

# Senate Study Bill 1093

## Bill Text

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1 1 Section 1. Section [125.85](#), subsection 4, Code 1999, is  
1 2 amended to read as follows:  
1 3 4. Following a respondent's discharge from a facility or  
1 4 from treatment, the administrator of the facility shall  
1 5 immediately report that fact to the court which ordered the  
1 6 respondent's commitment or treatment. The court shall issue  
1 7 an order confirming the respondent's discharge from the  
1 8 facility or from treatment, as the case may be, and shall  
1 9 terminate the proceedings pursuant to which the order was  
1 10 issued. Copies of the order shall be sent by

~~certified~~

1 11 regular mail to the facility and the respondent.  
1 12 Sec. 2. Section [229.16](#), Code 1999, is amended to read as  
1 13 follows:  
1 14 229.16 DISCHARGE AND TERMINATION OF PROCEEDING.  
1 15 When the condition of a patient who is hospitalized under  
1 16 section 229.14, subsection 2, or is receiving treatment under  
1 17 section 229.14, subsection 3, or is in full-time care and  
1 18 custody under section 229.14, subsection 4, is such that in  
1 19 the opinion of the chief medical officer the patient no longer  
1 20 requires treatment or care for serious mental impairment, the  
1 21 chief medical officer shall tentatively discharge the patient  
1 22 and immediately report that fact to the court which ordered  
1 23 the patient's hospitalization or care and custody. The court  
1 24 shall thereupon issue an order confirming the patient's  
1 25 discharge from the hospital or from care and custody, as the  
1 26 case may be, and shall terminate the proceedings pursuant to  
1 27 which the order was issued. Copies of the order shall be sent  
1 28 by

~~certified~~

~~regular~~ mail to the hospital, the patient, and  
1 29 the applicant if the applicant has filed a written waiver  
1 30 signed by the patient.  
1 31 Sec. 3. Section [321A.12](#), subsection 1, Code 1999, is  
1 32 amended to read as follows:  
1 33 1. Whenever any person fails within sixty days to satisfy  
1 34 any judgment, it shall be the duty of the clerk of the  
1 35 district court, or of the judge of a court which has no clerk,  
2 1 in which any such judgment is rendered within this state, to  
2 2 forward to the department immediately after the expiration of  
2 3

~~said~~

~~the sixty days and upon written request of the judgment~~  
2 4 creditor, a certified copy of such judgment.  
2 5 Sec. 4. Section [602.1215](#), subsection 1, Code 1999, is  
2 6 amended to read as follows:  
2 7 1. The district judges of each judicial election district  
2 8 shall by majority vote appoint persons to serve as clerks of  
2 9 the district court, one for each county within the judicial  
2 10 election district.

~~A person does not qualify for appointment~~

2 11

~~to the office of clerk of the district court unless the person~~

2 12

~~is at the time of application a resident of the state. Within~~

2 13

~~three months of appointment the clerk of the district court~~

2 14

~~must establish residence and physically reside in the county.~~

2 15 A clerk of the district court may be removed from office for  
2 16 cause by a majority vote of the district judges of the  
2 17 judicial election district. Before removal, the clerk of the  
2 18 district court shall be notified of the cause for removal.

2 19 Sec. 5. Section [602.8103](#), Code 1999, is amended by adding  
2 20 the following new subsection:

2 21 NEW SUBSECTION. 6. Establish and maintain a procedure to  
2 22 setoff against amounts held by the clerk of the district court  
2 23 and payable to the person any debt which is in the form of a  
2 24 liquidated sum due, owing and payable to the clerk. The  
2 25 procedure shall meet all of the following conditions:

2 26 a. Before setoff, the clerk shall provide written notice  
2 27 to the debtor of the clerk's claim to all or a portion of the  
2 28 amount held by the clerk for the debtor and the clerk's right  
2 29 to recover the amount of the claim through the setoff  
2 30 procedure, the opportunity to request in writing, that a  
2 31 jointly or commonly owned right to payment be divided among  
2 32 owners, and the opportunity to give written notice to the  
2 33 clerk of the district court of the person's intent to contest  
2 34 the amount of the claim. The debtor must file a notice of  
2 35 intent to contest the claim within fifteen days after the  
3 1 mailing of the notice of claim by the clerk or, if the notice  
3 2 of claim was provided by the clerk at the time the debtor  
3 3 appeared in the clerk's office to claim payment, within  
3 4 fifteen days of that date.

3 5 b. Upon the request of the debtor or the owner of a  
3 6 jointly or commonly owned right to payment, the clerk of the  
3 7 district court shall divide the payment. Unless otherwise  
3 8 stated in a judgment or court order, any jointly or commonly  
3 9 owned right to payment is presumed to be owned in equal  
3 10 portions by joint or common owners.

3 11 c. Upon timely filing of a notice of intent to contest the  
3 12 setoff, the matter shall be set for hearing before a judge or  
3 13 magistrate. The clerk shall notify the debtor in writing of  
3 14 the time and date of the hearing.

3 15 d. If the claim is not contested or upon final  
3 16 determination of a contested claim authorizing a setoff, the  
3 17 clerk shall setoff the debt against any amount the clerk is  
3 18 holding for payment to the debtor and pay any balance of the  
3 19 amount to the debtor. The amount setoff shall be applied by  
3 20 the clerk of the district court according to the order of  
3 21 priority set out in section 602.8107, subsection 2.

3 22 Sec. 6. Section [622A.3](#), Code 1999, is amended to read as  
3 23 follows:

3 24 622A.3 COSTS WHEN TAXED.

3 25 1. An interpreter shall be appointed without expense to  
3 26 the person requiring assistance in the following cases:

3 27

- a. If the person requiring assistance is a witness in  
3 28 the civil legal proceeding.  
3 29

~~2~~

- b. If the person requiring assistance is indigent and  
3 30 financially unable to secure an interpreter.  
3 31 2. In civil cases, every court shall tax the cost of an  
3 32 interpreter the same as other court costs. In criminal cases,  
3 33 where the defendant is indigent, the interpreter shall be  
3 34 considered as a defendant's witness under R.Cr.P. 14 for the  
3 35 purpose of receiving fees, except that subpoenas shall not be  
4 1 required. If the proceeding is before an administrative  
4 2 agency, that agency shall provide such interpreter but may  
4 3 require that a party to the proceeding pay the expense  
4 4 thereof.

4 5 3. Moneys recovered as court costs for interpreters paid  
4 6 through the revolving fund established in section 602.1302,  
4 7 subsection 3, shall be deposited in that fund.

4 8 Sec. 7. Section [622A.4](#), Code 1999, is amended to read as  
4 9 follows:

4 10 622A.4 FEE SET BY COURT PAYMENT.

4 11 Every interpreter appointed by a court or administrative  
4 12 agency shall receive a fee to be set by the court or  
4 13 administrative agency. If the interpreter is appointed by the  
4 14 court in a civil case for a person who is indigent and unable  
4 15 to secure an interpreter, the fee for the interpreter shall be  
4 16 paid from the revolving fund established in section 602.1302,  
4 17 subsection 3.

4 18 Sec. 8. Section [624.37](#), Code 1999, is amended to read as  
4 19 follows:

4 20 624.37 SATISFACTION OF JUDGMENT PENALTY.

4 21 When the amount due upon judgment is paid off, or satisfied  
4 22 in full, the party entitled to the proceeds thereof, or those  
4 23 acting for that party, must acknowledge satisfaction

~~thereof~~

-  
4 24

~~upon the record of such judgment, or~~  
- ~~of the judgment~~ by the

4 25 execution of an instrument referring to it, duly acknowledged  
4 26 and filed in the office of the clerk in every county wherein  
4 27 the judgment is a lien. A failure to do so within thirty days  
4 28 after having been requested in writing shall subject the  
4 29 delinquent party to a penalty of one hundred dollars plus  
4 30 reasonable attorney fees incurred by the party aggrieved, to  
4 31 be recovered in an action for the satisfaction or  
4 32 acknowledgment by the party aggrieved.

4 33 Sec. 9. Section [631.12](#), Code 1999, is amended to read as  
4 34 follows:

4 35 631.12 ENTRY OF JUDGMENT SETTING ASIDE DEFAULT

5 1 JUDGMENT.

5 2 The

~~judgment shall be entered in a space on the original~~

-  
5 3

~~notice first filed, and the~~

- clerk shall immediately enter the  
5 4 judgment in the small claims docket and district court lien  
5 5 book, without recording. Such relief shall be granted as is  
5 6 appropriate. Upon entering judgment, the court may provide  
5 7 for installment payments to be made directly by the party  
5 8 obligated to the party entitled thereto; and in such event

5 9 execution shall not issue as long as such payments are made  
5 10 but execution shall issue for the full unpaid balance of the  
5 11 judgment upon the filing of an affidavit of default. When  
5 12 entered on the small claims docket and district court lien  
5 13 book, a small claims judgment shall constitute a lien to the  
5 14 same extent as regular judgments entered on the district court  
5 15 judgment docket and lien book; but if a small claims judgment  
5 16 requires installment payments, it shall not be enforceable  
5 17 until an affidavit of default is filed.

5 18 A defendant may move to set aside a default judgment in the  
5 19 manner provided for doing so in district court by rule of  
5 20 civil procedure 236.

5 21 Sec. 10. Section [633.48](#), Code 1999, is amended to read as  
5 22 follows:

5 23 633.48 CERTIFIED COPIES AFFECTING FOREIGN REAL ESTATE.

5 24 A certified copy of any proceedings, order, judgment, or  
5 25 deed, affecting real estate in any county other than that in  
5 26 which administration or conservatorship is originally granted,  
5 27 shall be furnished to the clerk of the court of the county  
5 28 where such real estate is situated

~~, and shall by~~

~~Upon~~

5 29 receipt of the certified copy, the clerk of court

~~be entered~~

5 30

~~in the Probate Record~~

~~shall assign a probate case number to~~

5 31 the certified copy and file the copy using the name of the  
5 32 probate proceeding in the county sending the copy. The file  
5 33 created by the county receiving a certified copy as provided  
5 34 in this section shall not be considered an active file for  
5 35 administrative purposes.

6 1 Sec. 11. Section [633.51](#), Code 1999, is amended to read as  
6 2 follows:

6 3 633.51 CERTIFIED COPY RECORDED.

6 4 The clerk of the court to which the proceedings are  
6 5 transferred shall

~~record at length~~

~~file,~~

~~in the probate record~~

6 6 within a new file of the clerk's county, the certified copy of  
6 7 the record entries referred to in section

~~633.49~~

~~633.50.~~

6 8 Sec. 12. Section [811.4](#), Code 1999, is amended to read as  
6 9 follows:

6 10 811.4 UNDERTAKING OF BAIL AS LIENS ON REAL ESTATE.

6 11 Undertakings of bail, immediately after such undertakings  
6 12 are filed with the clerk of the district court, shall be  
6 13 docketed as liens on real estate, entered upon the lien index  
6 14 as required for judgments in civil cases, and from the time of  
6 15 such entries, shall be liens upon real estate of the persons  
6 16 executing the same. Attested copies of such undertakings may  
6 17 be filed in the office of the clerk of the district court of  
6 18 the county in which the real estate is situated, in the same  
6 19 manner and with like effect as attested copies of civil  
6 20 judgments, and shall be immediately docketed and indexed in  
6 21 the same manner. However, the provisions of this section  
6 22 shall not apply to unsecured appearance bonds unless the

6 23 court, for good cause shown, enters an order subjecting an  
6 24 unsecured appearance bond to the requirements of this section.

6 25 Sec. 13. Section [811.9](#), Code 1999, is amended to read as  
6 26 follows:

6 27 811.9 FORFEITURE OF APPEARANCE BOND.

6 28 Sections 811.6 through 811.8 shall not apply in a case  
6 29 where a simple misdemeanor is charged upon a uniform citation  
6 30 and complaint and where the defendant has submitted an  
6 31 unsecured appearance bond or has submitted bail in the form of  
6 32 cash, check, credit card as provided in section 805.14, or  
6 33 guaranteed arrest bond certificate as defined in section  
6 34 321.1. When a defendant fails to appear as required in such  
6 35 cases, the court, or the clerk of the district court, shall  
7 1 enter a judgment of forfeiture of the bond or bail. The  
7 2 judgment shall be final upon entry and shall not be set aside.

7 3 Sec. 14. Section [633.29](#), Code 1999, is repealed.

7 4 EXPLANATION

7 5 This bill makes several changes governing the duties and  
7 6 responsibilities of clerks of the district court and makes  
7 7 other changes concerning the administration of the judicial  
7 8 system.

7 9 Code sections 125.85 and 229.16 are amended to permit the  
7 10 clerk of the district court to send copies of an order  
7 11 discharging a patient from a substance abuse or mental illness  
7 12 facility by regular, rather than certified, mail.

7 13 Code section 321A.12 is amended to provide that the clerk  
7 14 of the district court shall notify the department of  
7 15 transportation of an unsatisfied civil judgment relating to  
7 16 vehicle financial responsibility only upon written request of  
7 17 the judgment creditor when the judgment obligee fails to  
7 18 satisfy the judgment within 60 days of the judgment.

7 19 Code section 602.1215 is amended to eliminate the state  
7 20 residency requirement for persons applying for the position of  
7 21 clerk of the district court and the county residency  
7 22 requirement for persons appointed clerk.

7 23 New subsection 6 to Code section 602.8103 gives the clerk  
7 24 of the district court the authority to setoff any moneys held  
7 25 by the clerk which is owed to a person against any sum owed to  
7 26 the clerk by that person.

7 27 Code sections 622A.3 and 622A.4 are amended to authorize  
7 28 the payment of interpreter fees in civil cases out of the jury  
7 29 and witness fund when a person requiring assistance is  
7 30 indigent and unable to secure an interpreter. The jury and  
7 31 witness fund shall be repaid from court costs collected which  
7 32 represent interpreter fees paid from the fund.

7 33 Code section 624.37 is amended to eliminate the ability of  
7 34 a prevailing party to acknowledge satisfaction of a judgment  
7 35 by entering it on the court's record or docket. The ability  
8 1 of a prevailing party to acknowledge satisfaction by executing  
8 2 an instrument referring to it and then filed where the  
8 3 judgment is a lien is retained.

8 4 Code section 631.12 is amended to delete the requirement  
8 5 that a small claims judgment be entered on a space on the  
8 6 original notice first filed.

8 7 Code section 633.29, providing for the creation by the  
8 8 clerk of court of a book known as the probate record, is  
8 9 repealed. Code sections 633.48 and 633.51 are amended to  
8 10 delete references to the probate record while retaining the  
8 11 requirement of the clerk to file the certified copy received.

8 12 Code section 811.4 is amended to provide that unsecured  
8 13 appearance bonds are to be entered on the lien index and  
8 14 treated like other undertakings of bail only upon order to the  
8 15 court for good cause shown.

8 16 Code section 811.9 is amended to permit the clerk of the  
8 17 district court to enter conviction and judgment when a  
8 18 defendant fails to appear when charged by a uniform citation  
8 19 and complaint.

8 20 LSB 1282DP 78  
8 21 ec/gg/8.1