

# House Study Bill 719

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL BRANCH  
BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

1 An Act relating to the judicial branch and court administration  
2 and procedure and providing a penalty.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 5301DP 81  
5 rh/gg/14

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1 1 Section 1. Section 232.133, subsection 2, Code 2005, is  
1 2 amended to read as follows:  
1 3 2. Except for appeals from ~~final~~ orders entered in child  
1 4 in need of assistance proceedings or ~~final~~ orders entered  
1 5 pursuant to section 232.117, appellate procedures shall be  
1 6 governed by the same provisions applicable to appeals from the  
1 7 district court. The supreme court may prescribe rules to  
1 8 expedite the resolution of appeals from final orders entered  
1 9 in child in need of assistance proceedings or ~~final~~ orders  
1 10 entered pursuant to section 232.117.  
1 11 Sec. 2. Section 236.5, subsection 5, Code 2005, is amended  
1 12 to read as follows:  
1 13 5. A copy of any order or approved consent agreement shall  
1 14 be issued to the plaintiff, the defendant, the county sheriff  
1 15 ~~having jurisdiction to enforce the order or consent agreement~~  
1 16 of the county in which the order or consent decree is  
1 17 initially entered, and the twenty-four hour dispatcher for the  
1 18 county sheriff. Any subsequent amendment or revocation of an  
1 19 order or consent agreement shall be forwarded by the clerk to  
1 20 all individuals and the county sheriff previously notified.  
1 21 The clerk shall notify the county sheriff and the twenty-four  
1 22 hour dispatcher for the county sheriff in writing so that the  
1 23 county sheriff and the county sheriff's dispatcher receive  
1 24 written notice within six hours of filing the order, approved  
1 25 consent agreement, amendment, or revocation. The clerk may  
1 26 fulfill this requirement by sending the notice by facsimile or  
1 27 other electronic transmission which reproduces the notice in  
1 28 writing within six hours of filing the order. The county  
1 29 sheriff's dispatcher shall notify all law enforcement agencies  
1 30 having jurisdiction over the matter and the twenty-four hour  
1 31 dispatcher for the law enforcement agencies upon notification  
1 32 by the clerk.  
1 33 Sec. 3. Section 558.66, unnumbered paragraph 1, Code 2005,  
1 34 is amended to read as follows:  
1 35 Upon receipt of a certificate ~~from issued by~~ the clerk of  
2 1 the district court or ~~an appellate clerk of the supreme~~ court  
2 2 indicating that the title to real estate has been finally  
2 3 established in any named person by judgment or decree or by  
2 4 will or by affidavit of or on behalf of a surviving spouse  
2 5 that has been recorded by the recorder, the auditor shall  
2 6 enter the information in the certificate upon the transfer  
2 7 books, upon payment of a fee in the amount specified in  
2 8 section 331.507, subsection 2, paragraph "a". ~~In the case of~~  
2 9 ~~a certificate from the clerk of the district court or an~~  
2 10 ~~appellate court, the fee shall be taxed as court costs,~~  
2 11 ~~collected by the clerk, and paid to the treasurer as provided~~  
2 12 ~~in section 331.902, subsection 3.~~ In the case of the  
2 13 affidavit filed with the recorder, the fee set forth in  
2 14 section 331.507, subsection 2, paragraph "a", and the fee set  
2 15 forth in section 331.604, shall be collected by the recorder  
2 16 and paid to the treasurer as provided in section 331.902,  
2 17 subsection 3.  
2 18 Sec. 4. Section 602.3101, subsection 2, Code 2005, is  
2 19 amended to read as follows:

2 20 2. The state court administrator or a designee of the  
2 21 state court administrator shall act as ~~secretary~~ administrator  
2 22 to the board.

2 23 Sec. 5. Section 602.4102, subsection 5, Code 2005, is  
2 24 amended to read as follows:

2 25 5. The court of appeals shall extend the time for filing  
2 26 of an application if the court of appeals determines that a  
2 27 failure to timely file an application was due to the failure  
2 28 of the clerk of the court of appeals to notify the prospective  
2 29 applicant of the filing of the decision. ~~If an application  
2 30 for further review is not acted upon by the supreme court  
2 31 within thirty days after the application was filed, the  
2 32 application is deemed denied, the supreme court loses  
2 33 jurisdiction, and the decision of the court of appeals is  
2 34 conclusive.~~

2 35 Sec. 6. Section 602.5106, subsection 2, Code 2005, is  
3 1 amended to read as follows:

3 2 2. A decision of the court of appeals is final and shall  
3 3 not be reviewed by any other court except upon the granting by  
3 4 the supreme court of an application for further review as  
3 5 provided in section 602.4102. Upon the filing of the  
3 6 application, the judgment and mandate of the court of appeals  
3 7 is stayed pending action of the supreme court ~~or until the  
3 8 expiration of the time specified in section 602.4102,  
3 9 subsections 4 and 5.~~

3 10 Sec. 7. Section 602.6401, subsection 2, Code Supplement  
3 11 2005, is amended to read as follows:

3 12 2. By February of each year in which magistrates' terms  
3 13 expire, the state court administrator shall apportion  
3 14 magistrate offices among the counties in accordance with the  
3 15 following criteria:

3 16 ~~a. The number and type of proceedings contained in the  
3 17 administrative reports required by section 602.6606.~~

3 18 ~~b. a.~~ The existence of either permanent, temporary, or  
3 19 seasonal populations not included in the current census  
3 20 figures.

3 21 ~~c. b.~~ The geographical area to be served.

3 22 ~~d. c.~~ Any inordinate number of cases over which  
3 23 magistrates have jurisdiction that were pending at the end of  
3 24 the preceding year.

3 25 ~~e. d.~~ The number and types of juvenile proceedings  
3 26 handled by district associate judges.

3 27 Sec. 8. Section 602.8102, subsection 44, 79, and 113, Code  
3 28 Supplement 2005, are amended by striking the subsections.

3 29 Sec. 9. Section 602.8102, subsection 106, Code Supplement  
3 30 2005, is amended to read as follows:

3 31 106. Carry out duties relating to the administration of  
3 32 small estates as provided in sections 635.1, 635.7, and 635.9-  
3 33 ~~and 635.11.~~

3 34 Sec. 10. Section 626.16, Code 2005, is amended to read as  
3 35 follows:

4 1 626.16 RECEIPT AND RETURN.

4 2 Every officer ~~to whose hands who receives~~ an execution ~~may~~  
4 3 ~~come~~ shall ~~give~~ provide a receipt ~~therefor~~, if required,  
4 4 stating the hour when the same was received, and shall make  
4 5 sufficient return ~~thereof of the execution~~, together with the  
4 6 money collected, on or before the ~~seventieth~~ one hundred  
4 7 ~~twentieth~~ day from the date of its issuance.

4 8 Sec. 11. Section 633.305, Code 2005, is amended to read as  
4 9 follows:

4 10 633.305 NOTICE IF NO ADMINISTRATION.

4 11 On admission of a will to probate without administration of  
4 12 the estate, ~~and upon advanced payment of the costs by the~~  
4 13 ~~proponent, the clerk~~ shall cause to be published, in the  
4 14 manner prescribed in the preceding section, a notice of the  
4 15 admission of the will to probate. As soon as practicable  
4 16 following the admission of the will to probate, the proponent  
4 17 shall give notice of the admission of the will to probate by  
4 18 ordinary mail addressed to the surviving spouse, each heir of  
4 19 the decedent, and each devisee under the will admitted to  
4 20 probate whose identities are reasonably ascertainable, at such  
4 21 persons' last known addresses. The notice of the admission of  
4 22 the will to probate shall include a notice that any action to  
4 23 set aside the will must be brought within the later to occur  
4 24 of four months from the date of the second publication of the  
4 25 notice or one month from the date of mailing of this notice,  
4 26 or thereafter be barred.

4 27 As used in this section, "heir" means only such person as  
4 28 would, in an intestate estate, be entitled to a share under  
4 29 section 633.219.

4 30 The notice shall be substantially in the following form:

4 31 Notice of Proof of Will Without Administration  
4 32 In the District Court of Iowa  
4 33 in and for .... County. Probate No.  
4 34 .....  
4 35 In the Estate of ....., Deceased  
5 1 To All Persons Interested in the Estate of ....., Deceased,  
5 2 who died on or about ..... (date):  
5 3 You are hereby notified that on the .... day of .....  
5 4 (month), ... (year), the last will and testament of .....,  
5 5 deceased, bearing date of the .... day of ..... (month), ...  
5 6 (year), was admitted to probate in the above named court and  
5 7 there will be no present administration of the estate. Any  
5 8 action to set aside the will must be brought in the district  
5 9 court of the county within the later to occur of four months  
5 10 from the date of the second publication of this notice or one  
5 11 month from the date of mailing of this notice to all heirs of  
5 12 the decedent and devisees under the will whose identities are  
5 13 reasonably ascertainable, or thereafter be forever barred.  
5 14 Dated this ..... day of ..... (month), ... (year)  
5 15 .....  
5 16 ~~Clerk of the district court~~ Proponent  
5 17 .....  
5 18 Attorney for estate  
5 19 .....  
5 20 Address  
5 21 Date of second publication  
5 22 .... day of ..... (month), ... (year)  
5 23 (Date to be inserted by publisher)  
5 24 Sec. 12. Section 642.23, unnumbered paragraph 1, Code  
5 25 2005, is amended to read as follows:  
5 26 Notwithstanding the ~~seventy-day~~ one hundred twenty-day  
5 27 period in section 626.16 for the return of an execution in  
5 28 garnishment for the payment of a support obligation, the  
5 29 sheriff shall promptly deposit any amounts collected with the  
5 30 clerk of the district court, and the clerk shall disburse the  
5 31 amounts, after subtracting applicable fees, within two working  
5 32 days of the filing of an order condemning funds as follows:  
5 33 Sec. 13. Section 648.5, Code 2005, is amended to read as  
5 34 follows:  
5 35 648.5 JURISDICTION == HEARING == PERSONAL SERVICE.  
6 1 The court within the county shall have jurisdiction of  
6 2 actions for forcible entry and detainer. They shall be tried  
6 3 as equitable actions. Unless commenced as a small claim, a  
6 4 petition shall be presented to a district court judge. Upon  
6 5 receipt of the petition, the court shall order a hearing which  
6 6 shall not be later than ~~seven~~ fourteen days from the date of  
6 7 the order. Personal service shall be made upon the defendant  
6 8 not less than three days prior to the hearing. In the event  
6 9 that personal service cannot be completed in time to give the  
6 10 defendant the minimum notice required by this section, the  
6 11 court may set a new hearing date. A default cannot be made  
6 12 upon a defendant unless the three days' notice has been given.  
6 13 Sec. 14. Section 655.4, Code 2005, is amended to read as  
6 14 follows:  
6 15 655.4 ENTRY OF FORECLOSURE.  
6 16 When a judgment of foreclosure is entered in any court, the  
6 17 ~~clerk mortgagee~~ shall record with the recorder an instrument  
6 18 in writing referring to the mortgage and duly acknowledging  
6 19 that the mortgage was foreclosed and giving the date of the  
6 20 decree. A mortgagee who fails to record such instrument  
6 21 within thirty days of receiving a written request to record  
6 22 shall be subject to a penalty of one hundred dollars plus  
6 23 reasonable attorney fees incurred by the party aggrieved, to  
6 24 be recovered in an action for the satisfaction or  
6 25 acknowledgement by the party aggrieved. The fee for recording  
6 26 and indexing an instrument shall be as provided in section  
6 27 331.604.  
6 28 Sec. 15. Section 655.5, Code 2005, is amended to read as  
6 29 follows:  
6 30 655.5 INSTRUMENT OF SATISFACTION.  
6 31 When the judgment is fully paid and satisfied upon the  
6 32 judgment docket of the court, the ~~clerk mortgagee~~ shall record  
6 33 with the recorder an instrument in writing, referring to the  
6 34 mortgage and duly acknowledging a satisfaction of the  
6 35 mortgage. A mortgagee who fails to record such instrument  
7 1 within thirty days of receiving a written request to record  
7 2 shall be subject to a penalty of one hundred dollars plus  
7 3 reasonable attorney fees incurred by the party aggrieved, to  
7 4 be recovered in an action for the satisfaction or  
7 5 acknowledgement by the party aggrieved. The fee for recording  
7 6 and indexing an instrument shall be as provided in section

7 7 331.604.

7 8 Sec. 16. Sections 602.6605, 602.6606, and 635.11, Code  
7 9 2005, are repealed.

7 10 EXPLANATION

7 11 This bill relates to the judicial branch and court  
7 12 administration and procedure.

7 13 The bill expands the supreme court's authority to adopt  
7 14 rules relating to expedited time frames for appeals from  
7 15 interlocutory orders entered in child in need of assistance  
7 16 proceedings or termination of parental rights orders entered  
7 17 pursuant to Code section 232.117. Current law limits the  
7 18 supreme court's authority to adopt rules to expedite the  
7 19 resolution of appeals from final orders only.

7 20 The bill specifies that the clerk of court shall send a  
7 21 copy of any order or approved consent agreement in a domestic  
7 22 abuse case to the county sheriff of the county in which the  
7 23 order or consent decree is initially entered.

7 24 The bill eliminates the requirement that a clerk of court  
7 25 serve as a collection agent for the fee involved in recording  
7 26 a transfer of title to real estate.

7 27 The bill identifies the state court administrator as the  
7 28 administrator of the board of shorthand reporters.

7 29 The bill eliminates the 30-day deadline for action by the  
7 30 supreme court on applications for further review.

7 31 The bill extends the period of time in which an execution  
7 32 of judgment is made for recovery of a judgment from 70 days to  
7 33 120 days.

7 34 The bill amends the procedure for publication of a notice  
7 35 of an estate without administration by placing the  
8 1 responsibility with the proponent of the estate instead of  
8 2 with the clerk of court.

8 3 The bill extends the time period for holding a hearing for  
8 4 a forcible entry and detainer action from 7 to 14 days after  
8 5 the date of scheduling.

8 6 The bill establishes a procedure for prompt recording of  
8 7 foreclosures and satisfaction of foreclosures by the mortgagee  
8 8 instead of by the clerk of court, and establishes a monetary  
8 9 penalty of \$100 for failure to record.

8 10 The bill eliminates obsolete language concerning jail time  
8 11 reports by clerks of court and magistrate and judge reporting  
8 12 requirements, and provides other corrective amendments  
8 13 consistent with the amendments in the bill.

8 14 LSB 5301DP 81

8 15 rh:rj/gg/14.1