

CHAPTER 1115
JUDICIAL ADMINISTRATION
S.F. 2235

AN ACT concerning judicial administration and providing an effective date.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 2B.5, subsection 2, Code 1997, is amended to read as follows:

2. Cause the Iowa court rules to be published, as directed by the supreme court after consultation with the legislative council. The Iowa court rules shall consist of all rules prescribed by the supreme court. The court rules shall be published in loose-leaf form, ~~appropriately indexed~~, and supplements shall be prepared and distributed as directed by the supreme court. The Iowa court rules and supplements to the court rules shall be priced as provided in section 7A.22.

Sec. 2. Section 2B.10, subsection 3, Code 1997, is amended by striking the subsection.

Sec. 3. Section 235A.15, subsection 2, paragraph d, subparagraph (5), Code Supplement 1997, is amended to read as follows:

(5) To a probation or parole officer, juvenile court officer, court-appointed special advocate as defined in section 232.2, or adult correctional officer having custody or supervision of, or conducting an investigation for a court or the board of parole regarding, a person named in a report as a victim of child abuse or as having abused a child.

Sec. 4. Section 421.17, subsection 29, paragraph g, Code Supplement 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. However, upon submission of an allegation of the liability of a person which is owing and payable to the clerk of the district court and upon the determination by the department that the person allegedly liable is entitled to payment from a state agency, the department shall send written notification to the person which states the assertion by the clerk of the district court of rights to all or a portion of the payment, the clerk's entitlement to recover the liability through the setoff procedure, the basis of the assertions, the person's opportunity to request within fifteen days of the mailing of the notice that the department divide a jointly or commonly owned right to payment between owners, the opportunity to contest the liability to the clerk by written application to the clerk within fifteen days of the mailing of the notice, and the person's opportunity to contest the department's setoff procedure.

Sec. 5. Section 421.17, subsection 29, paragraph i, Code Supplement 1997, is amended to read as follows:

i. The department shall, after the state agency has sent notice to the person liable or, if the liability is owing and payable to the clerk of the district court, the department has sent notice to the person liable, set off the amount owed to the agency against any amount which a state agency owes that person. The department shall refund any balance of the amount to the person. The department shall periodically transfer amounts set off to the state agencies entitled to them. If a person liable to a state agency gives written notice of intent to contest an allegation, a state agency shall hold a refund or rebate until final disposition of the allegation. Upon completion of the setoff, a state agency shall notify in writing the person who was liable or, if the liability is owing and payable to the clerk of the district court, shall comply with the procedures as provided in paragraph "k".

Sec. 6. Section 421.17, subsection 29, Code Supplement 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. k. If the alleged liability is owing and payable to the clerk of the district court and setoff as provided in this subsection is sought, all of the following shall apply:

(1) The judicial department shall prescribe procedures to permit a person to contest the amount of the person's liability to the clerk of the district court.

(2) The department shall, except for the procedures described in subparagraph (1), prescribe any other applicable procedures concerning setoff as provided in this subsection.

(3) Upon completion of the setoff, the department shall file, at least monthly, with the clerk of the district court a notice of satisfaction of each obligation to the full extent of all moneys collected in satisfaction of the obligation. The clerk shall record the notice and enter a satisfaction for the amounts collected and no separate written notice is required.

Sec. 7. Section 602.4102, subsections 3 and 5, Code 1997, are amended to read as follows:

3. The supreme court shall prescribe rules for the transfer of matters to the court of appeals. These rules may provide for the selective transfer of individual cases and may provide for the transfer of cases according to subject matter or other general criteria. ~~Rules relating to the transfer of cases are subject to section 602.4202.~~ A rule shall not provide for the transfer of a matter other than by an order of transfer under subsection 2.

5. The supreme court shall prescribe rules of appellate procedure which shall govern further review by the supreme court of decisions of the court of appeals. These rules shall contain, but need not be limited to, a specification of the grounds upon which further review may, in the discretion of the supreme court, be granted. ~~These rules are subject to section 602.4202.~~

Sec. 8. Section 602.4201, Code 1997, is amended to read as follows:

602.4201 RULES GOVERNING ACTIONS AND PROCEEDINGS.

1. The supreme court may prescribe all rules of pleading, practice, evidence, and procedure, and the forms of process, writs, and notices, for all proceedings in all courts of this state, for the purposes of simplifying the proceedings and promoting the speedy determination of litigation upon its merits. ~~Rules are subject to section 602.4202.~~

2. Rules of appellate procedure relating to appeals to and review by the supreme court, discretionary review by the courts of small claims actions, review by the supreme court by writ of certiorari to inferior courts, appeal to or review by the court of appeals of a matter transferred to that court by the supreme court, and further review by the supreme court of decisions of the court of appeals, shall be known as "Rules of Appellate Procedure", and shall be published as provided in section 2B.5.

3. The following rules are subject to section 602.4202:

a. Rules of civil procedure.

b. Rules of criminal procedure.

c. Rules of evidence.

d. Rules of appellate procedure 1 through 9.

e. Rules of probate procedure.

f. Juvenile procedure.

g. Involuntary hospitalization of mentally ill.

h. Involuntary commitment or treatment of substance abusers.

Sec. 9. Section 602.4202, Code 1997, is amended to read as follows:
602.4202 RULEMAKING PROCEDURE.

1. The supreme court shall submit a rule or form prescribed by the supreme court under section 602.4201, subsection 3, or pursuant to any other rulemaking authority specifically made subject to this section to the legislative council and shall at the same time report the rule or form to the chairpersons and ranking members of the senate and house committees on judiciary. The legislative service bureau shall make recommendations to the supreme court on the proper style and format of rules and forms required to be submitted to the legislative council under this subsection.

2. A rule or form submitted as required under subsection 1 takes effect sixty days after submission to the legislative council, or at a later date specified by the supreme court, unless the legislative council, within sixty days after submission and by a majority vote of its members, delays the effective date of the rule or form to a date as provided in subsection 3.

3. The effective date of a rule or form submitted during the period of time beginning February 15 and ending February 14 of the next calendar year may be delayed by the legislative council until May 1 of that next calendar year.

~~4. A rule or form submitted as required under subsection 1 and effective on or before July 1 shall be bound with the Acts of the general assembly meeting in regular session in the calendar year in which the July 1 falls.~~

~~5.~~ 4. If the general assembly enacts a bill changing a rule or form, the general assembly's enactment supersedes a conflicting provision in the rule or form as submitted by the supreme court.

Sec. 10. Section 602.4303, subsection 2, Code 1997, is amended by striking the subsection.

Sec. 11. Section 602.4304, subsection 1, Code 1997, is amended to read as follows:

1. The supreme court may appoint ~~not more than nine~~ attorneys or graduates of a reputable law school to act as legal assistants to the justices of the supreme court.

Sec. 12. Section 602.6301, Code 1997, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

~~There shall be one district associate judge in counties having a population, according to the most recent federal decennial census,~~ of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than two hundred thousand; four in counties having a population of two hundred thousand or more and less than two hundred thirty-five thousand; five in counties having a population of two hundred thirty-five thousand or more and less than two hundred seventy thousand; six in counties having a population of two hundred seventy thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial department. A district associate judge appointed pursuant to section 602.6302 or 602.6303 shall not be counted for purposes of this section.

Sec. 13. Section 602.6304, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A district associate judge who seeks to resign from the office of district associate judge shall notify in writing the chief judge of the judicial district as to the district associate judge's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the actual or impending vacancy in the office of district associate judge due to resignation.

Sec. 14. Section 602.6403, subsection 1, Code 1997, is amended to read as follows:

1. ~~In~~ By June 1 of each year in which magistrates' terms expire, the county magistrate appointing commission shall appoint, except as otherwise provided in section 602.6302, the number of magistrates apportioned to the county by the state court administrator under section 602.6401, and may appoint an additional magistrate when allowed by section 602.6402. The commission shall not appoint more magistrates than are authorized for the county by this article.

Sec. 15. Section 602.6403, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 2A. A magistrate who seeks to resign from the office of magistrate shall notify in writing the chief judge of the judicial district as to the magistrate's intention to resign and the effective date of the resignation. The chief judge of the judicial district, upon receipt of the notice, shall notify the county magistrate appointing commission and the state court administrator of the vacancy in the office of magistrate due to resignation.

Sec. 16. Section 602.8102, Code Supplement 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 126A. Upon the failure of a person charged to appear in person or by counsel to defend against the offense charged pursuant to a uniform citation and complaint as provided in section 805.6, enter a conviction and render a judgment in the amount of the appearance bond in satisfaction of the penalty plus court costs.

Sec. 17. Section 684A.6, Code 1997, is amended to read as follows:
684A.6 PROCEDURE.

The supreme court may prescribe rules of procedure concerning the answering and certification of questions of law under this chapter, ~~subject to section 602-4202.~~

Sec. 18. Section 804.21, subsection 3, Code 1997, is amended to read as follows:

3. If the magistrate who issued the warrant is absent or unable to act, the arrested person shall be taken to the nearest or most accessible magistrate in the judicial district where the offense occurred or a magistrate in an approved judicial district, and all documents on which the warrant was issued must be sent to such magistrate, or if they cannot be procured, the informant and the informant's witnesses must be subpoenaed to make new affidavits. For purposes of this subsection, an "approved judicial district" means, as to any particular arrest of a person described in this subsection, any judicial district in this state in which the chief judge of that judicial district and the chief judge of the judicial district in which the offense occurred have previously entered an order permitting a person arrested or described in this subsection to be taken to a magistrate from any judicial district subject to the order.

Sec. 19. Section 804.22, unnumbered paragraph 1, Code 1997, is amended to read as follows:

When an arrest is made without a warrant, the person arrested shall, without unnecessary delay, be taken before the nearest or most accessible magistrate in the judicial district in which such arrest was made or before a magistrate in an approved judicial district, and the grounds on which the arrest was made shall be stated to the magistrate by complaint, subscribed and sworn to by the complainant, or supported by the complainant's affirmation, and such magistrate shall proceed as follows:

Sec. 20. Section 804.22, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, an "approved judicial district" means, as to any particular arrest of a person made without a warrant, any judicial district in this state in which the chief judge of that judicial district and the chief judge of the judicial district in which the arrest was made have previously entered an order permitting a person arrested without warrant to be taken to a magistrate from any judicial district subject to the order.

Sec. 21. Sections 1, 2, 7, 8, 9, 10, and 17 of this Act, being deemed of immediate importance, take effect upon enactment.

Approved April 17, 1998