relevant background information requested, whether contained in sealed records or not.

5. Any person conducting an investigation under subsections subsection 1, paragraph "c", subsection 3, and or subsection 4 may, in the investigation or subsequent report, include, utilize, or rely upon any reports, studies, or examinations to the extent they are relevant.

6. Any person conducting an investigation under subsections subsection 1, paragraph "c", subsection 3, and or subsection 4 may charge a fee which does not exceed the reasonable cost of the services rendered and which is based on a sliding scale schedule relating to the investigated person's ability to pay.

Sec. 3. Section 600.9, subsection 2, paragraph e, Code 1999, is amended to read as follows:

e. Costs of the counseling provided to the biological parents prior to the birth of the child, ~~in accordance with section 600A.47-subsection-2, to the biological parents~~ prior to the release of custody, and any counseling provided to the biological parents for not more than sixty days after the birth of the child.

Sec. 4. Section 600.15, subsection 1, paragraph c, Code 1999, is amended by striking the paragraph and inserting in lieu thereof the following:

c. Documentation demonstrating that a child has been legally released or approved for adoption by the child's country of origin shall be accepted as evidence that termination of parental rights has been completed in that country and shall be recognized in this state.

Sec. 5. Section 600.16, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Any information compiled under section 600.8, subsection 1, paragraph "c", ~~subparagraphs (1) and (2)~~, relating to medical

and developmental histories shall be made available at any time by the clerk of court, the department, or any agency which made the placement to:

Sec. 6. Section 600A.4, subsection 2, paragraph d, Code 1999, is amended to read as follows:

d. ~~Shall be preceded by the offering of~~ contain written acknowledgment of the biological parents that after the birth of the child, three hours of counseling has been offered to the biological parents by the agency, the person making an independent placement, an investigator as defined in section 600.2, or other qualified counselor regarding the decision to release custody and the alternatives available to the biological parents ~~in disposition of the child~~. The release of custody shall also contain written acknowledgment of the ~~offering of counseling to the biological parent and of~~ acceptance or refusal of the counseling. If accepted, the counseling shall be provided after the birth of the child and prior to the signing of a release of custody or the filing of a petition for termination of parental rights as applicable. Counseling shall be provided only by a person who is qualified under rules adopted by the department of human services which shall include a requirement that the person complete a minimum number of hours of training in the area of adoption-related counseling approved by the department ~~or in the alternative that the person has a minimum level of experience, as determined by rule of the department, in the provision of adoption-related counseling~~. The If counseling is accepted, the counselor shall provide an affidavit, which shall be attached to the release of custody, when practicable, certifying that the counselor has provided the biological parent with the requested counseling ~~or that the biological parent has refused counseling prior to the signing of the release of custody~~ and documentation that the person is qualified to provide the requested counseling as prescribed by this paragraph. The requirements of this paragraph do not

apply to a release of custody which is executed for the purposes of a stepparent adoption.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 172, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 18, 1999

THOMAS J. VILSACK
Governor