

IOWA STATE BAR ASSOCIATION
2018 Affirmative Legislative Program

Updated 5/9/2018

Bill No.	Subject	Bill Description	Bill Status
SF 2314	Business Law Technical Changes	Amends §504.832 to add an explicit reference to section §504.836 authorizing a safe harbor for business opportunities. Amends §491.16A to include §§490.860 through 490.870 as these sections were not picked up when the Iowa Business Corporation Act was last amended. Clarifies language in Code §§ 9H.1 and 9H.4 regarding nonprofit corporations. The clarification is simply to ensure that all previous nonprofit chapters are included within the definition and restrictions of the chapter. Iowa's nonprofit chapter has been Chapter 504, 504A, and returned to 504.	Signed by Governor
SF 2139	Waiver of Spousal Share	Amends the Iowa Uniform Power of Attorney Act by adding a new subsection (10) to 633B.204 to clarify that an agent under a power of attorney may waive or relinquish a spousal right, homestead, and elective share if the principal has granted the agent Gen. Powers under the real property section 204 to 633B.	Signed by Governor
HF 639	Calculation of Probate Court Costs	Relates to how the clerk of probate court determines and collects charges regarding services provided in probate matters. Excludes from the determination of court costs property over which the court lacks probate jurisdiction and for which the clerk renders no services. Specifies that for purposes of calculating the costs for other services performed by the court in the settlement of the estate of any decedent, minor, person with mental illness, or other persons laboring under legal disability, the value of such a person's personal property and real estate is equal to the gross assets of the estate listed in the probate inventory minus, unless the proceeds of the gross assets are payable to the estate, joint tenancy property, transfers made during such person's lifetime such as to a revocable trust, and assets payable to beneficiaries.	Holdover from 2017. Did not advance in 2018. See SF 2234/HF 2229 dealing with the same subject in 2018.

SF 2098	Conforming Probate Code to EDMS Standards	Conforms old probate statutes with EDMS standards and procedures. Amends §633.22 (Probate Powers of Clerk), Amends §633.27 (Probate Docket), Deletes §633.72 (Manner of Service), Amends §633.82 (Designation of Attorney), and Amends §633.418 (Form and Verification of Claims).	Signed by Governor
SF 2099	Small Estate Changes	Amend §635.7 to clarify that, when the Personal Representative files a statement of conversion to or from small estate administration, the Clerk will make the conversion without court order; and amend §635.8 to provide clarification to the procedure for closing by sworn statement.	Send to Governor 5.4.18
SF 2234/ HF 2229	Revised Calculation of Probate Court Fees	Code §633.31 is currently being applied inconsistently throughout the state. There are now several district court cases declaring the clerks in at least six counties to be calculating court fees inappropriately. The bill addresses how the clerk of probate court determines and collects charges in connection with services provided in probate matters. Excludes from the determination of court fees property over which the court lacks probate jurisdiction and for which the clerk renders no services. Increases fees in §633.31 to keep impact of change in treatment of non-probate assets revenue neutral to the state by striking the existing fee structure and creating at 0.25% administration fee. The legislation also creates a \$185.00 filing fee while removing many of the individual charges associated with probate.	Senate – Awaiting Ways and Means Committee Vote House – Eligible for floor debate.
SSB 3011/ HSB 606	Funeral Directives	Funeral and burial costs are paid from a decedent's estate, but the decedent is not given a say in the funeral and burial process. The proposal will allow a person to define "reasonable funeral and burial costs" so that an heir cannot subvert the person's testamentary intent.	Senate – No subcommittee held. House - Subcommittee did not recommend passage.
HF 2125	Very Small Estates	Amends Code § 633.356 addressing the distribution of property by affidavit for a very small estate. The legislation increases the amount of a qualifying estate from \$25,000 to \$50,000. Also adds to the current requirements of the affidavit the following: that no debt is owed to the Iowa Department of Human Services for reimbursement of Medicaid benefits, or if there is it will be paid to the extent of the funds received; that no inheritance taxes are owed; and that creditors will be paid to the extent of funds received pursuant to the affidavit.	Signed by Governor

SF 2303	Deferred Payment of Taxes – Options to Bonding/	Amends §450.48 to clarify satisfactory security to the Department of Revenue to include but not be limited to bank or securities accounts with an irrevocable pay on death or transfer on death provision naming the department of revenue, an escrow agreement with an attorney under which the funds will be held in the attorney’s trust account, or the lien imposed by the chapter.	Signed by Governor
SSB 1090	Rule Against Perpetuities	The bill creates an exception to the rule against perpetuities if the Trustor explicitly suspends the rule and if the Trustee has the power to sell trust assets.	No activity in 2018
HF 2318	Redemption from Tax Sale of Property Owned by Persons with Disabilities	Remedies issues arising from Iowa Court of Appeals decision <i>Firestone v. FT13</i> (Filed 4-30-14) relating to redemption issues arising from ownership of property by minors or persons of unsound mind.	Signed by Governor
HF 2232	Requirements for Timely Filing of Releases or Satisfactions of Mortgages	Remedies ambiguities and inconsistencies in existing statutes & provides remedies for failure of mortgagees to issue releases of mortgages.	Signed by Governor
SF 2175	Real Estate Partitions	This bill completely reorganizes and renumbers Iowa Code chapter 651, and repeals Division XII of the Iowa Rules of Civil Procedure governing partition procedures. The proposed legislation divides chapter 651 procedures into two divisions, general procedures applicable to all partitions and special procedures applicable to “heirs property,” partitions. This bill adds a definition section, new sections clarifying court procedures governing the initial decree, the appointment of a judicial referee, the appraisal order, and the final determination of real property value. Finally, this bill specifically authorizes the equitable remedy known as “owelty” in Iowa partition actions and provides that attorney fees in partition actions are to be fixed by the court in a reasonable manner and taxed as part of the court costs.	Signed by Governor

HSB 63	Forcible Entry & Detainer Actions After Forfeiture of Real Estate Contracts	Makes changes to procedures for eviction after forfeiture of a real estate contract. Grants statutory authority under Code Chapter 648 for a vendor in a real estate installment contract to seek Forcible Entry & Detainer action against holdover vendee who fails to vacate after forfeiture proceedings are complete, while affording holdover vendees proper due process. Allows small claims magistrates to hold preliminary hearings in forfeiture cases and to enter judgments of removal only if the defendant defaults or appears and does not raise facts which would constitute a defense to eviction.	No activity in 2018
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In addition to the above legislative proposals, the Iowa State Bar Association supports the following positions as a part of its 2018 Affirmative Legislative Program:

- Full funding of indigent defense and adoption of legislation providing for \$5.00 per hour increase with an automatic cost of living increase in indigent defense fees.
 - 2017 Session – SF 509
 - State Public Defender - \$26,182,243
 - Indigent Defense Contracts - \$33,444,448
 - 2018 Session - HF 2492
 - State Public Defender - \$26,505,299 **(323,056 increase 1.2%)**
 - Indigent Defense Contracts - \$35,144,448 **(1,700,000 increase 5.1%)**
- Full Funding of the Judicial Branch.
 - 2017 Session – SF 508
 - Judicial Branch - \$175,686,612
 - Jury revolving fund - \$3,100,000
 - 2018 Session – HF 2495
 - Judicial Branch - \$177,574,791 **(\$1,888,179 increase 1.1%)**
 - Jury revolving fund - \$3,100,000 **(same)**
- Full funding for Legal Services.
 - 2017 Session – SF 509
 - Poverty Grants - \$2,304,601
 - 2018 Session - HF 2492
 - Poverty Grants - \$2,304,601 **(same)**
- Full funding of the IA Secretary of State’s Office as requested by IA Secretary of State Paul Pate.
 - 2017 Session – HF 640
 - Administration and Elections - \$2,125,518
 - Business Services - \$1,317,292
 - Address Confidentiality - \$120,400
 - 2018 Session – SF 2416
 - Administration and Elections - \$2,109,755 **(\$15,763 decrease 0.7%)**
 - Business Services - \$1,405,530 **(\$88,238 increase 6.7%)**
 - Address Confidentiality - \$120,400 **(same)**
- Full funding for the Office of Substitute Decision Maker to protect the interests of Iowans who have no one else to manage their financial and health care needs.
 - 2017 Session – HF 643 - \$350,000

- 2018 Session - HF 2501 – See page 2 lines 5-13
 - Allocates \$812,537 to administer programs for the prevention of elder abuse, neglect, and exploitation through the Aging and Disability Resource Center (ADRC). **DETAIL:** This is no change compared to the estimated net FY 2018 allocation. The ADRC is the system that provides a single entry point/no-wrong-door access to Iowa’s long-term community supports and services. The Office of Substitute Decision Maker (OSDM) suballocation has been eliminated, but the Program and the funding will continue as part of this allocation. The OSDM works with individuals who are not capable of making their own decisions about legal, financial, or health care matters. Depending on the situation, the OSDM may act as an individual's guardian, conservator, attorney-in-fact under a health care power of attorney document, agent under a financial power of attorney document, personal representative, or representative payee
- Support child abuse prevention and treatment efforts and funding for child abuse prevention and treatment.
- Oppose the legalization of title insurance.
 - Will monitor issues regarding lawyer abstracting under Iowa Title Guaranty.
- Oppose absolute immunity legislation.

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