

GENERAL LAWS

For additional general laws see chapters 1001, 1021, 1044, 1069, 1073

CHAPTER 1085

DISTRICT COURT

H. F. 1470

AN ACT relating to the Iowa district court, and the administration, funding, personnel and procedures thereof.

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

1 SECTION 1. Section two A point four (2A.4), Code 1973, is
2 amended to read as follows:

3 **2A.4 Meetings—duties.** The commission shall elect its own chair-
4 man from among its membership and shall meet on the call of the
5 chairman to review compensation and expenses received by members
6 of the general assembly and salaries of the other elective state officials.
7 The commission shall review compensation and expenses paid to mem-
8 bers of the general assembly and salaries paid to other elective state
9 officials, and ~~constitutional~~ *statutory* judicial officers, and shall review
10 compensation, expenses, and salaries paid for comparable positions in
11 other states, the federal government, and private enterprise. Based on
12 such review and other factors deemed relevant, the commission shall
13 make its determination as to compensation and expense levels for mem-
14 bers of the general assembly and as to salary levels for other elective
15 state officials to be recommended to the governor and the members of
16 the general assembly. No later than February 1, 1973, and each two
17 years thereafter, the commission shall report to the governor and to
18 the general assembly its recommendations for compensation and ex-
19 penses for members of the general assembly and for salaries for other
20 elective state officials.

1 SEC. 2. Section sixty-four point six (64.6), unnumbered paragraph
2 one (1) and subsections twenty-six (26) and twenty-seven (27), Code
3 1973, are amended to read as follows:

4 State officers shall give bonds, *the premiums being paid by the state,*
5 in an amount as follows:

6 ~~26. The state shall pay the reasonable cost of the bonds required in~~
7 ~~subsections 1 to 25, both inclusive, of this section.~~

8 ~~27~~ 26. Judicial magistrates, five thousand dollars.

1 SEC. 3. Section six hundred two point forty-two (602.42), Code
2 1973, as amended by Acts of the General Assembly, 1973 Session,
3 chapter two hundred eighty-two (282), sections four (4) and five (5),
4 is amended to read as follows:

5 **602.42 Composition of county judicial magistrate appointing com-**
6 **missions.**

7 1. There shall be in each county a judicial magistrate appointing
8 commission which shall be composed of the following members, ~~except~~
9 ~~as provided in section 602.48:~~

10 ~~1~~ a. A district court judge designated by the chief judge of the dis-
11 trict to serve until a successor is designated.

12 2 b. Three members appointed by the board of supervisors, *except*
13 *as provided in section six hundred two point forty-three (602.43) of*
14 *the Code.*

15 ~~3~~ c. Two attorneys elected by the county bar.

16 2. The clerk of the district court shall maintain a permanent record
17 of the name, address, and term of office ~~for~~ of each commissioner
18 designated, appointed or elected.

1 SEC. 4. Section six hundred two point forty-three (602.43), Code
2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
3 Session, chapter two hundred eighty-two (282), section six (6), is
4 amended to read as follows:

5 **602.43 Appointing Commissioners appointed by a county.**

6 1. The board of supervisors of each county shall appoint three elec-
7 tors to the county judicial magistrate appointing commission for the
8 county for six-year terms beginning January 1, 1973. *However, in the*
9 *event there is only one resident member of the bar in a county who is*
10 *qualified and willing to serve pursuant to section six hundred two point*
11 *forty-four (602.44) of the Code, the number of commissioners ap-*
12 *pointed by the county board of supervisors shall be two. In the event*
13 *there is no resident member of the bar within the county qualified and*
14 *willing to serve, the county board of supervisors shall appoint one*
15 *commissioner.*

16 2. A commissioner appointed pursuant to this section shall not be
17 an attorney at law, or an active law enforcement officer.

18 3. The county auditor shall certify the name, address and expiration
19 date of term for all regular and special appointees of the board of
20 supervisors to the clerk of the court.

1 SEC. 5. Section six hundred two point forty-four (602.44), Code
2 1973, is amended to read as follows:

3 **602.44 Election Commissioners elected by the bar.**

4 1. The resident members of the bar of each county shall elect resi-
5 dent members of the bar of such county to the county judicial magis-
6 trate appointing commission for six-year terms beginning on January
7 ~~1~~ first. During December 1972, and in each December thereafter,
8 *which immediately preceding precedes* the expiration of the terms of
9 the members of the commission, the members of the bar shall elect
10 commissioners to six-year terms.

11 2. A county attorney shall not be elected to the commission.

1 SEC. 6. Section six hundred two point forty-seven (602.47), Code
2 1973, is amended to read as follows:

3 **602.47 No member of commission to be appointed magistrate.** No
4 person while a member of the county judicial magistrate appointing
5 commission shall be appointed to the office of judicial magistrate.
6 ~~No member appointed by the board of supervisors to the judicial~~
7 ~~magistrate appointing commission shall be an attorney at law or an~~
8 ~~active law enforcement officer.~~

1 SEC. 7. Section six hundred two point fifty (602.50), Code 1973,
2 as amended by Acts of the Sixty-fifth General Assembly, 1973 Session,

3 chapter two hundred eighty-two (282), section eight (8), is amended
4 to read as follows:

5 **602.50 Appointment of judicial magistrates.**

6 1. *Regular appointments.* During April, 1973, the judicial magis-
7 trate appointing commission shall, by majority vote, appoint Iowa
8 judicial magistrates in such number as provided in section six hundred
9 two point fifty-nine (602.59) of the Code. In April of each year in
10 which magistrates' terms expire, the commission shall appoint, *except*
11 *as otherwise permitted in section thirteen (13) of this Act*, the number
12 of magistrates ~~alotted~~ *apportioned* to the county by the supreme court
13 administrator as provided in section six hundred two point fifty-seven
14 (602.57) of the Code, and *may appoint the magistrates additional*
15 *magistrate* allowed by section six hundred two point fifty-eight
16 (602.58) of the Code. The commission shall appoint no more magis-
17 trates than ~~alotted~~ *are apportioned* to the county by the supreme court
18 administrator except as provided in ~~sections 602.57 and section 602.58.~~

19 2. *Applications.* The appointing commission for each county shall
20 *prescribe the content of an application for an appointment pursuant to*
21 *this section. The commission shall publicize in at least two publications*
22 *in the official county newspaper, notice of any vacancy to be filled. For*
23 *a minimum of fifteen days prior to any appointment, the commission*
24 *shall accept applications, and shall make available during that period*
25 *of time any printed application forms the commission may, in its*
26 *discretion, prescribe.*

27 3. *Vacancies.* Within thirty days following receipt of notification
28 of a vacancy in the office of judicial magistrate appointed under this
29 section, the commission shall appoint a person to the office vacated
30 to serve the remainder of the unexpired term. For purposes of this
31 section, vacancy means death, resignation, retirement, removal, or
32 increase in the number of positions authorized.

33 4. *Term of office.* The judicial magistrates ~~appointed initially shall~~
34 ~~take office July 1, 1973, and their term of office shall expire June 30,~~
35 ~~1974. Thereafter, The office of judicial magistrates magistrate, when~~
36 ~~appointed pursuant to this section, shall take office on be for a term of~~
37 ~~two years from July 1, 1974 1975, and every each two years thereafter,~~
38 ~~provided however, judicial magistrates appointed pursuant to section~~
39 ~~six hundred two point fifty-one (602.51) of the Code for the term~~
40 ~~commencing July 1, 1974, shall hold office for a term of four years and~~
41 ~~shall be subject to appointment every four years thereafter.~~

42 *A magistrate appointed to take office on July 1, 1974, shall serve for*
43 *a term ending June 30, 1975.*

44 5. *Certification.* The commission shall promptly certify the names
45 and addresses of the magistrates appointed to the clerk of the district
46 court and the chief judge of the judicial district. The clerk shall cer-
47 tify to the supreme court administrator and to the state comptroller
48 the names and addresses of magistrates so appointed. The certification
49 of the clerk to the comptroller shall be authority for the comptroller
50 to pay the salaries *and expenses* in accordance with section 602.54.
51 Judicial magistrates shall be officers of the state.

52 6. *Oath and instruction.* Before assuming office, a judicial magis-
53 trate shall subscribe and file in the office of the clerk of the district
54 court of the county of his residence his oath of office to uphold and
55 support the Constitutions of the United States of America and state

56 of Iowa, the laws enacted pursuant thereto, and the law and ordi-
 57 nances of the political subdivisions of the state of Iowa. Before July 1,
 58 1973, and annually thereafter *Annually*, the supreme court adminis-
 59 trator shall cause a school of instruction to be conducted for judicial
 60 magistrates, which shall include a comprehensive examination over the
 61 material presented, and which each judicial magistrate appointed as
 62 provided in this chapter prior to the time he takes office shall attend
 63 unless excused by the chief justice for good cause. A judicial magis-
 64 trate appointed under this section to fill a vacancy shall attend the first
 65 school of instruction held following his appointment unless excused by
 66 the chief justice for good cause.

1 SEC. 8. Acts of the Sixty-fifth General Assembly, 1973 Session,
 2 chapter two hundred eighty-two (282), section thirty-nine (39), un-
 3 numbered paragraphs one (1) and two (2), amending section six
 4 hundred two point fifty-one (602.51), Code 1973, are amended to read
 5 as follows:

6 There shall be one judicial magistrate who shall devote his entire
 7 time to the duties of his position in those counties having a population,
 8 according to the last federal decennial census, of more than thirty-five
 9 thousand and less than eighty thousand. There shall be two such
 10 magistrates in those counties having a population of more than eighty
 11 thousand and less than one hundred twenty-five thousand. There shall
 12 be three such magistrates in any county having a population of more
 13 than one hundred twenty-five thousand and less than two hundred
 14 thousand people. There shall be four such magistrates in counties
 15 having a population of two hundred thousand people or above. In
 16 those counties in which a district associate judge resides, the district
 17 associate judge shall be considered a judicial magistrate for the pur-
 18 poses of this ~~section~~ paragraph. *A judicial magistrate appointed pur-*
 19 *suant to section thirteen (13) of this Act shall not be counted for the*
 20 *purposes of this paragraph.*

21 The judicial magistrates authorized by this section, *and section thir-*
 22 *teen (13) of this Act*, shall be appointed by the district judges of the
 23 election district from persons nominated by the county judicial magis-
 24 trate appointing commission. *Each office of judicial magistrate author-*
 25 *ized by this section shall be for a term of four years from July 1, 1974,*
 26 *and each four years thereafter.*

1 SEC. 9. Section six hundred two point fifty-three (602.53), Code
 2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
 3 Session, chapter two hundred eighty-two (282), section nine (9), is
 4 amended to read as follows:

5 **602.53 Prohibitions.**

6 1. No magistrate shall accept any fee or reward from or on behalf
 7 of anyone for services rendered in the conduct of any official business
 8 except as provided in this chapter.

9 2. *If a judicial magistrate appears as counsel for a client in a matter*
 10 *that is within the jurisdiction of a magistrate, that matter shall be*
 11 *heard only by a district judge, a district associate judge, or a judicial*
 12 *magistrate appointed pursuant to section six hundred two point fifty-*
 13 *one (602.51) of the Code. A disqualification under this section shall*
 14 *be had upon motion of the judicial magistrate or of any party, either*
 15 *orally or in writing, and the clerk shall be advised to reassign the*
 16 *matter to a proper judicial officer.*

1 SEC. 10. Section six hundred two point fifty-five (602.55), unnum-
 2 bered paragraph one (1), Code 1973, as amended by Acts of the Sixty-
 3 fifth General Assembly, 1973 Session, chapter two hundred eighty-
 4 two (282), section forty-two (42), is amended to read as follows:

5 Each month each judicial magistrate and district associate judge
 6 shall file with the clerk of the district court of the proper county a
 7 sworn, itemized statement, ~~by case,~~ of all *cases disposed of and all*
 8 *funds received and disbursed per case,* and at least monthly shall remit
 9 to the clerk all funds received by him. The clerk shall provide adequate
 10 clerical assistance to judicial magistrates ~~servng pursuant to section~~
 11 ~~six hundred two point fifty-one (602.51) of the Code~~ and district asso-
 12 ciate judges to carry out this section. The clerk shall remit ninety
 13 percent of all fines and forfeited bail received from a magistrate or
 14 district associate judge to the city or town that was the plaintiff in any
 15 action, *and shall provide that city or town with a statement showing*
 16 *the total number of such cases, the total of all fines and forfeited bail*
 17 *collected and the total of all cases dismissed.* The clerk shall remit the
 18 remaining ten percent to the county treasurer for deposit in the county
 19 general fund. The clerk shall remit to the treasurer of the county, for
 20 the benefit of the school fund, all other fines and forfeited bail received
 21 from a magistrate. All fees and costs for the filing of a complaint or
 22 information or upon forfeiture of bail received from a magistrate shall
 23 be remitted monthly by the clerk as follows:

1 SEC. 11. Section six hundred two point fifty-seven (602.57), un-
 2 numbered paragraph one (1), Code 1973, as amended by Acts of the
 3 Sixty-fifth General Assembly, 1973 Session, chapter two hundred
 4 eighty-two (282), section ten (10), is amended to read as follows:

5 Except as provided in section six hundred two point fifty-eight
 6 (602.58) of the Code, there shall be a total of one hundred ninety-one
 7 Iowa judicial magistrates to be appointed pursuant to section six hun-
 8 dred two point fifty (602.50) of the Code. During January of 1974
 9 1975 and every two years thereafter, the supreme court administrator
 10 shall apportion the number of judicial magistrates to be so appointed
 11 among the counties in accordance with the following criteria:

1 SEC. 12. Section six hundred two point fifty-seven (602.57), un-
 2 numbered paragraph three (3), Code 1973, is amended to read as fol-
 3 lows:

4 During February of 1974 1975 and during February of every two
 5 years thereafter, the supreme court administrator shall notify the
 6 clerk of the district court of each county and the chief judge of the
 7 appropriate judicial district, of the number of magistrates to which
 8 the county is entitled.

1 SEC. 13. Section six hundred two point fifty-nine (602.59), Code
 2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
 3 Session, chapter two hundred eighty-two (282), section eleven (11),
 4 is amended by striking the section and inserting in lieu thereof the
 5 following:

6 **602.59 Substitution for apportionment.**

7 1. Applicability. In any county having an apportionment of three
 8 or more judicial magistrates appointable pursuant to section six hun-
 9 dred two point fifty (602.50) of the Code, the chief judge of the dis-
 10 trict, subject to the limitations of this section, may designate by order

11 that magistrates appointed pursuant to this section be utilized in lieu
12 of magistrates appointed pursuant to section six hundred two point
13 fifty (602.50) of the Code. The order of substitution may be made
14 only upon the affirmative vote of a majority of the district judges in
15 that judicial election district that the substitution be made. An order
16 of substitution is renewable for successive terms upon the vote of the
17 judges, but shall not be effective for any term unless a copy of the
18 order is received by the chairman of the county judicial magistrate
19 appointing commission not later than the thirty-first day of March of
20 the year in which the substitution is to take effect. A copy of the order
21 also shall be sent to the supreme court administrator.

22 The district judges of a judicial election district may determine, for
23 the year 1974, that a substitution be made pursuant to this section, by
24 an affirmative vote of a majority rendered and with written notice
25 thereof delivered to the chairman of the county judicial magistrate
26 appointing commission not later than June 1, 1974. A magistrate
27 appointed in 1974 pursuant to this subsection shall be subject to all
28 of the provisions of this section, except that the term of office shall be
29 an irregular one for a period of five years from July 1, 1974.

30 2. Reduction in appointments. For any county in which such an
31 order is in effect, the number of magistrates actually appointed pursu-
32 ant to section six hundred two point fifty (602.50) of the Code shall
33 be reduced by three for each magistrate substituted under the provi-
34 sions of this section.

35 Upon any subsequent reduction in the apportionment of magistrates
36 to the county, either the commission shall further reduce the number
37 of magistrates appointed, or the chief judge shall revoke an order of
38 substitution.

39 3. Appointment. A judicial magistrate ordered pursuant to this
40 section shall be nominated and appointed, and shall have qualifications,
41 rights, salary, duties, responsibilities, liabilities, authority and juris-
42 diction, the same as a magistrate authorized by paragraph one (1) of
43 section six hundred two point fifty-one (602.51) of the Code.

44 4. Limitations.

45 a. Except as provided in subsections one (1) and two (2) of this
46 section, a substitution shall not increase or decrease the number of
47 judicial magistrates authorized by this chapter.

48 b. A substitution or reversion pursuant to this section shall not
49 take effect during the term of office of any magistrate.

50 c. A substitution shall not be made or maintained where the appor-
51 tionment to a county is insufficient to permit the full reduction in
52 appointments required by subsection two (2) of this section.

53 5. Reversion. If an apportionment by the supreme court adminis-
54 trator pursuant to section six hundred two point fifty-seven (602.57)
55 of the Code reduces the number of judicial magistrate offices in the
56 county to less than three, or a majority of the district judges in that
57 judicial election district determines that a substitution is no longer
58 desirable, then the substituted office shall not be renewed for a succes-
59 sive term. At the end of the term, appointments shall be made pursu-
60 ant to section six hundred two point fifty (602.50) of the Code.

1 Sec. 14. Section six hundred two point sixty-three (602.63), Code
2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973

3 Session, chapter two hundred eighty-two (282), section forty-seven
4 (47), is amended by adding the following new unnumbered para-
5 graph:

6 **NEW UNNUMBERED PARAGRAPH.** The chief judge of a district may
7 order that criminal proceedings which are within the jurisdictions of
8 judicial magistrates and district associate judges be combined into
9 centralized dockets for the county if the chief judge determines that
10 administration could be improved thereby. When so ordered, a cen-
11 tralized docket shall be in lieu of individual dockets otherwise pre-
12 scribed, and the clerk shall compile a centralized docket in the man-
13 ner prescribed for an individual docket. The chief judge may assign
14 actions and proceedings on centralized dockets to judicial magistrates
15 and district associate judges as he deems necessary.

1 **SEC. 15.** Section six hundred two point seventy-one (602.71), Code
2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
3 Session, chapter two hundred eighty-two (282), sections fifty (50),
4 fifty-one (51) and fifty-two (52), is amended by striking the section.

1 **SEC. 16.** Chapter six hundred two (602), Code 1973, is amended
2 by adding the following new section:

3 **NEW SECTION. Alternate judicial magistrate.**

4 1. Authorization. In any county having only one district associate
5 judge, or only one judicial magistrate appointed pursuant to section
6 six hundred two point fifty-one (602.51) of the Code, the county judi-
7 cial magistrate appointing commission, by majority vote, may author-
8 ize that an alternate judicial magistrate be selected.

9 2. Selection. The procedures for selecting an alternate judicial
10 magistrate shall be as provided in section six hundred two point fifty-
11 one (602.51) of the Code, but any person so appointed shall be desig-
12 nated as an alternate judicial magistrate, and shall be subject to the
13 limitations contained in this section.

14 3. Jurisdiction. An alternate judicial magistrate shall have the
15 same qualifications, jurisdiction, obligations and liabilities as a judi-
16 cial magistrate appointed pursuant to section six hundred two point
17 fifty-one (602.51) of the Code.

18 4. Duties. In case of inability of a district associate judge or judi-
19 cial magistrate to act, the chief judge of the district may order that
20 the alternate temporarily sit in place of that officer. The words "in-
21 ability to act" shall mean a temporary absence from court duties,
22 including a reasonable vacation period. An alternate may practice as
23 an attorney except at such times as he is acting as judicial magistrate,
24 but he shall not act in any manner on any case in which he is inter-
25 ested as an attorney.

26 5. Salary. The alternate shall be compensated by the state at the
27 rate of forty dollars per day for each day of actual duty as magis-
28 trate, and for actual expenses incurred in the performance of duties
29 as magistrate, upon certification to the comptroller by the chief judge
30 of the days of duty and the expenses incurred.

31 6. Limitations. The appointment of an alternate judicial magis-
32 trate shall not affect the rights, duties or remuneration of any regular
33 judicial officer, and the appointment of an alternate shall not affect
34 the number or apportionment of judicial magistrates authorized by
35 this chapter.

1 SEC. 17. Section six hundred twenty-two point seventy-three
2 (622.73), Code 1973, is amended to read as follows:

3 **622.73 Fees payable by county or city.** For attending before the
4 trial jury or court in criminal cases where the defendant is adjudged
5 not guilty *or the action is dismissed*, the fees above provided for
6 attending court shall be paid by the county, upon a certificate of the
7 clerk or judicial magistrate showing the amount of the services to
8 which they are entitled, as follows:

9 1. *In actions based on a violation of a state statute, by the county,*
10 *upon a written statement of the clerk or a judicial officer showing the*
11 *amount due.*

12 2. *In actions based on a violation of a city ordinance, by the city,*
13 *upon a written statement of the clerk or a judicial officer showing the*
14 *amount due.*

1 SEC. 18. Section six hundred twenty-two point seventy-five
2 (622.75), Code 1973, is amended to read as follows:

3 **622.75 Reimbursement to party, or county, or city.** When the a
4 county or city or any party has paid the fees of any witness, and the
5 same is afterward collected from the *defendant or* adverse party, the
6 county, city or person so paying the same shall, upon the production
7 of the receipt of such witness or other satisfactory evidence, be entitled
8 to such fee.

1 SEC. 19. Section six hundred thirty-one point one (631.1), Code
2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
3 Session, chapter two hundred eighty-two (282), section sixty-one (61),
4 is amended to read as follows:

5 **631.1 Small claims.**

6 1. *The following actions or claims are small claims and shall be*
7 *commenced, heard and determined as provided in this chapter: A*
8 *small claim is a civil action for a money judgment where the amount*
9 *in controversy is one thousand dollars or less, exclusive of interest and*
10 *costs, and actions.*

11 2. *The district court sitting in small claims shall have concurrent*
12 *jurisdiction of an action for forcible entry and detainer which are is*
13 *based on those grounds set forth in section six hundred forty-eight*
14 *point one (648.1), subsections one (1), two (2), three (3), and five*
15 *(5) of the Code. When commenced under this chapter, the action shall*
16 *be a small claim for the purposes of this chapter.*

1 SEC. 20. Section six hundred thirty-one point two (631.2), Code
2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
3 Session, chapter two hundred eighty-two (282), section sixty-two
4 (62), is amended by striking the section and inserting in lieu thereof
5 the following:

6 **631.2 Jurisdiction and procedures.**

7 1. The district court sitting in small claims shall exercise the juris-
8 diction conferred by this chapter, and shall determine small claims
9 according to the statutes and the rules prescribed by this chapter.
10 Except when transferred from the small claims docket as provided in
11 section six hundred thirty-one point eight (631.8) of this chapter,
12 small claims may be tried by a judicial magistrate, a district associate
13 judge, or a district judge.

14 2. The clerk of court shall maintain a separate docket for small
15 claims which shall be known as the small claims docket, and which
16 shall contain all matters relating to those small claims which are
17 required by section six hundred six point seven (606.7) of the Code
18 to be contained in a combination docket.

19 3. Statutes and rules relating to venue and jurisdiction shall apply
20 to small claims, except that a provision of this chapter which is incon-
21 sistent therewith shall supersede that statute or rule.

1 SEC. 21. Section six hundred thirty-one point three (631.3), Code
2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
3 Session, chapter two hundred eighty-two (282), section sixty-three
4 (63), is amended by striking the section and inserting in lieu thereof
5 the following:

6 **631.3 Commencement of actions — clerk to furnish forms; sub-**
7 **poena.**

8 1. All actions shall be commenced by the filing of an original notice
9 with the clerk. At the time of filing, the clerk shall enter on the
10 original notice and the copies to be served, the file number and the
11 date the action is filed.

12 2. The clerk shall furnish standard forms as provided in section
13 six hundred thirty-one point fifteen (631.15) of this chapter, as such
14 pleadings may be required. The clerk may furnish information to any
15 party to enable him to complete a form.

16 3. The clerk shall cause to be entered upon each copy of the original
17 notice and in the docket the day for appearance, which date shall be
18 determined in accordance with section six hundred thirty-one point
19 four (631.4) of this chapter. Appearance dates shall be set only for
20 days on which the office of the clerk is scheduled to be open.

21 4. Upon the request of any party to the action, the clerk or a judi-
22 cial officer shall issue subpoenas for the attendance of witnesses at a
23 hearing. The provisions of sections six hundred twenty-two point
24 sixty-three (622.63) through six hundred twenty-two point sixty-nine
25 (622.69), and six hundred twenty-two point seventy-six (622.76)
26 through six hundred twenty-two point seventy-seven (622.77) of the
27 Code shall apply to subpoenas issued pursuant to this chapter.

1 SEC. 22. Section six hundred thirty-one point four (631.4), Code
2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
3 Session, chapter two hundred eighty-two (282), section sixty-four
4 (64), is amended by striking the section and inserting in lieu thereof
5 the following:

6 **631.4 Service—time for appearance.** The manner of service of
7 original notice and the times for appearance shall be as provided in
8 this section.

9 1. Actions for money judgment.

10 a. In actions for money judgment the defendant shall be required to
11 appear not later than twenty days following the date of filing of the
12 original notice, except as provided in paragraph c of this subsection.
13 The clerk shall enter the latest date for appearance which is consist-
14 ent with this chapter and shall cause service to be obtained as pro-
15 vided in this subsection.

16 b. Except as provided in paragraph c of this subsection, at the
17 option of the plaintiff and upon receipt of the prescribed costs, the
18 clerk either shall mail, by certified mail, restricted delivery, return

19 receipt to the clerk requested, a copy of the original notice together
 20 with a conforming copy of an answer form to each defendant, or shall
 21 cause the original notice and answer form to be delivered to a peace
 22 officer or other person for personal service as provided in rules fifty-
 23 two (52) and fifty-six (56) of the rules of civil procedure.

24 c. If a defendant is a nonresident of the state of Iowa, and is sub-
 25 ject to the jurisdiction of this state pursuant to section six hundred
 26 seventeen point three (617.3) of the Code, service of original notice
 27 and answer shall be made as provided in that section, and the date
 28 for appearance shall be sixty days from the date of filing with the
 29 secretary of state. The clerk shall collect the prescribed fees and
 30 costs, and shall cause duplicate copies of the original notice to be filed
 31 with the secretary of state, and copies of the original notice and
 32 answer to be mailed to each defendant in the manner prescribed in
 33 section six hundred seventeen point three (617.3) of the Code.

34 2. Actions for forcible entry or detention.

35 a. In an action for the forcible entry or detention of real property,
 36 the clerk shall set a date, time and place for hearing, and shall cause
 37 service as provided in this subsection.

38 b. Original notice shall be served personally upon each defendant
 39 as provided in rule fifty-six (56) of the rules of civil procedure,
 40 which service shall be made at least five days prior to the date set for
 41 hearing. Upon receipt of the prescribed costs the clerk shall cause
 42 the original notice to be delivered to a peace officer or other person for
 43 service upon each defendant.

1 SEC. 23. Section six hundred thirty-one point five (631.5), Code
 2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
 3 Session, chapter two hundred eighty-two (282), section sixty-five (65),
 4 is amended by striking the section and inserting in lieu thereof the
 5 following:

6 **631.5 Appearance—default.** This section shall apply to all small
 7 claims except actions for forcible entry or detention of real property.

8 1. Appearance. A defendant may appear in person or by attorney,
 9 and by the denial of a claim a defendant does not waive any defenses.

10 2. Hearing set. If all defendants either have entered a timely ap-
 11 pearance or have defaulted, the clerk shall assign a contested claim
 12 to the small claims calendar for hearing at a place and time certain.
 13 The time of hearing shall be not less than five days nor more than
 14 twenty days after the latest timely appearance. The clerk shall trans-
 15 mit the original notice and all other papers relating to the case to
 16 the judicial officer to whom the case is assigned, and copies of all
 17 papers so transmitted shall be retained in the clerk's office.

18 3. Partial service. If the plaintiff has joined more than one de-
 19 fendant, and less than all defendants are served with notice as deter-
 20 mined by subsection four (4) of this section, the plaintiff may elect
 21 to proceed against all defendants served, or he may elect to have a
 22 continuance, issuable by the clerk, to a date certain not more than
 23 sixty days thereafter. If the plaintiff elects to proceed, the action
 24 shall be dismissed without prejudice as against each defendant not
 25 served with notice.

26 4. Return of service. Proper notice shall be established by a
 27 signed return receipt or a return of service as provided in rule fifty-
 28 nine (59) of the rules of civil procedure.

29 5. Failure of service. In the event a sole defendant or all defend-
 30 ants fail to appear and the clerk, in accordance with subsection four
 31 (4) of this section, determines that proper notice has not been given,
 32 the clerk shall reset the date for appearance and upon receipt of the
 33 prescribed fees shall cause personal service upon each defendant as
 34 prescribed in section six hundred thirty-one point four (631.4) of
 35 this chapter.

36 6. Notification to parties. When a small claim is set for hearing
 37 the clerk immediately shall notify by ordinary mail each party or the
 38 attorney representing the party, and the judicial officer to whom the
 39 action is assigned, of the date, time and place of hearing.

40 7. Default. If a defendant fails to appear and the clerk in accord-
 41 ance with subsection four (4) of this section determines that proper
 42 notice has been given, judgment shall be rendered against the defend-
 43 ant by the clerk if the relief is readily ascertainable. If the relief is
 44 not readily ascertainable the claim shall be assigned to a judicial mag-
 45 istrate for determination and the clerk shall immediately notify the
 46 plaintiff or his attorney and the judicial magistrate of such assign-
 47 ment by ordinary mail.

1 SEC. 24. Section six hundred thirty-one point six (631.6), Code
 2 1973, is amended by striking the section and inserting in lieu thereof
 3 the following:

4 **631.6 Fees and costs.** All fees and costs required to be paid in
 5 small claims actions shall be paid in advance, and shall be assessed
 6 as costs in the action.

7 1. Docket fees and other fees imposed for small claims shall be the
 8 same as those required in regular actions in district court.

9 2. Postage for the mailing of original notices shall be the actual
 10 cost of the postage.

11 3. Fees for personal service by peace officers or other officials of
 12 the state shall be the amounts specified by law.

13 4. Fees for service of notice on nonresidents shall be as provided
 14 in section six hundred seventeen point three (617.3) of the Code.

15 All fees and costs collected in small claims actions shall be remitted
 16 to the county treasurer as provided in section six hundred six point
 17 sixteen (606.16) of the Code. The fee specified in subsection four
 18 (4) of this section shall be remitted to the secretary of state.

1 SEC. 25. Section six hundred thirty-one point seven (631.7), Code
 2 1973, is amended to read as follows:

3 **631.7 Parties pleadings and motions.**

4 1. Except as *specifically* provided in sections ~~631.4 and 631.8~~ *this*
 5 *chapter*, there shall be no written pleadings or motions unless the court
 6 in the interests of justice ~~requires~~ *permits* them, in which event they
 7 shall be similar in form to the original notice.

8 2. *Motions, except a motion under rule thirty-four (34) of the rules*
 9 *of civil procedure, shall be heard only at the time set for a hearing on*
 10 *the merits.*

11 3. *Except as provided in subsection four (4) of section six hundred*
 12 *thirty-one point eight (631.8) of this chapter, a counterclaim, cross-*
 13 *petition or intervention shall be in writing and in the form promul-*
 14 *gated under section six hundred thirty-one point fifteen (631.15) of*
 15 *this chapter. Copies shall be submitted for each party appearing, and*
 16 *shall be mailed by ordinary mail to those parties by the clerk. A cross-*

17 *petition against persons not a party to the action shall be made pur-*
 18 *suant to rule thirty-four (34) of the rules of civil procedure and the*
 19 *new party shall be served with notice as provided in this chapter.*

20 *4. The rules of civil procedure pertaining to actions, joinder of*
 21 *actions, parties and intervention shall apply to small claims actions,*
 22 *except that rule twenty-nine shall not apply. No counterclaim is neces-*
 23 *sary to assert an offset arising out of the subject matter of the plain-*
 24 *tiff's claim. A counterclaim, cross-petition, or intervention against an*
 25 *existing party is deemed denied and no responsive pleading by such*
 26 *party is required.*

1 SEC. 26. Section six hundred thirty-one point eight (631.8), sub-
 2 sections one (1) and two (2), Code 1973, are amended to read as fol-
 3 lows:

4 1. The rules of civil procedure pertaining to action, joinder of
 5 actions and parties and rule 75 of the rules of civil procedure shall be
 6 applicable to small claims actions, except that rule 29 shall not apply
 7 to actions originating as small actions *Small claims not determined*
 8 *within ninety days following the expiration of any period of continu-*
 9 *ance or following the last entry placed on the record for that action*
 10 *shall be dismissed by the clerk without prejudice.*

11 2. In small claims actions, if a party joins a small claim with one
 12 which is not a small claim, the court shall:

13 a. Order the small claim to be heard under this ~~division~~ *chapter* and
 14 dismiss the other claim without prejudice, or

15 b. As to parties who have appeared or are existing parties, either
 16 (1) order the small claim to be heard under the ~~procedures specified in~~
 17 this chapter and the other claim to be tried by regular procedure or
 18 (2) order both claims to be tried by regular procedure.

1 SEC. 27. Section six hundred thirty-one point eight (631.8), sub-
 2 section three (3), Code 1973, is amended by striking the subsection
 3 and inserting in lieu thereof the following:

4 3. If commenced as a regular civil action or under the statutes relat-
 5 ing to probate proceedings, a small claim shall be transferred to the
 6 small claims docket. A small claim commenced as a regular action
 7 shall not be dismissed but shall be transferred to the small claims
 8 docket. Civil and probate actions not small claims but commenced
 9 hereunder shall be dismissed without prejudice except for defendants
 10 who have appeared, as to whom such actions shall be transferred to
 11 the combination or probate docket, as appropriate.

1 SEC. 28. Section six hundred thirty-one point nine (631.9), Code
 2 1973, as amended by Acts of the Sixty-fifth General Assembly, 1973
 3 Session, chapter two hundred eighty-two (282), section sixty-seven
 4 (67), is amended by striking the section and inserting in lieu thereof
 5 the following:

6 **631.9 Jurisdiction determined.** At the time set for the hearing
 7 of a small claim, the court first shall determine that proper notice as
 8 provided in subsection four (4) of section twenty-three (23) of this
 9 Act has been given a party before proceeding further as to him, unless
 10 he has appeared or is an existing party, and also shall determine that
 11 the action is properly brought as a small claim.

1 SEC. 29. Section six hundred thirty-one point eleven (631.11),
 2 Code 1973, as amended by Acts of the Sixty-fifth General Assembly,
 3 1973 Session, chapter two hundred eighty-two (282), section sixty-nine
 4 (69), is amended to read as follows:

5 **631.11 Hearing.**

6 1. *Informality.* The hearing shall be to the court, shall be simple
 7 and informal, and shall be conducted by the court itself, without
 8 regard to technicalities of procedure; ~~but the decision must be based~~
 9 ~~on substantial evidence.~~

10 2. *Evidence.* The court shall swear the parties and their witnesses,
 11 and examine them in such way as to bring out the truth. The parties
 12 may participate, either personally or by attorney. The court may
 13 continue the hearing from time to time *and may permit new or*
 14 *amended pleadings* if justice requires.

15 3. *Record.* Upon the trial, the judicial magistrate shall make
 16 detailed minutes of the testimony of each witness and append the
 17 exhibits or copies thereof *to the record.* The proceedings upon trial
 18 shall not be reported *by a certified court reporter,* unless the party
 19 provides ~~a~~ *the* reporter at such party's expense. ~~By agreement the~~
 20 ~~parties~~ *The magistrate, in his discretion,* may cause the proceedings
 21 upon trial to be reported electronically. *If the proceedings are being*
 22 *electronically recorded both parties shall be notified in advance of that*
 23 *recording. If the proceedings have been reported electronically the*
 24 *recording shall be retained under the jurisdiction of the magistrate*
 25 *unless appealed, and upon appeal shall be transcribed only by a person*
 26 *designated by the court under the supervision of the magistrate.*

27 4. *Judgment.* Judgment shall be rendered, based upon applicable
 28 law and upon a preponderance of the evidence.

29 5. *Destruction of recordings.* Unless an appeal is taken, an elec-
 30 tronic recording of a proceeding in small claims shall be retained until
 31 the time for appeal has expired as specified in section six hundred
 32 thirty-one point thirteen (631.13) of the Code. Thereafter, the magis-
 33 trate may direct that the recording tape or other device be erased and
 34 used for subsequent recordings. If the proceeding is appealed, the
 35 recording may be erased following entry of judgment by the district
 36 judge hearing the appeal.

1 SEC. 30. Section six hundred thirty-one point twelve (631.12), sub-
 2 section two (2), Code 1973, is amended by striking the subsection.

1 SEC. 31. Section six hundred thirty-one point thirteen (631.13),
 2 Code 1973, is amended by striking the section and inserting in lieu
 3 thereof the following:

4 **631.13 Appeals.**

5 1. Notice. An appeal from a judgment in small claims may be
 6 taken by any party by giving oral notice to the court at the conclusion
 7 of the hearing, or by filing a written notice of appeal with the clerk
 8 within ten days after judgment is rendered. In either case, the
 9 appealing party shall pay to the clerk within that ten days the usual
 10 district court docket fee to perfect the appeal. No appeal shall be
 11 taken after ten days.

12 2. Stay of judgment. Execution of judgment shall be stayed upon
 13 the filing with the clerk of the district court an appeal bond with
 14 surety approved by the clerk, in the sum specified in the judgment.

15 3. Transcript. Within twenty days after an appeal is taken, unless
 16 extended by order of a district judge or by stipulation of the parties,
 17 any party may file with the clerk as part of the record a transcript of
 18 the official report, if any, or in the event the report was made electroni-
 19 cally, a transcription of the recording. If a transcription of an
 20 electronic recording is filed, the record on appeal shall contain the
 21 tape or other medium which the proceedings were preserved. A tran-
 22 scription of an electronic recording shall be provided any party upon
 23 request and upon payment by the party of the actual costs of tran-
 24 scription.

25 4. Procedure on appeal.

26 a. A district judge shall promptly hear the appeal upon the record
 27 thus filed without further evidence. The judge shall decide the
 28 appeal without regard to technicalities or defects which have not
 29 prejudiced the substantial rights of the parties, and may affirm, re-
 30 verse, or modify the judgment, or render judgment as the magistrate
 31 should have rendered.

32 If the record, in the opinion of the district judge, is inadequate for
 33 the purpose of rendering a judgment on appeal, the district judge
 34 may order that additional evidence be presented before him relative to
 35 one or more issues, and may enter any other order which may be
 36 necessary to protect the rights of the parties. The district judge
 37 shall take minutes of any additional evidence, but the hearing shall
 38 not be reported by a certified court reporter.

39 b. Upon entry of judgment the clerk may cause any recording tape
 40 or other device contained in the record to be erased for subsequent use.

1 SEC. 32. Chapter six hundred thirty-one (631), Code 1973, is
 2 amended by adding the following new section as section six hundred
 3 thirty-one point fourteen (631.14)*:

4 **631.14 NEW SECTION. Representation in small claims actions.**
 5 Actions constituting small claims may be brought or defended by an
 6 individual, partnership, association, corporation, or other entity. In
 7 actions in which a person other than an individual is a party, that
 8 person may be represented by an officer or an employee. Any person,
 9 however, may be represented in small claims action by an attorney.

1 SEC. 33. Chapter six hundred thirty-one (631), Code 1973, is
 2 amended by adding the following new section as section six hundred
 3 thirty-one point fifteen (631.15)*:

4 **631.15 NEW SECTION.** The supreme court shall prescribe standard
 5 forms of pleadings to be used in small claims actions. Standard forms
 6 promulgated by the supreme court shall be the exclusive forms used
 7 after December 31, 1975, but forms prepared in accordance with the
 8 law prior to the effective date of this Act may be used until Decem-
 9 ber 31, 1975.

1 SEC. 34. Chapter six hundred thirty-one (631), Code 1973, is
 2 amended by adding the following new section:

3 **NEW SECTION. Discretionary review by supreme court.**

4 1. A civil action originally tried as a small claim shall not be ap-
 5 pealed to the supreme court except by discretionary review as pro-
 6 vided herein.

*According to enrolled Act

7 2. "Discretionary review" is the process by which the supreme
8 court may exercise its discretion, in like manner as under the rules
9 pertaining to interlocutory appeals and certiorari in civil cases, to
10 review specified matters not subject to appeal as a matter of right.
11 The supreme court may adopt additional rules to control access to dis-
12 cretionary review.

13 3. The party seeking review shall be known as the appellant and
14 the adverse party as the appellee, but the title of the action shall not
15 be changed from that in the court below.

16 4. A petition for review shall be filed in writing with the clerk of
17 the district court within ten days after judgment.

18 5. When an application for discretionary review is filed, the clerk
19 of the court in which the judgment or order was rendered shall:

20 a. Immediately prepare and mail by certified mail, return receipt
21 requested, to the appellees and their attorneys of record, true copies
22 of the application, together with the date of filing.

23 b. Immediately prepare and transmit to the clerk of the supreme
24 court a transcript of all record entries relevant to the application,
25 together with copies of all papers in the case on file with the court,
26 and a transcript of the official report, if any, all duly certified under
27 seal of the court.

28 Failure of the clerk of the district court to transmit all the papers
29 as required by this subsection shall not prejudice the rights of the
30 parties.

31 6. The record and case shall be presented to the supreme court as
32 provided by its rules; and the provisions of law in civil procedure
33 relating to the filing of decisions and opinions of the supreme court
34 shall apply in such cases.

35 7. An application shall not be dismissed for an informality or de-
36 fect in taking it if corrected as directed by the supreme court. The
37 supreme court, after an examination of the entire record, may dispose
38 of the case by affirmation, reversal or modification of the lower court
39 judgment, and may order a new trial. It also may dismiss the appli-
40 cation if both of the following are true:

41 a. The court determines that there has been no substantial miscar-
42 riage of justice.

43 b. The arguments do not present definite grounds for a hearing.

44 8. The decision of the supreme court with any opinion filed or judg-
45 ment rendered must be recorded by its clerk. After the expiration
46 of the period allowed for a rehearing, or as ordered by the court or
47 provided by its rules, a certified copy of the decision and opinion shall
48 be transmitted to the clerk of the trial court, and filed and entered of
49 record in the district court.

50 9. The jurisdiction of the supreme court shall cease after the cer-
51 tified copy of the decision and opinion is transmitted to the clerk of
52 the trial court. All proceedings for executing the judgment shall be
53 had in the trial court or by its clerk.

1 SEC. 35. Section seven hundred fifty-three point nine (753.9),
2 Code 1973, as amended by Acts of the Sixty-fifth General Assembly,
3 1973 Session, chapter two hundred eighty-two (282), section seventy-
4 six (76), is amended by adding the following new unnumbered para-
5 graph:

6 NEW UNNUMBERED PARAGRAPH. In a case where a defendant fails
7 to make a required court appearance, the court shall issue an arrest
8 warrant for the offense of failure to appear, and shall forward the
9 warrant and the original citation to the clerk. The clerk shall enter
10 a transfer to the issuing agency on the docket, and shall return the
11 warrant with the original citation attached to the law enforcement
12 agency which issued the original citation for enforcement of the war-
13 rant. Upon arrest of the defendant, the warrant and the original cita-
14 tion shall be returned to the court, and the offenses shall be heard and
15 disposed of simultaneously.

1 SEC. 36. Section seven hundred fifty-three point thirteen (753.13),
2 Code 1973, as amended by Acts of the Sixty-fifth General Assembly,
3 1973 Session, chapter two hundred eighty-two (282), section seventy-
4 seven (77), is amended by adding the following new paragraph:

5 NEW PARAGRAPH. The uniform citation and complaint shall con-
6 tain a place for the verification of the officer issuing the citation. The
7 complaint may be verified before the chief officer of the law enforce-
8 ment agency or his designee, and the chief officer of each law enforce-
9 ment agency of the state is authorized to designate specific individ-
10 uals to administer oaths and certify verifications. Nothing in this
11 section shall be deemed to invalidate forms of uniform citation and
12 complaint in existence prior to the effective date of this Act, and exist-
13 ing forms may be used until supplies are exhausted.

1 SEC. 37. Section seven hundred fifty-three point fourteen (753.14),
2 Code 1973, is amended to read as follows:

3 753.14 Traffic violations *offices—fine collection boxes.*

4 1. *Offices.* Each district court clerk's office shall constitute a traffic
5 violations office of the district court. Additional traffic violations
6 offices may be established at other locations, as needed, if authorized
7 by the chief judge of the district.

8 2. *Collection boxes.* *The chief judge of the district may permit the*
9 *maintenance of locked collection boxes to be used at weigh stations.*
10 *Such boxes shall be used solely for the deposit of fines and costs re-*
11 *ceived upon written admissions of scheduled violations respecting*
12 *weight and other nonmoving scheduled violations applicable to com-*
13 *mercial carriers. The collection boxes shall remain locked at all times*
14 *and shall be opened only by the clerk of the district court or his desig-*
15 *nee. The chief judge of the district may prescribe procedures for the*
16 *system and may discontinue its use if necessary.*

1 SEC. 38. Acts of the Sixty-fifth General Assembly, 1973 Session,
2 chapter two hundred eighty-two (282), section eighty-nine (89), un-
3 numbered paragraph two (2), amending section seven hundred sixty-
4 two point twelve (762.12), Code 1973, is amended to read as follows:

5 Upon the trial, the judicial magistrate shall ~~make minutes of the~~
6 ~~testimony of each witness and append the exhibits or copies thereof~~
7 ~~to the record.~~ The proceedings upon trial shall not be reported, unless
8 the party provides a reporter at such party's expense. By agreement
9 the parties may cause the proceedings upon trial to be reported elec-
10 tronically. If the defendant is indigent and requests that the proceed-
11 ings upon trial be reported, the judicial magistrate shall cause them to
12 be reported by a reporter, or electronically, at public expense.

1 SEC. 39. Section seven hundred sixty-two point thirty-two
2 (762.32), Code 1973, is amended by striking the section and inserting
3 in lieu thereof the following:

4 **762.32 Satisfaction of judgment.** Upon entering a judgment im-
5 posing a fine, the court may provide that the judgment be paid in
6 installments. If the defendant willfully fails to pay installments when
7 due, he shall be guilty of contempt and shall be punished as provided
8 in chapter six hundred sixty-five (665) of the Code.

1 SEC. 40. Section seven hundred sixty-two point forty-three
2 (762.43), Code 1973, as amended by Acts of the Sixty-fifth General
3 Assembly, 1973 Session, chapter two hundred eighty-two (282), sec-
4 tion ninety-two (92), is amended to read as follows:

5 **762.43 Appeal.** An appeal may be taken by the plaintiff only upon
6 a finding of invalidity of an ordinance or statute. In all other cases,
7 an appeal may only be taken by the defendant and only upon a judg-
8 ment of conviction. Execution of the judgment shall be stayed upon
9 the filing with the clerk of the district court an appeal bond with surety
10 approved by the clerk, in the sum specified in the judgment. The
11 defendant may take an appeal, by giving notice orally to the magis-
12 trate that he appeals, or by delivering to the magistrate not later than
13 ten days thereafter, a written notice of his appeal, and in either case
14 the magistrate must make an entry on its docket of the giving of such
15 notice. Payment of fine or service of a sentence of imprisonment does
16 not waive the right to appeal, nor render the appeal moot. When an
17 appeal is taken, the magistrate shall forward to the appropriate dis-
18 trict court clerk a copy of the docket entries in his court, together with
19 copies of the complaint, warrant, motions, pleadings, ~~his minutes of~~
20 ~~the witness' testimony~~ and the exhibits or copies thereof, and all other
21 papers in the case. ~~Within ten days after an appeal is taken, unless~~
22 ~~extended by order of a district judge or by stipulation of the parties,~~
23 ~~any party may file with the clerk, as a part of the record, a transcript~~
24 ~~of the official report, if any, and, in the event the report was made~~
25 ~~electronically, the tape or other medium on which the proceedings were~~
26 ~~preserved.~~ The case shall stand for trial anew in the district court in
27 the same manner as it *originally* should have been tried ~~before the~~
28 ~~judicial magistrate, without regard to technical errors or defects which~~
29 ~~have not substantially prejudiced the rights of either party.~~ The court
30 shall have full power over the case, the judicial magistrate and his
31 record, and shall ~~give~~ *render original* judgment as though the case
32 were being originally tried.

1 SEC. 41. Section seven hundred sixty-six point seven (766.7), Code
2 1973, is amended to read as follows:

3 **766.7 ~~Traffic violations~~ Nonindictable misdemeanors.** The provi-
4 sions of sections 766.2 through 766.6 shall not apply to ~~traffic viola-~~
5 ~~tions nonindictable misdemeanors, and when a defendant fails to~~
6 ~~appear as required in such a case, the court shall enter a judgment of~~
7 ~~forfeiture of the bond which shall be final upon entry and shall not be~~
8 ~~set aside.~~

1 SEC. 42. Section seven hundred eighty-nine point seventeen
2 (789.17), Code 1973, is amended by striking the section and inserting
3 in lieu thereof the following:

4 **789.17 Satisfaction of judgment.** Upon entering a judgment im-
5 posing a fine, the court may provide that the judgment be paid in
6 installments. If the defendant willfully fails to pay installments when
7 due, he shall be guilty of contempt and shall be punished as provided
8 in chapter six hundred sixty-five (665) of the Code.

1 SEC. 43. Sections six hundred two point forty-eight (602.48),
2 seven hundred sixty-two point twenty-one (762.21), and seven hun-
3 dred sixty-two point twenty-three (762.23), Code 1973, are amended
4 by striking those sections.

1 SEC. 44. The apportionment of judicial magistrates made in Janu-
2 ary, 1974, and the notice thereof given in February, 1974, by the
3 supreme court administrator pursuant to section six hundred two point
4 fifty-seven (602.57) of the Code is void and each county shall have
5 and retain until January, 1975, the allotment of judicial magistrates
6 in effect for that county as of December 1, 1973, except for a substi-
7 tution permitted by section thirteen (13) of this Act.

8 In any county where the judicial magistrate appointing commission,
9 pursuant to section six hundred two point fifty (602.50) of the Code,
10 made a number of appointments of judicial magistrates in 1974 which
11 number is inconsistent with the number of magistrates permitted by
12 this section, or where the appointing commission prior to June 2, 1974
13 receives notice of a substitution pursuant to section thirteen (13) of
14 this Act, the judicial magistrate appointing commission for that county
15 is authorized and directed to reconvene prior to July 1, 1974, and ap-
16 point the number permitted by this section. For the purpose of this
17 paragraph, such a nominating commission is authorized to declare
18 prior appointments made in 1974 void.

1 SEC. 45. Sections one (1) through twelve (12) and fourteen (14)
2 through forty-three (43) of this Act shall take effect on July 1, 1974.
3 Sections thirteen (13) and forty-four (44) of this Act shall take effect
4 when published as provided in section forty-six (46) of this Act.

1 SEC. 46. Sections thirteen (13) and forty-four (44) of this Act,
2 being deemed of immediate importance, shall take effect and be in
3 force from and after publication of this Act in *The Sioux City Jour-*
4 *nal*, a newspaper published in Sioux City, Iowa, and in the *West Des*
5 *Moines Express*, a newspaper published in West Des Moines, Iowa.

Approved May 27, 1974

I hereby certify that the foregoing Act, House File 1470, was published in *The Sioux City Journal*, Sioux City, Iowa, May 30, 1974, and in the *West Des Moines Express*, West Des Moines, Iowa, May 30, 1974.

MELVIN D. SYNHORST, *Secretary of State.*