

FEB 24 1999

JUDICIARY

HOUSE FILE
BY MERTZ

368

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act providing that a parent who has abandoned a child cannot
2 inherit from the child's intestate estate.

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

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HF 368

1 Section 1. Section 633.219, subsection 2, Code 1999, is
2 amended to read as follows:

3 2. If there is no surviving issue, to the parents of the
4 decedent equally; and if either parent is dead, the portion
5 that would have gone to such deceased parent shall go to the
6 survivor.

7 For purposes of this subsection, the following parent shall
8 be treated as if such parent predeceased the decedent:

9 a. A parent who is found by the court to have abandoned
10 the decedent, as defined in section 600A.2, subsection 18,
11 while the decedent is or was a minor.

12 b. A parent who is subject to an order to pay child
13 support for the benefit of the decedent, and who has failed to
14 pay the ordered support for ten or more of the twelve months
15 immediately preceding the decedent's death, and who fails to
16 establish by clear and convincing evidence that the parent did
17 not abandon the child, as defined in section 600A.2,
18 subsection 18.

19 EXPLANATION

20 This bill amends the provision in the probate code through
21 which parents inherit from the estate of a child that has left
22 no will (intestate decedent).

23 The bill provides that a parent who is found by the court
24 to have legally abandoned a child while the child is or was a
25 minor shall be treated under the statute as predeceasing the
26 child, and therefore would not be able to inherit from the
27 child's estate. The bill specifically provides that a parent
28 who is subject to a court order to pay child support and who
29 has not paid the ordered support for 10 or more of the 12
30 months immediately preceding the child's death creates a
31 rebuttable presumption of abandonment that must be overcome by
32 clear and convincing evidence before the parent is permitted
33 to inherit from the child's estate under this statute.

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