

FILED FEB 29 2006

SENATE FILE 2286  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3202)

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:

SENATE FILE 2286

S-5184

1 Amend Senate File 2286 as follows:

2 1. Page 2, by striking lines 23 through 34.

3 2. Page 3, by striking lines 7 through 9 and

4 inserting the following: "is stayed pending action of  
5 the supreme court or until the expiration of the time  
6 specified in section 602.4102, ~~subsections 4 and~~  
7 subsection 5."

8 3. By striking page 5, line 33, through page 6,  
9 line 12.

10 4. By renumbering as necessary.

By PAT WARD

S-5184 FILED APRIL 10, 2006

1 Section 1. Section 232.133, subsection 2, Code 2005, is  
2 amended to read as follows:

3 2. Except for appeals from ~~final~~ orders entered in child  
4 in need of assistance proceedings or ~~final~~ orders entered  
5 pursuant to section 232.117, appellate procedures shall be  
6 governed by the same provisions applicable to appeals from the  
7 district court. The supreme court may prescribe rules to  
8 expedite the resolution of appeals from final orders entered  
9 in child in need of assistance proceedings or ~~final~~ orders  
10 entered pursuant to section 232.117.

11 Sec. 2. Section 236.5, subsection 5, Code 2005, is amended  
12 to read as follows:

13 5. A copy of any order or approved consent agreement shall  
14 be issued to the plaintiff, the defendant, the county sheriff  
15 ~~having jurisdiction to enforce the order or consent agreement~~  
16 of the county in which the order or consent decree is  
17 initially entered, and the twenty-four hour dispatcher for the  
18 county sheriff. Any subsequent amendment or revocation of an  
19 order or consent agreement shall be forwarded by the clerk to  
20 all individuals and the county sheriff previously notified.  
21 The clerk shall notify the county sheriff and the twenty-four  
22 hour dispatcher for the county sheriff in writing so that the  
23 county sheriff and the county sheriff's dispatcher receive  
24 written notice within six hours of filing the order, approved  
25 consent agreement, amendment, or revocation. The clerk may  
26 fulfill this requirement by sending the notice by facsimile or  
27 other electronic transmission which reproduces the notice in  
28 writing within six hours of filing the order. The county  
29 sheriff's dispatcher shall notify all law enforcement agencies  
30 having jurisdiction over the matter and the twenty-four hour  
31 dispatcher for the law enforcement agencies upon notification  
32 by the clerk.

33 Sec. 3. Section 558.66, unnumbered paragraph 1, Code 2005,  
34 is amended to read as follows:

35 Upon receipt of a certificate ~~from~~ issued by the clerk of

1 the district court or ~~an appellate~~ clerk of the supreme court  
2 indicating that the title to real estate has been finally  
3 established in any named person by judgment or decree or by  
4 will or by affidavit of or on behalf of a surviving spouse  
5 that has been recorded by the recorder, the auditor shall  
6 enter the information in the certificate upon the transfer  
7 books, upon payment of a fee in the amount specified in  
8 section 331.507, subsection 2, paragraph "a". ~~In the case of~~  
9 ~~a certificate from the clerk of the district court or an~~  
10 ~~appellate court, the fee shall be taxed as court costs,~~  
11 ~~collected by the clerk, and paid to the treasurer as provided~~  
12 ~~in section 331.902, subsection 3.~~ In the case of the  
13 affidavit filed with the recorder, the fee set forth in  
14 section 331.507, subsection 2, paragraph "a", and the fee set  
15 forth in section 331.604, shall be collected by the recorder  
16 and paid to the treasurer as provided in section 331.902,  
17 subsection 3.

18 Sec. 4. Section 602.3101, subsection 2, Code 2005, is  
19 amended to read as follows:

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

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

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

35 Sec. 6. Section 602.5106, subsection 2, Code 2005, is

1 amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

1 626.16 RECEIPT AND RETURN.

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

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

10 633.305 NOTICE IF NO ADMINISTRATION.

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

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

30 The notice shall be substantially in the following form:

31 Notice of Proof of Will Without Administration  
32 In the District Court of Iowa  
33 in and for .... County. Probate No.  
34 .....  
35 In the Estate of ....., Deceased

1 To All Persons Interested in the Estate of ....., Deceased,  
2 who died on or about ..... (date):

3 You are hereby notified that on the .... day of .....  
4 (month), ... (year), the last will and testament of .....,  
5 deceased, bearing date of the ..... day of ..... (month), ...  
6 (year), was admitted to probate in the above named court and  
7 there will be no present administration of the estate. Any  
8 action to set aside the will must be brought in the district  
9 court of the county within the later to occur of four months  
10 from the date of the second publication of this notice or one  
11 month from the date of mailing of this notice to all heirs of  
12 the decedent and devisees under the will whose identities are  
13 reasonably ascertainable, or thereafter be forever barred.

14 Dated this ..... day of ..... (month), ... (year)  
15 .....  
16 Clerk-of-the-district-court Proponent

17 .....

18 Attorney for estate

19 .....

20 Address

21 Date of second publication

22 .... day of ..... (month), ... (year)

23 (Date to be inserted by publisher)

24 Sec. 12. Section 642.23, unnumbered paragraph 1, Code  
25 2005, is amended to read as follows:

26 Notwithstanding the seventy-day one hundred twenty-day  
27 period in section 626.16 for the return of an execution in  
28 garnishment for the payment of a support obligation, the  
29 sheriff shall promptly deposit any amounts collected with the  
30 clerk of the district court, and the clerk shall disburse the  
31 amounts, after subtracting applicable fees, within two working  
32 days of the filing of an order condemning funds as follows:

33 Sec. 13. Section 648.5, Code 2005, is amended to read as  
34 follows:

35 648.5 JURISDICTION -- HEARING -- PERSONAL SERVICE.

1 The court within the county shall have jurisdiction of  
2 actions for forcible entry and detainer. They shall be tried  
3 as equitable actions. Unless commenced as a small claim, a  
4 petition shall be presented to a district court judge. Upon  
5 receipt of the petition, the court shall order a hearing which  
6 shall not be later than ~~seven~~ fourteen days from the date of  
7 the order. Personal service shall be made upon the defendant  
8 not less than three days prior to the hearing. In the event  
9 that personal service cannot be completed in time to give the  
10 defendant the minimum notice required by this section, the  
11 court may set a new hearing date. A default cannot be made  
12 upon a defendant unless the three days' notice has been given.

13 Sec. 14. Section 655.4, Code 2005, is amended to read as  
14 follows:

15 655.4 ENTRY OF FORECLOSURE.

16 When a judgment of foreclosure is entered in any court, the  
17 ~~clerk~~ mortgagee shall record with the recorder an instrument  
18 in writing referring to the mortgage and duly acknowledging  
19 that the mortgage was foreclosed and giving the date of the  
20 decree. A mortgagee who fails to record such instrument  
21 within thirty days of receiving a written request to record  
22 shall be subject to a penalty of one hundred dollars plus  
23 reasonable attorney fees incurred by the party aggrieved, to  
24 be recovered in an action for the satisfaction or  
25 acknowledgement by the party aggrieved. The fee for recording  
26 and indexing an instrument shall be as provided in section  
27 331.604.

28 Sec. 15. Section 655.5, Code 2005, is amended to read as  
29 follows:

30 655.5 INSTRUMENT OF SATISFACTION.

31 When the judgment is fully paid and satisfied upon the  
32 judgment docket of the court, the ~~clerk~~ mortgagee shall record  
33 with the recorder an instrument in writing, referring to the  
34 mortgage and duly acknowledging a satisfaction of the  
35 mortgage. A mortgagee who fails to record such instrument

1 within thirty days of receiving a written request to record  
2 shall be subject to a penalty of one hundred dollars plus  
3 reasonable attorney fees incurred by the party aggrieved, to  
4 be recovered in an action for the satisfaction or  
5 acknowledgement by the party aggrieved. The fee for recording  
6 and indexing an instrument shall be as provided in section  
7 331.604.

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

10

EXPLANATION

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

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

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

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

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

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

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

34 The bill amends the procedure for publication of a notice  
35 of an estate without administration by placing the

1 responsibility with the proponent of the estate instead of  
2 with the clerk of court.

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

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

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

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Ward Co-chair  
Warnstadt Co-chair  
Zawn  
Kreiman

SSB#3202

Judiciary  
01 HF 2286

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  
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3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 232.133, subsection 2, Code 2005, is  
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3 2. Except for appeals from ~~final~~ orders entered in child  
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5 pursuant to section 232.117, appellate procedures shall be  
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7 district court. The supreme court may prescribe rules to  
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16 of the county in which the order or consent decree is  
17 initially entered, and the twenty-four hour dispatcher for the  
18 county sheriff. Any subsequent amendment or revocation of an  
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24 written notice within six hours of filing the order, approved  
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31 dispatcher for the law enforcement agencies upon notification  
32 by the clerk.

33 Sec. 3. Section 558.66, unnumbered paragraph 1, Code 2005,  
34 is amended to read as follows:

35 Upon receipt of a certificate ~~from~~ issued by the clerk of

1 the district court or an appellate clerk of the supreme court  
2 indicating that the title to real estate has been finally  
3 established in any named person by judgment or decree or by  
4 will or by affidavit of or on behalf of a surviving spouse  
5 that has been recorded by the recorder, the auditor shall  
6 enter the information in the certificate upon the transfer  
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8 section 331.507, subsection 2, paragraph "a". ~~In the case of~~  
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12 ~~in section 331.902, subsection 3.~~ In the case of the  
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29 applicant of the filing of the decision. ~~If an application~~  
30 ~~for further review is not acted upon by the supreme court~~  
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32 ~~application is deemed denied, the supreme court loses~~  
33 ~~jurisdiction, and the decision of the court of appeals is~~  
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35 Sec. 6. Section 602.5106, subsection 2, Code 2005, is

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2 2. A decision of the court of appeals is final and shall  
3 not be reviewed by any other court except upon the granting by  
4 the supreme court of an application for further review as  
5 provided in section 602.4102. Upon the filing of the  
6 application, the judgment and mandate of the court of appeals  
7 is stayed pending action of the supreme court ~~or-until-the~~  
8 ~~expiration-of-the-time-specified-in-section-602-4102,~~  
9 ~~subsections-4-and-5.~~

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

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

16 ~~a. The number and type of proceedings contained in the~~  
17 ~~administrative reports required by section 602-6606.~~

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

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

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

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

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

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

31 106. Carry out duties relating to the administration of  
32 small estates as provided in sections 635.1, 635.7, and 635.9  
33 ~~and-635-11.~~

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

1 626.16 RECEIPT AND RETURN.

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

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

10 633.305 NOTICE IF NO ADMINISTRATION.

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

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

30 The notice shall be substantially in the following form:

31 Notice of Proof of Will Without Administration  
32 In the District Court of Iowa  
33 in and for .... County. Probate No.  
34 .....  
35 In the Estate of ....., Deceased

S.F. \_\_\_\_\_ H.F. \_\_\_\_\_

1 To All Persons Interested in the Estate of ....., Deceased,  
2 who died on or about ..... (date):

3 You are hereby notified that on the .... day of .....  
4 (month), ... (year), the last will and testament of .....,  
5 deceased, bearing date of the ..... day of ..... (month), ...  
6 (year), was admitted to probate in the above named court and  
7 there will be no present administration of the estate. Any  
8 action to set aside the will must be brought in the district  
9 court of the county within the later to occur of four months  
10 from the date of the second publication of this notice or one  
11 month from the date of mailing of this notice to all heirs of  
12 the decedent and devisees under the will whose identities are  
13 reasonably ascertainable, or thereafter be forever barred.

14 Dated this ..... day of ..... (month), ... (year)  
15 .....  
16 Clerk-of-the-district-court Proponent

17 .....  
18 Attorney for estate  
19 .....  
20 Address

21 Date of second publication  
22 .... day of ..... (month), ... (year)  
23 (Date to be inserted by publisher)

24 Sec. 12. Section 642.23, unnumbered paragraph 1, Code  
25 2005, is amended to read as follows:

26 Notwithstanding the seventy-day one hundred twenty-day  
27 period in section 626.16 for the return of an execution in  
28 garnishment for the payment of a support obligation, the  
29 sheriff shall promptly deposit any amounts collected with the  
30 clerk of the district court, and the clerk shall disburse the  
31 amounts, after subtracting applicable fees, within two working  
32 days of the filing of an order condemning funds as follows:

33 Sec. 13. Section 648.5, Code 2005, is amended to read as  
34 follows:

35 648.5 JURISDICTION -- HEARING -- PERSONAL SERVICE.

1 The court within the county shall have jurisdiction of  
2 actions for forcible entry and detainer. They shall be tried  
3 as equitable actions. Unless commenced as a small claim, a  
4 petition shall be presented to a district court judge. Upon  
5 receipt of the petition, the court shall order a hearing which  
6 shall not be later than ~~seven~~ fourteen days from the date of  
7 the order. Personal service shall be made upon the defendant  
8 not less than three days prior to the hearing. In the event  
9 that personal service cannot be completed in time to give the  
10 defendant the minimum notice required by this section, the  
11 court may set a new hearing date. A default cannot be made  
12 upon a defendant unless the three days' notice has been given.

13 Sec. 14. Section 655.4, Code 2005, is amended to read as  
14 follows:

15 655.4 ENTRY OF FORECLOSURE.

16 When a judgment of foreclosure is entered in any court, the  
17 ~~clerk~~ mortgagee shall record with the recorder an instrument  
18 in writing referring to the mortgage and duly acknowledging  
19 that the mortgage was foreclosed and giving the date of the  
20 decree. A mortgagee who fails to record such instrument  
21 within thirty days of receiving a written request to record  
22 shall be subject to a penalty of one hundred dollars plus  
23 reasonable attorney fees incurred by the party aggrieved, to  
24 be recovered in an action for the satisfaction or  
25 acknowledgement by the party aggrieved. The fee for recording  
26 and indexing an instrument shall be as provided in section  
27 331.604.

28 Sec. 15. Section 655.5, Code 2005, is amended to read as  
29 follows:

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31 When the judgment is fully paid and satisfied upon the  
32 judgment docket of the court, the ~~clerk~~ mortgagee shall record  
33 with the recorder an instrument in writing, referring to the  
34 mortgage and duly acknowledging a satisfaction of the  
35 mortgage. A mortgagee who fails to record such instrument

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2 shall be subject to a penalty of one hundred dollars plus  
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5 acknowledgement by the party aggrieved. The fee for recording  
6 and indexing an instrument shall be as provided in section  
7 331.604.

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

10

#### EXPLANATION

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

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

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

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25 serve as a collection agent for the fee involved in recording  
26 a transfer of title to real estate.

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28 administrator of the board of shorthand reporters.

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32 of judgment is made for recovery of a judgment from 70 days to  
33 120 days.

34 The bill amends the procedure for publication of a notice  
35 of an estate without administration by placing the

1 responsibility with the proponent of the estate instead of  
2 with the clerk of court.

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

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

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

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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: February 13, 2006

RE: TLSB 5301DP

This bill would streamline and clarify certain court practices and procedures.

Sections 1, 5 and 6 of the proposed legislation deal with appellate court procedures. Current law restricts the use of rules that facilitate expedited appeals for child in need of assistance and termination of parental rights cases to final orders only. Section 1 extends this benefit to interlocutory appeals. Sections 5 and 6 of the bill eliminate the 30-day deadline for action by the supreme court on applications for further review. The 30-day deadline is unrealistic. It does not allow sufficient time for the other party to respond to the application nor sufficient time for the court to consider the application.

Section 2 clarifies the extent of the clerk's duty to send copies of protective orders. The amendment requires copies be sent to the sheriff in the county where the order is issued and that sheriff's 24-hour dispatcher. This service is in addition to the clerk's procedure to send information electronically for entry in the state's domestic abuse registry.

Section 3 streamlines to procedure for payment of the fee for recording a transfer of title to real estate enabled by judgment, decree, will or other means by eliminating the clerk as the go between with the county recorder. Eliminating the clerk of as the go between reduces the time and expense required to tax these costs and transfer them to another government entity, which is usually located in the same building as the clerk.

Sections 4, 7, 8 and 9 replace outdated language, eliminate obsolete reports, or correspond to other sections of the bill.

Sections 10 and 12 extends the period of time for which an execution of judgment is effective so that the time period is a more realistic framework for recovery of a judgment. The extended time period would benefit litigants.

Section 11 streamlines the procedure for publication of a notice of an estate without administration by placing the responsibility directly with the proponent of the estate instead of having the clerk make arrangements for publication and taxing the costs.

Sections 14 and 15 establish a procedure for ensuring that foreclosures and satisfaction of foreclosures are recorded promptly by the mortgagor. This procedure is similar to the procedure for filing a satisfaction of judgment.