

Senate File 2098 - Reprinted

SENATE FILE 2098
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3010)

(As Amended and Passed by the Senate February 19, 2018)

A BILL FOR

1 An Act relating to probate, by amending the probate powers
2 of the clerk and conforming the probate procedures to
3 electronic data management systems standards.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 633.22, Code 2018, is amended to read as
2 follows:

3 **633.22 Probate powers of clerk.**

4 The clerk shall have and may exercise within the county
5 all the powers and jurisdiction of the court and of the judge
6 thereof, in the following matters:

7 ~~1. The appointment of personal representatives who are
8 residents of the state, guardians and conservators for minors,
9 the fixing and determining of the amount of the bond, or
10 waiving the same when permitted by law or by will, and the
11 approval of any and all bonds given by fiduciaries in the
12 discharge of their duties.~~

13 ~~2.~~ 1. The examination and approval of all intermediate and
14 interlocutory accounts and reports of fiduciaries under this
15 chapter and converting and closing small estates under chapter
16 635.

17 ~~3. The admission of wills of decedents to probate, when
18 not contested, and the making of necessary orders in relation
19 thereto, including orders for the issuance of commissions to
20 take depositions. Proof may be made before the clerk in the
21 same manner as is made in open court.~~

22 ~~4. The making of all necessary orders in relation to the
23 personal effects of a deceased person, where no objection
24 is filed, and perform all other acts within the clerk's
25 jurisdiction, as provided in this probate code.~~

26 ~~5. The approval, when notice has been waived by all persons
27 interested, of petitions and reports, or joint petitions and
28 reports, in respect to the sale, mortgage, pledge, lease or
29 exchange of property pursuant to ~~sections 633.386 to 633.400.~~~~

30 ~~6.~~ 2. The entering of routine scheduling orders in probate
31 matters as established by the chief judge in each judicial
32 district.

33 Sec. 2. Section 633.27, Code 2018, is amended to read as
34 follows:

35 **633.27 Probate docket.**

1 The clerk shall keep ~~a book~~ an electronic record to be known
2 as the "Probate Docket", which shall show:

3 1. The name of every deceased person whose estate is
4 administered or whose will is admitted to probate, and the date
5 of the person's death.

6 2. The name of each person as to whom application for
7 conservatorship or guardianship is made.

8 3. The names of all the heirs in intestate estates and the
9 surviving spouse of such deceased intestate, and ~~their ages~~
10 whether each person is an adult or a minor and places each
11 person's place of residence, so far as they can be ascertained.

12 4. The title of each trust described in [section 633.10](#)
13 that has not been released by the court from continuous court
14 supervision.

15 5. A note of every sale of real estate made under the order
16 of the court, ~~with a reference to the volume and page of the~~
17 ~~record where a complete record thereof may be found.~~

18 Sec. 3. Section 633.42, Code 2018, is amended to read as
19 follows:

20 **633.42 Requests for notice.**

21 1. At any time after the issuance of letters of appointment,
22 any interested person in the proceeding may file with the
23 clerk a written request for notice of the time and place of
24 all hearings in such proceeding for which notice is required
25 by law, by rule of court, or by an order in such proceeding.
26 The request for notice shall state the name, ~~electronic mail~~
27 ~~address, and post office address~~ of the requester, and the
28 name of the requester's attorney, if any, and the reason the
29 requester is an interested person in the proceeding. The
30 request for notice shall provide the requester's post office
31 address, and if available, the requester's electronic mail
32 address and telephone number. The request for notice shall
33 also provide the requester's attorney's post office address,
34 electronic mail address, and telephone number. The clerk shall
35 docket the request. Thereafter, unless otherwise ordered by

1 the court, the fiduciary shall serve by ordinary or electronic
2 mail a notice of each hearing upon such requester and the
3 requester's attorney, if any.

4 2. A person does not gain standing by filing a request for
5 notice under [this section](#).

6 Sec. 4. Section 633.82, Code 2018, is amended to read as
7 follows:

8 **633.82 Designation of attorney.**

9 The designation of the attorney employed by the fiduciary
10 to assist in the administration of the estate shall be filed
11 in the estate proceedings. The designation shall state the
12 attorney's name, post office address, electronic mail address,
13 and telephone number. The designation shall clearly state
14 the name of the attorney who is in charge of the case and the
15 attorney's name shall not be listed by firm name only.

16 Sec. 5. Section 633.306, Code 2018, is amended to read as
17 follows:

18 **633.306 Record in foreign county.**

19 Whenever it shall appear that the testator died seized of
20 real estate located in a county of this state other than that
21 in which probate is granted, a complete transcript, properly
22 authenticated, of the record entry of the order of court
23 admitting the will to probate, and, if a copy of such will is
24 not contained therein, a certified copy of such will shall be
25 attached thereto, and the same shall be filed by the clerk in
26 the office of the clerk of the district court in such other
27 county, who shall cause the same to be entered in the probate
28 docket, and said transcript shall be recorded in full in the
29 ~~book~~ electronic record kept for the recording of wills in such
30 county. When so recorded, such record may be read in evidence
31 in all courts without further proof.

32 Sec. 6. Section 633.418, Code 2018, is amended to read as
33 follows:

34 **633.418 Form and verification of claims — general**
35 **requirements.**

1 No claim shall be allowed against an estate on application of
2 the claimant unless it shall be in writing, filed ~~in duplicate~~
3 with the clerk, stating the claimant's name, and address, and
4 if available, telephone number and electronic mail address,
5 describing the nature and the amount thereof, if ascertainable,
6 and accompanied by the affidavit of the claimant, or someone
7 for the claimant, that the amount is justly due, or if not yet
8 due, when it will or may become due, that no payments have been
9 made thereon which are not credited, and that there are no
10 offsets to the same, to the knowledge of the affiant, except as
11 therein stated. If the claim is contingent, the nature of the
12 contingency shall also be stated. ~~The duplicate of said claim~~
13 ~~shall be mailed by the clerk to the personal representative or~~
14 ~~the personal representative's attorney of record.~~

15 Sec. 7. REPEAL. Section 633.72, Code 2018, is repealed.

16 Sec. 8. APPLICABILITY. The following apply July 1, 2018, to
17 actions of the clerk of the probate court completed on or after
18 that date:

- 19 1. The section of this Act amending section 633.22.
- 20 2. The section of this Act amending section 633.27.
- 21 3. The section of this Act amending section 633.306.

22 Sec. 9. APPLICABILITY. The following applies July 1, 2018,
23 to notices served on or after that date:

24 The section of this Act repealing section 633.72.

25 Sec. 10. APPLICABILITY. The following apply July 1, 2018,
26 to probate filings made on or after that date:

- 27 1. The section of this Act amending section 633.42.
- 28 2. The section of this Act amending section 633.82.
- 29 3. The section of this Act amending section 633.418.