

MAR 9 1971

HOUSE FILE 393

Judiciary, *Pass per amendment 3/31* By JOHNSTON
Sen. " 4/13, Pass 5/26

Passed House, Date 4-12-71 Passed Senate, Date 6-15-71

Vote: Ayes 76 Nays 0 Vote: Ayes 42 Nays 0

Approved June 30, 1971

A BILL FOR

1 An Act relating to waiver of right to jury trial in indictable
2 misdemeanor cases.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4
5
6
7
8
9
10
11
12
13
14
15
16
17

- 1 Amend House File 393 as follows:
- 2 1. Page 2, line 21, by striking the period
- 3 and inserting in lieu thereof the words
- 4 "which shall be filed as part of the court
- 5 record."

Filed - *Adopted 4/12*
March 31, 1971

By COMMITTEE ON JUDICIARY
PELTON, Chairman

1 Section 1. Section seven hundred seventy-seven point six-
2 teen (777.16), Code 1971, is amended as follows:

3 777.16 ISSUES OF FACT--TRIAL. An issue of fact arises on
4 a plea of not guilty or of former conviction or acquittal, and
5 no further pleading is necessary. Issues of fact must be tried
6 by a jury, unless right to jury trial is waived by defendant
7 pursuant to section seven hundred eighty point twenty-three
8 (780.23) of the Code.

9 Sec. 2. Section seven hundred eighty point twenty-three
10 (780.23), Code 1971, is amended by adding the following:

11 "However, when the punishment prescribed for a public offense
12 does not exceed the punishment provided in section six hundred
13 eighty-seven point seven (687.7) of the Code, the defendant
14 may waive his right to jury trial by signing a statement which
15 contains a written explanation fully apprising the defendant
16 of his right to a jury trial. The statement shall be read to
17 the defendant by the presiding judge in open court. The
18 presiding judge shall determine if the defendant is fully aware
19 of the fact that he is waiving his right to a jury trial and if
20 satisfied that the defendant is aware of such fact, the defen-
21 dant shall be allowed to sign the waiver."

22 EXPLANATION

23 This bill permits a person accused of an indictable misde-
24 meanor to waive his right to jury trial. The waiver statement
25 must be in writing and must apprise defendant of his right to
26 jury trial. The statement must be read to and signed by
27 defendant in open court.

28
29
30
31
32
33
34
35