

House File 366 - Introduced

HOUSE FILE 366
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 35)

A BILL FOR

1 An Act relating to proper parties in causes of actions
2 following the death of persons entitled or liable to such
3 causes of actions and including applicability provisions.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 611.22, Code 2021, is amended to read as
2 follows:

3 **611.22 Actions by or against legal representatives —**
4 **substitution.**

5 Any action contemplated in **sections 611.20 and 611.21** may
6 be brought, or the court, on motion, may allow the action
7 to be continued, by or against the legal representatives or
8 successors in interest of the deceased. Such action shall
9 be deemed a continuing one, and to have accrued to such
10 representative or successor at the time it would have accrued
11 to the deceased if the deceased had survived. If such is
12 continued against the legal representative or successor in
13 interest of the defendant, a notice shall be served ~~on the~~
14 ~~legal representative~~ as in case of original notices. If such
15 an action by the deceased is allowed to be continued, then the
16 court shall appoint a personal representative for the deceased
17 as defined in section 633.3 or shall allow a successor under
18 section 633.356 to continue the action.

19 Sec. 2. APPLICABILITY. This Act applies to actions that
20 arise on or after July 1, 2021.

21 EXPLANATION

22 The inclusion of this explanation does not constitute agreement with
23 the explanation's substance by the members of the general assembly.

24 Current law allows a deceased person's legal representative
25 or successor in interest to bring, or with approval of the
26 court continue, certain actions described in Code sections
27 611.20 and 611.21 of the deceased. This bill provides that
28 if such an action by the deceased is allowed to be continued,
29 then the court shall appoint a personal representative for the
30 deceased or shall allow a successor to continue the action.
31 Personal representative is defined to mean the executor or
32 administrator of the deceased person's estate, and a successor
33 is defined as the reasonably ascertainable beneficiary or
34 beneficiaries who succeeded to the item of property under the
35 decedent's will, if the decedent died testate; if the decedent

1 died intestate, the reasonably ascertainable person or persons
2 who succeeded to the property under the laws of intestate
3 succession of this state; and if the decedent received medical
4 assistance benefits from the state, the Iowa Medicaid agency
5 that provided the benefits.

6 Code section 611.20 provides that all causes of actions
7 shall survive and may be brought notwithstanding the death of
8 the persons entitled or liable to the same, and Code section
9 611.21 provides that the right of civil remedy is not merged in
10 a public offense and is not restricted for other violation of
11 law, but may be enforced independently of and in addition to
12 the punishment of the former.

13 The bill applies to actions that arise on or after July 1,
14 2021.