

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

That sections thirty-one hundred eighty (3180) and thirty-one hundred eighty-six (3186) of the compiled Code of Iowa are amended, revised, and codified to read as follows:

Section 1. Fees to be collected. The recorder shall charge and collect the following fees:

1. For recording each instrument containing four hundred (400) words or less, fifty cents (50c).
2. For every additional hundred (100) words or fraction thereof, ten cents (10c).

Sec. 2. Fee book of recorder. In addition to the other requirements of the law the recorder shall enter in his fee book the exact time of filing each instrument, the number and character thereof, and the names of the grantors and grantees therein. In numbering said instruments, he shall start with number one (1), immediately after the date of his settlement with the board of supervisors each year, and continue to number them consecutively till his next settlement with said board. Where not otherwise already required by law the recorder shall also enter in the index book the exact time of the filing of each instrument.

Approved January 8, 1924.

#### CHAPTER 89

#### COUNTY ATTORNEYS

H. F. 134

AN ACT to amend, revise, and codify section thirty-one hundred eighty-nine (3189), thirty-one hundred ninety (3190), thirty-one hundred ninety-two (3192), thirty-one hundred ninety-three (3193), ninety-two hundred eighty-one (9281), ninety-two hundred ninety-two (9292), and ninety-two hundred ninety-three (9293), of the compiled code of Iowa, relating to county attorneys.

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

That sections thirty-one hundred eighty-nine (3189), thirty-one hundred ninety (3190), thirty-one hundred ninety-two (3192) and thirty-one hundred ninety-three (3193) of the compiled Code of Iowa are amended, revised, and codified to read as follows:

#### CHAPTER 6

#### COUNTY ATTORNEY

Section 1. Qualification of county attorney. County attorneys shall be qualified electors of their respective counties, duly admitted to practice as attorneys and counselors in the courts of this state as provided by law. No person shall be qualified for such office while his license to practice remains revoked or suspended.

Sec. 2. Duties of county attorney. It shall be the duty of the county attorney:

1. To diligently enforce or cause to be enforced in his county, all of the laws of the state, actions for a violation of which may be commenced or prosecuted in the name of the state of Iowa, or by him as county attorney, except as otherwise specially provided.

2. To appear for the state and county in all cases and proceedings in the courts of his county to which the state or county is a party, except cases brought on change of venue from another county, and to appear in the supreme court in all cases in which the county is a party, and also in all cases transferred on change of venue to another county, in which his county or the state is a party.

3. To appear and prosecute all preliminary hearings before justices of the peace upon charges triable upon indictment.

4. To appear and prosecute misdemeanors before justices of the peace whenever he is not otherwise engaged in the performance of official duties.

5. To enforce all forfeited bonds and recognizances, and to prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, and forfeitures accruing to the state or his county, or to any school district or road district in his county; also to prosecute all suits in his county against public service corporations, which are brought in the name of the state of Iowa.

6. To commence, prosecute and defend all actions and proceedings in which any county officer, in his official capacity, or the county, is interested, or a party.

7. To give advice or his opinion in writing, without compensation, to the board of supervisors and other county officers and to school and township officers, when requested so to do by such board or officer, upon all matters in which the state, county, school or township is interested, or relating to the duty of the board or officer in which the state, county, school or township may have an interest; but he shall not appear before the board of supervisors upon any hearing in which the state or county is not interested.

8. To attend the grand jury whenever necessary for the purpose of examining witnesses before it, or of giving it legal advice, or to procure subpoenas or other process for witnesses, to prepare all informations and bills of indictment.

9. To give a receipt to all persons from whom he shall receive money in his official capacity, and file a duplicate thereof with the county auditor.

10. To make reports relating to the duties and the administration of his office to the governor or the attorney general whenever called upon by the governor or the attorney general so to do.

12. To perform other duties enjoined upon him by law.

That section ninety-two hundred eighty-one (9281) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 3. Filing by county attorney. The county attorney may, at any time when the grand jury is not actually in session, file in the district court, either in term time or in vacation, an information charging a person with an indictable offense.

That section ninety-two hundred ninety-two (9292) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 4. Motion to set aside - grounds. A motion to set aside the information may be made on one or more of the following grounds:

1. When it is not indorsed "a true information", and the indorsement signed by the county attorney.
2. When the minutes of evidence have not been filed with the information.
3. When the names of the witnesses named in such minutes of evidence are not indorsed on the information.
4. When the information has not been verified or filed in the manner herein required.
5. When the information has not been approved as required.

That section ninety-two hundred ninety-three (9293) of the compiled Code of Iowa is amended, revised, and codified to read as follows:

Sec. 5. Time of making motion - rulings of court. Such motion must be made before a plea is entered by the accused. If not so made, the objection shall be deemed waived. If an objection is shown to be true, the court shall sustain said motion, unless the defects are corrected within such time as the court may order.

Sec. 6. Testimony. The clerk of the district court, on application of the county attorney, shall issue subpoenas for such witnesses as the county attorney may require, and in such subpoenas shall direct the appearance of said witnesses before the county attorney at a specified time and place; provided that no subpoena shall issue unless an order authorizing same shall have been first made by the court or a judge thereof.

Sec. 7. Oath. The county attorney shall have authority to administer oaths to said witnesses.

Sec. 8. Refusal. In case a witness refuses to appear in obedience to said subpoena, or refuses to testify, the county attorney shall cause said witness to be taken before some judge of the district court of the county who shall proceed with such refusal as though the said refusal had occurred before said judge in a trial in said court.

Sec. 9. Clerk of grand jury. The county attorney in the taking of testimony, shall be entitled to the services of the clerk of the grand jury in those counties in which such clerk is regularly employed.

Sec. 10. Witness fees. The witnesses aforesaid shall receive the same fees and mileage as is allowed witnesses in the district court, and shall be paid in the same manner in which witnesses before the grand jury are paid except that such fees and mileage shall be certified only by the county attorney.

Sec. 12. Substitute in case of disability - compensation. In case of absence, sickness, or disability of the county attorney and his deputies, the court before whom it is his duty to appear, and in which there may be business requiring his attention, may appoint an attorney to act as county attorney, by order to be entered upon the records of the court, and he shall receive out of the compensation allowed to the county attorney, when such appearance is before a justice of the peace, such sum as the board of supervisors shall determine to be reasonable for the services rendered, and, when it is before a court of record, such sum as the judge

shall determine to be a reasonable compensation, and while acting under said appointment, he shall have all the authority and be subject to all the responsibilities herein conferred upon county attorneys.

Sec. 13. Substitute - notice before appointment. In criminal cases less than a felony, a justice of the peace or magistrate can not appoint an attorney at the expense of the county or county attorney; and no justice of the peace shall appoint an attorney to act as county attorney in any case, wherein a felony is charged, unless reasonable notice in writing has been given the county attorney that his services will be required before such justice at a time therein named, and he has failed to appear in response thereto.

Sec. 14. Prohibitions. No county attorney shall accept any fee of reward from or on behalf of anyone for services rendered in any prosecution or the conduct of any official business, nor shall he, or any member of a firm with which he may be connected, be directly or indirectly engaged as an attorney or otherwise for any party other than the state or county in any action or proceeding pending or arising in his county, based upon substantially the same facts upon which a prosecution or proceeding has been commenced or prosecuted by him in the name of the county or state; nor shall any attorney be allowed to assist the county attorney in any criminal action, where such attorney is interested in any civil action brought or to be commenced, in which a recovery is or may be asked upon the matters and things involved in such criminal prosecution.

Approved April 14, 1924.

## CHAPTER 90

### SHERIFF

#### S. F. 135

AN ACT to amend, revise, and codify sections thirty-two hundred five (3205) of the compiled code of Iowa, and thirty-two hundred six (3206) of the supplement to said code, relating to the sheriff.

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

That section thirty-two hundred five (3205) of the compiled Code of Iowa, and thirty-two hundred six (3206) of the supplement to said Code, are amended, revised, and codified to read as follows:

Section 1. Fees to be collected. The sheriff shall charge and be entitled to collect the following fees:

1. For serving a notice and making return thereof, for the first person served, fifty cents (50c), and each additional person, twenty-five cents (25c).
2. For each warrant served, two dollars (\$2.00), and the repayment of necessary expenses incurred, in executing such warrant, as sworn to by the sheriff; if service of the warrant can not be made, the repayment of all necessary expenses actually incurred by the sheriff while attempting in good faith to serve such warrant.