

March 16, 1965.
Place on Calendar.

House File 565
By JUDICIARY COMMITTEE.

Passed House, Date 4/9.....

Passed Senate, Date 5/14.....

Vote: Ayes 101 Nays 0.....

Vote: Ayes 43 Nays 0.....

Approved May 24, 1965.....

*Passed on file 4/12
Judiciary 7/14
pass 5/12*

A BILL FOR

An Act establishing a procedure for indictment, trial and sentencing of defendants for public offenses which carry a heavier penalty because of prior convictions.

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

1 Section 1. Section seven hundred forty-seven point one
2 (747.1), Code 1962, is hereby amended by striking from line
3 sixteen (16) through line eighteen (18) the words “, provided
4 such former judgments shall be referred to in the indictment,
5 stating the court, date and place of rendition”.

1 Sec. 2. Section seven hundred forty-seven point two
2 (747.2), Code 1962, is hereby amended by striking from line
3 seven (7) through line nine (9) the words “, provided such
4 former judgments shall be referred to in the indictment,
5 stating the court, date and place of rendition”.

1 Sec. 3. Chapter seven hundred sixty-nine (769), Code 1962,
2 is hereby amended by adding after section seven hundred sixty-
3 nine point five (769.5) the following section:

4 “If the offense charged is one for which the defendant,
5 if convicted, will be subject by reason of the Code, to an
6 increased penalty because of prior convictions, the allegation
7 of such convictions, if any, shall be contained in the
8 (information). A supplemental (information) shall be pre-
9 pared for the purpose of trial of the facts of the current
10 offense only, and shall satisfy all pertinent requirements

11 of the Code, except that it shall make no mention, directly
12 or indirectly, of the allegation of the prior convictions,
13 and shall be the only information read or otherwise presented
14 to the jury prior to conviction of the current offense.
15 The effect of this section shall be to alter the procedure
16 for trying, in one criminal proceeding, the offenses appro-
17 priate to its provisions, and not to alter in any manner the
18 basic elements of an offense as provided by law.”

1 Sec. 4. Chapter seven hundred seventy-five (775), Code
2 1962, is hereby amended by adding after section seven hundred
3 seventy-five point two (775.2) the following section:

4 “If the offense charged is one for which the defendant,
5 if convicted, will be subject by reason of the Code, to an
6 increased penalty because of prior convictions, the allegation
7 of such convictions, if any, shall be contained in the (indict-
8 ment). A supplemental (indictment) shall be prepared for the
9 purpose of trial of the facts of the current offense only,
10 and shall satisfy all pertinent requirements of the Code,
11 except that it shall make no mention, directly or indirectly,
12 of the allegation of the prior convictions, and shall be the
13 only indictment read or otherwise presented to the jury prior
14 to conviction of the current offense. The effect of this
15 section shall be to alter the procedure for trying, in one
16 criminal proceeding, the offenses appropriate to its provisions,
17 and not to alter in any manner the basic elements of an offense
18 as provided by law.”

1 Sec. 5. Chapter seven hundred eighty-five (785), Code 1962,
2 is hereby amended by adding after section seven hundred eighty-

3 five point fifteen (785.15) the following section:

4 "After conviction, but prior to pronouncement of sentence,
5 if the indictment alleges one or more prior convictions which
6 by the Code, subject the offender to an increased sentence,
7 he shall have the opportunity in open court to affirm or deny
8 that he is identical with the person previously convicted. If
9 he denies the identity, sentence shall be postponed for such
10 time as to permit a trial before a jury on the sole issue of
11 the offender's identity with the person previously convicted.

12 The court may in its discretion reconvene the jury which
13 heard the current offense or dismiss that jury and submit
14 the issue of identity to another jury to be later impaneled.
15 If the offender is found by the jury to be the person previously
16 convicted, or if he acknowledges that he is such person, he shall
17 be sentenced as prescribed in the Code."

1 Sec. 6. Section seven hundred eighty point five (780.5),
2 subsection one (1), Code 1962, is hereby amended by adding in
3 line two (2) after the word "indictment" the following:

4 "or, the supplemental indictment as required under the
5 provisions of the Code."

1 Sec. 7. Section seven hundred sixty-two point three (762.3),
2 Code 1962, is hereby amended by adding a new subsection four (4)
3 as follows:

4 "4. The provisions of section three (3) of this Act shall
5 be applicable to the prosecution before a justice of the peace
6 of cases within its jurisdiction."

1 Sec. 8. Section six hundred three point eleven (603.11),
2 Code 1962, is hereby amended by striking after the word

- 3 "prescribe" in line four (4) the period (.) and inserting in
- 4 lieu thereof the words:
- 5 "and the provisions of section three (3) of this Act shall
- 6 be applicable to all such actions."

EXPLANATION OF HOUSE FILE 565

This bill establishes a procedure for trial of those public offenses for which the Code provides an increased penalty for prior convictions so that the allegation of the prior convictions will not prejudice the trial of facts as to the current offense in accordance with the federal constitutional requirements set out in the case of Lane v. Warden, Maryland Penitentiary, 320 F. 2d 179.

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- 1 Amend House File 565, section four (4), as follows:
- 2 1. By striking in line one (1) the word and figures
- 3 "seventy-five (775)" and inserting in lieu thereof the word
- 4 and figures "seventy-three (773)".
- 5 2. By striking in line three (3) the words and figures
- 6 "seventy-five point two (775.2)" and inserting in lieu thereof
- 7 the words and figures "seventy-three point two (773.2)".

Filed and adopted
April 9, 1965.

GLENN of Wapello.