

MAR 26 1974

Place On Calendar

Reprinted 4/15
HOUSE FILE 1470

By COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

Passed House, Date 4-11-74 (1697) Passed Senate, Date _____

Vote: Ayes 74 Nays 10 Vote: Ayes _____ Nays _____

Approved 5-27-74

Motion to reconsider lost 4-11

A BILL FOR

1 An Act relating to the Iowa district court, and the admin-
2 istration, funding, personnel and procedures thereof.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

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

6 ~~26.---The-state-shall-pay-the-reasonable-cost-of-the-bonds~~
7 ~~required-in-subsections-4-to-25,-both-inclusive,-of-this-sec-~~
8 ~~tion.~~

9 ~~27~~ 26. Judicial magistrates, five thousand dollars.

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

14 602.42 COMPOSITION OF COUNTY JUDICIAL MAGISTRATE APPOINT-
15 ING COMMISSIONS.

16 1. There shall be in each county a judicial magistrate
17 appointing commission which shall be composed of the follow-
18 ing members, ~~except as provided in section 602.48~~:

19 1 a. A district court judge designated by the chief judge
20 of the district to serve until a successor is designated.

21 2 b. Three members appointed by the board of supervisors,
22 except as provided in section six hundred two point forty-
23 three (602.43) of the Code.

24 3 c. Two attorneys elected by the county bar.

25 2. The clerk of the district court shall maintain a per-
26 manent record of the name, address, and term of office ~~for~~
27 of each commissioner designated, appointed or elected.

28 Sec. 3. Section six hundred two point forty-three (602.43),
29 Code 1973, as amended by Acts of the Sixty-fifth General As-
30 sembly, 1973 Session, chapter two hundred eighty-two (282),
31 section six (6), is amended to read as follows:

32 602.43 APPOINTING COMMISSIONERS APPOINTED BY A COUNTY.

33 1. The board of supervisors of each county shall appoint
34 three electors to the county judicial magistrate appointing
35 commission for the county for six-year terms beginning Janu-

1 ary 1, 1973. However, in the event there is only one resi-
 2 dent member of the bar in a county who is qualified and will-
 3 ing to serve pursuant to section six hundred two point forty-
 4 four (602.44) of the Code, the number appointed by the county
 5 board of supervisors shall be two. In the event there is
 6 no resident member of the bar within the county qualified
 7 and willing to serve, the county board of supervisors shall
 8 appoint one commissioner.

9 2. A commissioner appointed pursuant to this section shall
 10 not be an attorney at law, or an active law enforcement of-
 11 ficer.

12 3. The county auditor shall certify the name, address
 13 and expiration date of term for all regular and special ap-
 14 pointees of the board of supervisors to the clerk of the
 15 court.

16 Sec. 4. Section six hundred two point forty-four (602.44),
 17 Code 1973, is amended to read as follows:

18 602.44 ~~ELECTION~~ COMMISSIONERS ELECTED BY THE BAR.

19 1. The resident members of the bar of each county shall
 20 elect resident members of the bar of such county to the county
 21 judicial magistrate appointing commission for six-year terms
 22 beginning on January 4 first. During December 1972, and in
 23 each December thereafter, which immediately ~~preceeding~~ precedes
 24 the expiration of the terms of the members of the commission,
 25 the members of the bar shall elect commissioners to six-year
 26 terms.

27 2. A county attorney shall not be elected to the com-
 28 mission.

29 Sec. 5. Section six hundred two point forty-seven (602.47),
 30 Code 1973, is amended to read as follows:

31 602.47 NO MEMBER OF COMMISSION TO BE APPOINTED MAGISTRATE.

32 No person while a member of the county judicial magistrate
 33 appointing commission shall be appointed to the office of
 34 judicial magistrate. ~~No-member-appointed-by-the-board-of~~
 35 ~~supervisors-to-the-judicial-magistrate-appointing-commission~~

~~1 shall-be-an-attorney-at-law-or-an-active-law-enforcement-of-
2 fier-~~

3 Sec. 6. Section six hundred two point fifty (602.50),
4 Code 1973, as amended by Acts of the Sixty-fifth General As-
5 sembly, 1973 Session, chapter two hundred eighty-two (282),
6 section eight (8), is amended to read as follows:

7 602.50 APPOINTMENT OF JUDICIAL MAGISTRATES.

8 1. REGULAR APPOINTMENTS. ~~During-April,-1973,-the-ju-
9 dicial-magistrate-appointing-commission-shall,-by-majority
10 vote,-appoint-Iowa-judicial-magistrates-in-such-number-as
11 provided-in-section-six-hundred-two-point-fifty-nine-(602.59)
12 of-the-Code.~~ In April of each year in which magistrates'
13 terms expire, the commission shall appoint, except as other-
14 wise permitted in section ten (10) of this Act, the number
15 of magistrates ~~alotted~~ apportioned to the county by the
16 supreme court administrator as provided in section six hundred
17 two point fifty-seven (602.57) of the Code, and may appoint
18 the magistrates additional magistrate allowed by section six
19 hundred two point fifty-eight (602.58) of the Code. The
20 commission shall appoint no more magistrates than ~~alotted~~
21 are apportioned to the county by the supreme court
22 administrator except as provided in ~~sections-602.57-and~~ section
23 602.58.

24 2. VACANCIES. Within thirty days following receipt of
25 notification of a vacancy in the office of judicial magis-
26 trate appointed under this section, the commission shall ap-
27 point a person to the office vacated to serve the remainder
28 of the unexpired term. For purposes of this section, vacancy
29 means death, resignation, retirement, removal, or increase
30 in the number of positions authorized.

31 3. TERM OF OFFICE. ~~The-judicial-magistrates-appointed
32 initially-shall-take-office-July-1,-1973,-and-their-term-of
33 office-shall-expire-June-30,-1974.--Thereafter,~~ The office
34 of judicial magistrates magistrate, when appointed pursuant
35 to this section, shall take-office-on be for a term of two

1 years from July 1, 1974 1975, and every each two years
2 ~~thereafter, provided however, judicial magistrates appointed~~
3 ~~pursuant to section six hundred two point fifty one (602.51)~~
4 ~~of the Code for the term commencing July 1, 1974, shall hold~~
5 ~~office for a term of four years and shall be subject to~~
6 ~~appointment every four years thereafter.~~

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

9 4. CERTIFICATION. The commission shall promptly certify
10 the names and addresses of the magistrates appointed to the
11 clerk of the district court and the chief judge of the judi-
12 cial district. The clerk shall certify to the supreme court
13 administrator and to the state comptroller the names and ad-
14 dresses of magistrates so appointed. The certification of
15 the clerk to the comptroller shall be authority for the comp-
16 troller to pay the salaries and expenses in accordance with
17 section 602.54. Judicial magistrates shall be officers of
18 the state.

19 5. OATH AND INSTRUCTION. Before assuming office, a ju-
20 dicial magistrate shall subscribe and file in the office of
21 the clerk of the district court of the county of his resi-
22 dence his oath of office to uphold and support the Constitu-
23 tions of the United States of America and state of Iowa, the
24 laws enacted pursuant thereto, and the law and ordinances
25 of the political subdivisions of the state of Iowa. ~~Before~~
26 ~~July 1, 1973, and annually thereafter~~ Annually, the supreme
27 court administrator shall cause a school of instruction to
28 be conducted for judicial magistrates, which shall include
29 a comprehensive examination over the material presented, and
30 which each judicial magistrate appointed as provided in this
31 chapter prior to the time he takes office shall attend unless
32 excused by the chief justice for good cause. A judicial mag-
33 istrate appointed under this section to fill a vacancy shall
34 attend the first school of instruction held following his
35 appointment unless excused by the chief justice for good

1 cause.

2 Sec. 7. Acts of the Sixty-fifth General Assembly, 1973
3 Session, chapter two hundred eighty-two (282), section thirty-
4 nine (39), unnumbered paragraphs one (1) and two (2), amending
5 section six hundred two point fifty-one (602.51), Code 1973,
6 are amended to read as follows:

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

24 The judicial magistrates authorized by this section, and
25 section ten (10) of this Act, shall be appointed by the dis-
26 trict judges of the election district from persons nominated
27 by the county judicial magistrate appointing commission.
28 Each office of judicial magistrate authorized by this section
29 shall be for a term of four years from July 1, 1974, and each
30 four years thereafter.

31 Sec. 8. Section six hundred two point fifty-three (602.53),
32 Code 1973, as amended by Acts of the Sixty-fifth General
33 Assembly, 1973 Session, chapter two hundred eighty-two (282),
34 section nine (9), is amended to read as follows:

35 602.53 PROHIBITIONS.

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

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

13 Sec. 9. Section six hundred two point fifty-five (602.55),
14 unnumbered paragraph one (1), Code 1973, as amended by Acts
15 of the Sixty-fifth General Assembly, 1973 Session, chapter
16 two hundred eighty-two (282), section forty-two (42), is
17 amended to read as follows:

18 Each month each judicial magistrate and district associate
19 judge shall file with the clerk of the district court of the
20 proper county a sworn, itemized statement, ~~by-ease,~~ of all
21 cases disposed of and all funds received and disbursed per
22 case, and at least monthly shall remit to the clerk all funds
23 received by him. The clerk shall provide adequate clerical
24 assistance to judicial magistrates ~~servng-pursuant-to-sec-~~
25 ~~tien-six-hundred-two-point-fifty-one-(602.51)-of-the-Code~~
26 and district associate judges to carry out this section.
27 The clerk shall remit ninety percent of all fines and for-
28 feited bail received from a magistrate or district associate
29 judge to the city or town that was the plaintiff in any ac-
30 tion, and shall provide that city or town with a statement
31 showing the disposition of each such case, including dismis-
32 sals, and the fines and costs imposed. The clerk shall remit
33 the remaining ten percent to the county treasurer for deposit
34 in the county general fund. The clerk shall remit to the
35 treasurer of the county, for the benefit of the school fund,

1 all other fines and forfeited bail received from a magis-
2 trate. All fees and costs for the filing of a complaint or
3 information or upon forfeiture of bail received from a magis-
4 trate shall be remitted monthly by the clerk as follows:

5 Sec. 10. Section six hundred two point fifty-nine (602.59),
6 Code 1973, as amended by Acts of the Sixty-fifth General As-
7 sembly, 1973 Session, chapter two hundred eighty-two (282),
8 section one (1), is amended by striking the section and in-
9 serting in lieu thereof the following:

10 602.59 SUBSTITUTION FOR APPORTIONMENT.

11 1. APPLICABILITY. In any county having an apportionment
12 of three or more judicial magistrates appointable pursuant
13 to section six hundred two point fifty (602.50) of the Code,
14 the chief judge of the district, subject to the limitations
15 of this section, may designate by order that magistrates ap-
16 pointed pursuant to this section be utilized in lieu of
17 magistrates appointed pursuant to section six hundred two
18 point fifty (602.50) of the Code. The order of substitution
19 may be made only upon the affirmative vote of a majority of
20 the district judges in that judicial election district that
21 the substitution be made. A copy of the order shall be sent
22 to the district judge sitting on the county magistrate
23 appointing commission and to the supreme court administrator.

24 2. REDUCTION IN APPOINTMENTS. For any county in which
25 such an order is in effect, the number of magistrates actually
26 appointed pursuant to section six hundred two point fifty
27 (602.50) of the Code shall be reduced by three for each magis-
28 trate substituted under the provisions of this section.

29 Upon any subsequent reduction in the apportionment of
30 magistrates to the county, either the commission shall fur-
31 ther reduce the number of magistrates appointed, or the chief
32 judge shall revoke an order of substitution.

33 3. APPOINTMENT. A judicial magistrate ordered pursuant
34 to this section shall be nominated and appointed, and shall
35 have qualifications, rights, salary, duties, responsibilities,

1 liabilities, authority and jurisdiction, the same as a
2 magistrate authorized by paragraph one (1) of section six
3 hundred two point fifty-one (602.51) of the Code.

4 4. LIMITATIONS.

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

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

11 c. A substitution shall not be made or maintained where
12 the apportionment to a county is insufficient to permit the
13 full reduction in appointments required by subsection two
14 (2) of this section.

15 5. REVERSION. If an apportionment by the supreme court
16 administrator pursuant to section six hundred two point fifty-
17 seven (602.57) of the Code reduces the number of judicial
18 magistrate offices in the county to less than three, or a
19 majority of the district judges in that judicial election
20 district determines that a substitution is no longer desir-
21 able, then the substituted office shall not be renewed for
22 a successive term. At the end of the term, appointments shall
23 be made pursuant to section six hundred two point fifty
24 (602.50) of the Code.

25 Sec. 11. Section six hundred two point sixty-three
26 (602.63), Code 1973, as amended by Acts of the Sixty-fifth
27 General Assembly, 1973 Session, chapter two hundred eighty-
28 two (282), section forty-seven (47), is amended by adding
29 the following new unnumbered paragraph:

30 NEW UNNUMBERED PARAGRAPH. The chief judge of a district
31 may order that criminal proceedings which are within the
32 jurisdictions of judicial magistrates and district associate
33 judges, and small claims actions, be combined into centralized
34 dockets for the county if the chief judge determines that
35 administration could be improved thereby. When so ordered,

1 a centralized docket shall be in lieu of individual dockets
2 otherwise prescribed, and the clerk shall compile a centralized
3 docket in the manner prescribed for an individual docket.
4 The chief judge may assign actions and proceedings on
5 centralized dockets to judicial magistrates and district
6 associate judges as he deems necessary.

7 Sec. 12. Chapter six hundred two (602), Code 1973, is
8 amended by adding the following new section:

9 NEW SECTION. ALTERNATE JUDICIAL MAGISTRATE.

10 1. AUTHORIZATION. In any county having only one dis-
11 trict associate judge, or only one judicial magistrate ap-
12 pointed pursuant to section six hundred two point fifty-one
13 (602.51) of the Code, the county judicial magistrate appoint-
14 ing commission, by majority vote, may authorize that an
15 alternate judicial magistrate be selected.

16 2. SELECTION. The procedures for selecting an alter-
17 nate judicial magistrate shall be as provided in section six
18 hundred two point fifty-one (602.51) of the Code, but any
19 person so appointed shall be designated as an alternate ju-
20 dicial magistrate, and shall be subject to the limitations
21 contained in this section.

22 3. JURISDICTION. An alternate judicial magistrate shall
23 have the same qualifications, jurisdiction, obligations and
24 liabilities as a judicial magistrate appointed pursuant to
25 section six hundred two point fifty-one (602.51) of the Code.

26 4. DUTIES. In case of inability of a district associate
27 judge or judicial magistrate to act, the chief judge of the
28 district may order that the alternate temporarily sit in place
29 of that officer. The words "inability to act" shall mean
30 a temporary absence from court duties, including a reasonable
31 vacation period. An alternate may practice as an attorney
32 except at such times as he is acting as judicial magistrate,
33 but he shall not act in any manner on any case in which he
34 is interested as an attorney.

35 5. SALARY. The alternate shall be compensated by the

1 state at the rate of forty dollars per day for each day of
2 actual duty as magistrate, and for actual expenses incurred
3 in the performance of duties as magistrate, upon certifica-
4 tion to the comptroller by the chief judge of the days of
5 duty and the expenses incurred.

6 6. LIMITATIONS. The appointment of an alternate judicial
7 magistrate shall not affect the rights, duties or remuneration
8 of any regular judicial officer, and the appointment of an
9 alternate shall not affect the number or apportionment of
10 judicial magistrates authorized by this chapter.

11 Sec. 13. Section six hundred twenty-two point seventy-
12 three (622.73), Code 1973, is amended to read as follows:

13 622.73 FEES PAYABLE BY COUNTY OR CITY. For attending
14 before the trial jury or court in criminal cases where the
15 defendant is adjudged not guilty or the action is dismissed,
16 the fees above provided for attending court shall be paid
17 ~~by the county, upon a certificate of the clerk or judicial~~
18 ~~magistrate showing the amount of the services to which they~~
19 ~~are entitled.~~ as follows:

20 1. In actions based on a violation of a state statute,
21 by the county, upon a written statement of the clerk or a
22 judicial officer showing the amount due.

23 2. In actions based on a violation of a city ordinance,
24 by the city, upon a written statement of the clerk or a ju-
25 dicial officer showing the amount due.

26 Sec. 14. Section six hundred twenty-two point seventy-
27 five (622.75), Code 1973, is amended to read as follows:

28 622.75 REIMBURSEMENT TO PARTY, OR COUNTY, OR CITY. When
29 ~~the~~ a county or city or any party has paid the fees of any
30 witness, and the same is afterward collected from the defen-
31 dant or adverse party, the county, city or person so paying
32 the same shall, upon the production of the receipt of such
33 witness or other satisfactory evidence, be entitled to such
34 fee.

35 Sec. 15. Section six hundred thirty-one point one (631.1),

1 Code 1973, as amended by Acts of the Sixty-fifth General As-
2 sembly, 1973 Session, chapter two hundred eighty-two (282),
3 section sixty-one (61), is amended to read as follows:

4 631.1 SMALL CLAIMS.

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

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

17 Sec. 16. Section six hundred thirty-one point two (631.2),
18 Code 1973, as amended by Acts of the Sixty-fifth General As-
19 sembly, 1973 Session, chapter two hundred eighty-two (282),
20 section sixty-two (62), is amended by striking the section
21 and inserting in lieu thereof the following:

22 631.2 JURISDICTION AND PROCEDURES.

23 1. The district court sitting in small claims shall ex-
24 ercise the jurisdiction conferred by this chapter, and shall
25 determine small claims according to the statutes and the rules
26 prescribed by this chapter. Except when transferred from
27 the small claims docket as provided in section six hundred
28 thirty-one point eight (631.8) of this chapter, small claims
29 may be tried by a judicial magistrate, a district associate
30 judge, or a district judge.

31 2. The clerk of court shall maintain a separate docket
32 for small claims which shall be known as the small claims
33 docket, and which shall contain all matters relating to those
34 small claims which are required by section six hundred six
35 point seven (606.7) of the Code to be contained in a

1 combination docket.

2 3. Statutes and rules relating to venue and jurisdiction
3 shall apply to small claims, except that a provision of this
4 chapter which is inconsistent therewith shall supersede that
5 statute or rule.

6 Sec. 17. Section six hundred thirty-one point three
7 (631.3), Code 1973, as amended by Acts of the Sixty-fifth
8 General Assembly, 1973 Session, chapter two hundred eighty-
9 two (282), section sixty-three (63), is amended by striking
10 the section and inserting in lieu thereof the following:

11 631.3 COMMENCEMENT OF ACTIONS--CLERK TO FURNISH FORMS;
12 SUBPOENA.

13 1. All actions shall be commenced by the filing of an
14 original notice with the clerk. At the time of filing, the
15 clerk shall enter on the original notice and the copies to
16 be served, the file number and the date the action is filed.

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

22 3. The clerk shall cause to be entered upon each copy
23 of the original notice and in the docket the day for appear-
24 ance, which date shall be determined in accordance with sec-
25 tion six hundred thirty-one point four (631.4) of this chap-
26 ter. Appearance dates shall be set only for days on which
27 the office of the clerk is scheduled to be open.

28 4. Upon the request of any party to the action, the clerk
29 or a judicial officer shall issue subpoenas for the attendance
30 of witnesses at a hearing. The provisions of sections six
31 hundred twenty-two point sixty-three (622.63) through six
32 hundred twenty-two point sixty-nine (622.69), and six hun-
33 dred twenty-two point seventy-six (622.76) through six hun-
34 dred twenty-two point seventy-seven (622.77) of the Code shall
35 apply to subpoenas issued pursuant to this chapter.

1 Sec. 18. Section six hundred thirty-one point four (631.4),
2 Code 1973, as amended by Acts of the Sixty-fifth General
3 Assembly, 1973 Session, chapter two hundred eighty-two (282),
4 section sixty-four (64), is amended by striking the section
5 and inserting in lieu thereof the following:

6 631.4 SERVICE--TIME FOR APPEARANCE. The manner of ser-
7 vice of original notice and the times for appearance shall
8 be as provided in this section.

9 1. ACTIONS FOR MONEY JUDGMENT.

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

17 b. Except as provided in paragraph c of this subsection,
18 at the option of the plaintiff and upon receipt of the pre-
19 scribed costs, the clerk either shall mail, by certified mail,
20 restricted delivery, return receipt to the clerk requested,
21 a copy of the original notice together with a conforming copy
22 of an answer form to each defendant, or shall cause the orig-
23 inal notice and answer form to be delivered to a peace officer
24 or other person for personal service as provided in rules
25 fifty-two (52) and fifty-six (56) of the rules of civil pro-
26 cedure.

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

1 inal notice and answer to be mailed to each defendant in the
2 manner prescribed in section six hundred seventeen point three
3 (617.3) of the Code.

4 2. ACTIONS FOR FORCIBLE ENTRY OR DETENTION.

5 a. In an action for the forcible entry or detention of
6 real property, the clerk shall set a date, time and place
7 for hearing, and shall cause service as provided in this sub-
8 section.

9 b. Original notice shall be served personally upon each
10 defendant as provided in rule fifty-six (56) of the rules
11 of civil procedure, which service shall be made at least five
12 days prior to the date set for hearing. Upon receipt of the
13 prescribed costs the clerk shall cause the original notice
14 to be delivered to a peace officer or other person for ser-
15 vice upon each defendant.

16 Sec. 19. Section six hundred thirty-one point five (631.5),
17 Code 1973, as amended by Acts of the Sixty-fifth General
18 Assembly, 1973 Session, chapter two hundred eighty-two (282),
19 section sixty-five (65), is amended by striking the section
20 and inserting in lieu thereof the following:

21 631.5 APPEARANCE--DEFAULT. This section shall apply to
22 all small claims except actions for forcible entry or de-
23 tention of real property.

24 1. APPEARANCE. A defendant may appear in person or by
25 attorney, and by the denial of a claim a defendant does not
26 waive any defenses.

27 2. HEARING SET. If all defendants either have entered
28 a timely appearance or have defaulted, the clerk shall assign
29 a contested claim to the small claims calendar for hearing
30 at a place and time certain. The time of hearing shall be
31 not less than five days nor more than twenty days after the
32 latest timely appearance. The clerk shall transmit the orig-
33 inal notice and all other papers relating to the case to the
34 judicial officer to whom the case is assigned, and copies
35 of all papers so transmitted shall be retained in the clerk's

1 office.

2 3. PARTIAL SERVICE. If the plaintiff has joined more
3 than one defendant, and less than all defendants are served
4 with notice as determined by subsection four (4) of this sec-
5 tion, the plaintiff may elect to proceed against all defen-
6 dants served, or he may elect to have a continuance, issu-
7 able by the clerk, to a date certain not more than sixty days
8 thereafter. If the plaintiff elects to proceed, the action
9 shall be dismissed without prejudice as against each defen-
10 dant not served with notice.

11 4. RETURN OF SERVICE. Proper notice shall be established
12 by a signed return receipt or a return of service as provided
13 in rule fifty-nine (59) of the rules of civil procedure.

14 5. FAILURE OF SERVICE. In the event a sole defendant
15 or all defendants fail to appear and the clerk, in accor-
16 dance with subsection four (4) of this section, determines
17 that proper notice has not been given, the clerk shall re-
18 set the date for appearance and upon receipt of the prescribed
19 fees shall cause personal service upon each defendant as
20 prescribed in section six hundred thirty-one point four (631.4)
21 of this chapter.

22 6. NOTIFICATION TO PARTIES. When a small claim is set
23 for hearing the clerk immediately shall notify by ordinary
24 mail each party or the attorney representing the party, and
25 the judicial officer to whom the action is assigned, of the
26 date, time and place of hearing.

27 7. DEFAULT. If a defendant fails to appear and the clerk
28 in accordance with subsection four (4) of this section deter-
29 mines that proper notice has been given, the clerk shall cer-
30 tify a default as to that defendant, and when necessary shall
31 set the action for ex parte hearing as against that defendant,
32 giving notification as provided in subsection six (6) of this
33 section. Notification shall not be given to a defaulting
34 party.

35 Sec. 20. Section six hundred thirty-one point six (631.6),

1 Code 1973, is amended by striking the section and inserting
2 in lieu thereof the following:

3 631.6 FEES AND COSTS. All fees and costs required to
4 be paid in small claims actions shall be paid in advance,
5 and shall be assessed as costs in the action.

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

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

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

13 4. Fees for service of notice on nonresidents shall be
14 as provided in section six hundred seventeen point three
15 (617.3) of the Code.

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

21 Sec. 21. Section six hundred thirty-one point seven
22 (631.7), Code 1973, is amended to read as follows:

23 631.7 PARTIES PLEADINGS AND MOTIONS.

24 1. Except as specifically provided in ~~sections-631.4-and~~
25 ~~631.8~~ this chapter, there shall be no written pleadings or
26 motions unless the court in the interests of justice ~~requires~~
27 permits them, in which event they shall be similar in form
28 to the original notice.

29 2. Motions, except a motion under rule thirty-three (33)
30 of the rules of civil procedure, shall be heard only at the
31 time set for a hearing on the merits.

32 3. Except as provided in subsection three (3) of section
33 six hundred thirty-one point eight (631.8) of this chapter,
34 a counterclaim, cross-petition or intervention shall be in
35 writing and in the form promulgated under section six hundred

1 thirty-one point fifteen (631.15) of this chapter. Copies
2 shall be submitted for each party appearing, and shall be
3 mailed by ordinary mail to those parties by the clerk. A
4 cross-petition against persons not a party to the action shall
5 be made pursuant to rule thirty-three (33) of the rules of
6 civil procedure, by ex parte motion, and when allowed the
7 new party shall be served with notice as provided in this
8 chapter.

9 4. The rules of civil procedure pertaining to actions,
10 joinder of actions, parties and intervention shall apply to
11 small claims actions, except that rule twenty-nine shall not
12 apply. No counterclaim is necessary to assert an offset
13 arising out of the subject matter of the plaintiff's claim.
14 A counterclaim, cross-petition, or intervention against an
15 existing party is deemed denied and no responsive pleading
16 by such party is required.

17 Sec. 22. Section six hundred thirty-one point eight
18 (631.8), subsections one (1) and two (2), Code 1973, are
19 amended to read as follows:

20 ~~1. The rules of civil procedure pertaining to action,~~
21 ~~joinder of actions and parties and rule 75 of the rules of~~
22 ~~civil procedure shall be applicable to small claims actions,~~
23 ~~except that rule 29 shall not apply to actions originating~~
24 ~~as small claims actions~~ Small claims not determined within
25 ninety days following the expiration of any period of con-
26 tinuance or following the last entry placed on the record
27 for that action shall be dismissed by the clerk without
28 prejudice.

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

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

33 b. As to parties who have appeared or are existing par-
34 ties, either (1) order the small claim to be heard under the
35 ~~procedures specified in~~ this chapter and the other claim to

1 be tried by regular procedure or (2) order both claims to
2 be tried by regular procedure.

3 Sec. 23. Section six hundred thirty-one point eight
4 (631.8), subsection three (3), Code 1973, is amended by strik-
5 ing the subsection and inserting in lieu thereof the following:

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

15 Sec. 24. Section six hundred thirty-one point nine (631.9),
16 Code 1973, as amended by Acts of the Sixty-fifth General
17 Assembly, 1973 Session, chapter two hundred eighty-two (282),
18 section sixty-seven (67), is amended by striking the section
19 and inserting in lieu thereof the following:

20 631.9 JURISDICTION DETERMINED. At the time set for the
21 hearing of a small claim, the court first shall determine
22 whether or not it has jurisdiction over the parties and the
23 subject matter. If the court does not have jurisdiction it
24 may continue the action to a date certain or dismiss the
25 action.

26 Sec. 25. Section six hundred thirty-one point ten (631.10),
27 Code 1973, as amended by Acts of the Sixty-fifth General As-
28 sembly, 1973 Session, chapter two hundred eighty-two (282),
29 section sixty-eight (68), is amended by adding the following
30 new paragraph:

31 NEW PARAGRAPH. Upon default of a defendant either to enter
32 an appearance or to appear at the hearing, the court shall
33 not enter a judgment against the defendant unless it is
34 established that the statute of limitations has not run on
35 the claim against the defendant. In addition, a default

1 judgment may be rendered only upon evidence for the claim-
2 ant sufficient to establish a cause of action, and to show
3 the legal damage sustained. An affidavit may be used in lieu
4 of oral testimony for these purposes.

5 Sec. 26. Section six hundred thirty-one point eleven
6 (631.11), Code 1973, as amended by Acts of the Sixty-fifth
7 General Assembly, 1973 Session, chapter two hundred eighty-
8 two (282), section sixty-nine (69), is amended to read as
9 follows:

10 631.11 HEARING.

11 1. INFORMALITY. The hearing shall be to the court, shall
12 be simple and informal, and shall be conducted by the court
13 itself, without regard to technicalities of procedure, ~~but~~
14 ~~the decision must be based on substantial evidence.~~

15 2. EVIDENCE. The court shall swear the parties and their
16 witnesses, and examine them in such way as to bring out the
17 truth. The parties may participate, either personally or
18 by attorney. The court may continue the hearing from time
19 to time and may permit new or amended pleadings if justice
20 requires.

21 3. RECORD. Upon the trial, the judicial magistrate shall
22 ~~make minutes of the testimony of each witness and~~ append the
23 exhibits or copies thereof to the record. The proceedings
24 upon trial shall not be reported, ~~unless the party provides~~
25 ~~a reporter at such party's expense.~~ ~~By agreement the parties~~
26 ~~may cause the proceedings upon trial to be reported~~
27 ~~electronically.~~ Exhibits or copies thereof shall be retained
28 until released by the court.

29 4. JUDGMENT. Judgment shall be rendered, based upon
30 applicable law and upon a preponderance of the evidence.

31 Sec. 27. Section six hundred thirty-one point twelve
32 (631.12), subsection two (2), Code 1973, is amended by strik-
33 ing the subsection.

34 Sec. 28. Section six hundred thirty-one point thirteen
35 (631.13), Code 1973, is amended by striking the section and

1 inserting in lieu thereof the following:

2 631.13 APPEALS.

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

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

15 3. HEARING ON APPEAL. On appeal, the case shall be entered
16 on the appearance docket and shall be tried de novo under
17 regular procedure. When docketed, the court may permit
18 amendment of the pleadings, and upon motion and hearing may
19 dismiss the appeal as to parties stipulating to the judg-
20 ment, or to any part thereof, rendered in small claims.

21 Sec. 29. Chapter six hundred thirty-one (631), Code 1973,
22 is amended by adding the following new section as section
23 six hundred thirty-one point fourteen (631.14):

24 631.14 NEW SECTION. REPRESENTATION IN SMALL CLAIMS
25 ACTIONS. Actions constituting small claims may be brought
26 or defended by an individual, partnership, association,
27 corporation, or other entity. In actions in which a person
28 other than an individual is a party, that person may be
29 represented by an officer or an employee. Any person, however,
30 may be represented in small claims action by an attorney.

31 Sec. 30. Chapter six hundred thirty-one (631), Code 1973,
32 is amended by adding the following new section as section
33 six hundred thirty-one point fifteen (631.15):

34 631.15 NEW SECTION. The supreme court shall prescribe
35 standard forms of pleadings to be used in small claims ac-

1 tions. Standard forms promulgated by the supreme court shall
2 be the exclusive forms used after December 31, 1975, but forms
3 prepared in accordance with the law prior to the effective
4 date of this Act may be used until December 31, 1975.

5 Sec. 31. Section seven hundred fifty-three point nine
6 (753.9), Code 1973, as amended by Acts of the Sixty-fifth
7 General Assembly, 1973 Session, chapter two hundred eighty-
8 two (282), section seventy-six (76), is amended by adding
9 the following new unnumbered paragraph:

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

21 Sec. 32. Section seven hundred fifty-three point thir-
22 teen (753.13), Code 1973, as amended by Acts of the Sixty-
23 fifth General Assembly, 1973 Session, chapter two hundred
24 eighty-two (282), section seventy-seven (77), is amended by
25 adding the following new paragraph:

26 NEW PARAGRAPH. The uniform citation and complaint shall
27 contain a place for the verification of the officer issuing
28 the citation. The complaint may be verified before the chief
29 officer of the law enforcement agency or his designee, and
30 the chief officer of each law enforcement agency of the state
31 is authorized to designate specific individuals to adminis-
32 ter oaths and certify verifications. Nothing in this section
33 shall be deemed to invalidate forms of uniform citation and
34 complaint in existence prior to the effective date of this
35 Act, and existing forms may be used until supplies are ex-

1 hausted.

2 Sec. 33. Section seven hundred fifty-three point fourteen
3 (753.14), Code 1973, is amended to read as follows:

4 753.14 TRAFFIC VIOLATIONS OFFICES--FINE COLLECTION BOXES.

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

10 2. COLLECTION BOXES. The chief judge of the district
11 may permit the maintenance of locked collection boxes to be
12 used at weigh stations. Such boxes shall be used solely for
13 the deposit of fines and costs received upon written admis-
14 sions of scheduled violations respecting weight and other
15 nonmoving scheduled violations applicable to commercial
16 carriers. The collection boxes shall remain locked at all
17 times and shall be opened only by the clerk of the district
18 court or his designee. The chief judge of the district may
19 prescribe procedures for the system and may discontinue its
20 use if necessary.

21 Sec. 34. Acts of the Sixty-fifth General Assembly, 1973
22 Session, chapter two hundred eighty-two (282), section eighty-
23 nine (89), unnumbered paragraph two (2), amending section
24 seven hundred sixty-two point twelve (762.12), Code 1973,
25 is amended to read as follows:

26 Upon the trial, the judicial magistrate shall ~~make minutes~~
27 ~~of the testimony of each witness and~~ append the exhibits or
28 copies thereof to the record. The proceedings upon trial
29 shall not be reported, ~~unless the party provides a reporter~~
30 ~~at such party's expense. By agreement the parties may cause~~
31 ~~the proceedings upon trial to be reported electronically.~~
32 ~~If the defendant is indigent and requests that the proceedings~~
33 ~~upon trial be reported, the judicial magistrate shall cause~~
34 ~~them to be reported by a reporter, or electronically, at pub-~~
35 ~~lic expense.~~

1 Sec. 35. Section seven hundred sixty-two point thirty-
2 two (762.32), Code 1973, is amended by striking the section
3 and inserting in lieu thereof the following:

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

10 Sec. 36. Section seven hundred sixty-two point forty-three
11 (762.43), Code 1973, as amended by Acts of the Sixty-fifth
12 General Assembly, 1973 Session, chapter two hundred eighty-
13 two (282), section ninety-two (92), is amended to read as
14 follows:

15 762.43 APPEAL. An appeal may be taken by the plaintiff
16 only upon a finding of invalidity of an ordinance or statute.
17 In all other cases, an appeal may only be taken by the defen-
18 dant and only upon a judgment of conviction. Execution of
19 the judgment shall be stayed upon the filing with the clerk
20 of the district court an appeal bond with surety approved
21 by the clerk, in the sum specified in the judgment. The
22 defendant may take an appeal, by giving notice orally to the
23 magistrate that he appeals, or by delivering to the magistrate
24 not later than ten days thereafter, a written notice of his
25 appeal, and in either case the magistrate must make an entry
26 on its docket of the giving of such notice. Payment of fine
27 or service of a sentence of imprisonment does not waive the
28 right to appeal, nor render the appeal moot. When an appeal
29 is taken, the magistrate shall forward to the appropriate
30 district court clerk a copy of the docket entries in his
31 court, together with copies of the complaint, warrant, motions,
32 pleadings, ~~his minutes of the witness testimony~~ and the
33 exhibits or copies thereof, and all other papers in the case.
34 ~~Within ten days after an appeal is taken, unless extended~~
35 ~~by order of a district judge or by stipulation of the parties,~~

1 ~~any party may file with the clerk, as a part of the record,~~
 2 ~~a transcript of the official report, if any, and, in the event~~
 3 ~~the report was made electronically, the tape or other medium~~
 4 ~~on which the proceedings were preserved.~~ The case shall stand
 5 for trial anew in the district court in the same manner as
 6 it originally should have been tried ~~before the judicial~~
 7 ~~magistrate, without regard to technical errors or defects~~
 8 ~~which have not substantially prejudiced the rights of either~~
 9 ~~party.~~ The court shall have full power over the case, the
 10 judicial magistrate and his record, and shall give render
 11 original judgment ~~as though the case were being originally~~
 12 ~~tried.~~

13 Sec. 37. Section seven hundred sixty-two point forty-four
 14 (762.44), Code 1973, as amended by Acts of the Sixty-fifth
 15 General Assembly, chapter two hundred eighty-two (282), sec-
 16 tion ninety-three (93), is amended by striking the section
 17 and inserting in lieu thereof the following:

18 762.44 REVIEW BY SUPREME COURT. After appeal to a dis-
 19 trict judge in a nonindictable case, review by the supreme
 20 court shall be as provided in section six hundred two point
 21 seventy-one (602.71) of the Code.

22 Sec. 38. Section seven hundred sixty-six point seven
 23 (766.7), Code 1973, is amended to read as follows:

24 766.7 ~~TRAFFIC VIOLATIONS~~ NONINDICABLE MISDEMEANORS. The
 25 provisions of sections 766.2 through 766.6 shall not apply
 26 to ~~traffic violations~~ nonindictable misdemeanors, and when
 27 a defendant fails to appear as required in such a case, the
 28 court shall enter a judgment of forfeiture of the bond which
 29 shall be final upon entry and shall not be set aside.

30 Sec. 39. Section seven hundred eighty-nine point seven-
 31 teen (789.17), Code 1973, is amended by striking the section
 32 and inserting in lieu thereof the following:

33 789.17 SATISFACTION OF JUDGMENT. Upon entering a judg-
 34 ment imposing a fine, the court may provide that the judgment
 35 be paid in installments. If the defendant willfully fails

1 to pay installments when due, he shall be guilty of contempt
2 and shall be punished as provided in chapter six hundred
3 sixty-five (665) of the Code.

4 Sec. 40. Sections six hundred two point forty-eight
5 (602.48), seven hundred sixty-two point twenty-one (762.21),
6 and seven hundred sixty-two point twenty-three (762.23), Code
7 1973, are amended by striking those sections.

8 Sec. 41. Section six hundred two point fifty-seven
9 (602.57), Code 1973, as amended by Acts of the Sixty-fifth
10 General Assembly, 1973 Session, chapter two hundred eighty-
11 two (282), section ten (10), is suspended until July 1, 1975,
12 and each county shall have and retain the allotment of judicial
13 magistrates in effect for that county as of December 1, 1973,
14 except as provided in section ten (10) of this Act.

15 Sec. 42. Sections one (1) through forty (40) of this Act
16 shall take effect on July 1, 1974. Section forty-one (41)
17 of this Act shall take effect when published as provided in
18 section forty-three (43) of this Act.

19 Sec. 43. This Act, being deemed of immediate importance,
20 shall take effect and be in force from and after its publi-
21 cation in The Sioux City Journal, a newspaper published in
22 Sioux City, Iowa, and in the West Des Moines Express, a
23 newspaper published in West Des Moines, Iowa.

24 EXPLANATION

25 This bill amends selected provisions of the Unified Trial
26 Court Act as follows:

27 1. Sec. 1 requires the state to pay magistrate bond
28 premiums.

29 2. Secs. 2 through 5 are clarifying amendments, but add
30 the proviso that a county attorney cannot be a nominating
31 committee member.

32 3. Sec. 6 deletes transition language no longer needed
33 and makes coordinating amendments necessitated by section
34 10 of the bill. Clarifying amendments are also made. The
35 section also provides for another one-year term for magis-

1 trates appointed in 1974 to facilitate section 41 of the bill.

2 4. Sec. 7 adds language to conform the section with sec-
3 tion 10 of the bill, and adds the term of office language
4 for clarity.

5 5. Sec. 8 adds new language to deal with the conflict
6 of interest problem created because of magistrates also
7 practicing law.

8 6. Sec. 9 requires the court, and judicial officers, to
9 report dispositions of all citations originating from a
10 municipality, whether or not a fine is imposed, thereby
11 increasing accountability and records management at both
12 municipality and county levels.

13 7. Sec. 10 strikes the initial magistrate allotment pro-
14 vision which is no longer necessary. For convenience a new
15 concept was inserted in its place.

16 The new concept is a "substitution" alternative which would
17 permit qualifying counties to exchange three "part-time" mag-
18 istrate allotments for one "full-time" position. Some judges
19 believe the exchange would improve efficiency in the adminis-
20 tration of justice.

21 8. Sec. 11 of the bill authorizes the chief judge of the
22 district to authorize centralized county dockets to improve
23 administration. It has been suggested that dockets for each
24 magistrate or district associate judge are not convenient
25 or efficient in some counties.

26 9. Sec. 12 authorizes the selection of an alternate ju-
27 dicial magistrate in the least populous counties to serve
28 in a temporary capacity. The provision is basically the old
29 alternate municipal court judge provision.

30 10. Secs. 13 and 14 provide for the assessment of court
31 costs against the city bringing a criminal action to place
32 the burdens with the benefits, and provides for the distri-
33 bution of recovered costs to the city.

34 11. Secs. 15 through 30 constitute a substantial but not
35 a substantive revision of chapter 631 relating to small claims

- 1 actions. The material changes to small claims actions are:
- 2 a. Reducing the hearing time in forcible entry actions
- 3 to five days.
- 4 b. Specifically authorizing subpoenas to be issued.
- 5 c. Specifically providing for jurisdiction over nonresident
- 6 defendants.
- 7 d. Equalizing the small claim costs imposed with those
- 8 of regular actions.
- 9 e. Requiring the judicial officer to examine each case
- 10 for party and subject matter jurisdiction prior to receiving
- 11 evidence.
- 12 f. Requiring the judicial officer to take evidence, either
- 13 orally or by affidavit, establishing both the amount of the
- 14 claim and that the statute of limitations has not run prior
- 15 to rendering a default judgment.
- 16 g. Providing that appeals of small claims actions to the
- 17 district court shall be tried de novo.
- 18 h. Expressly authorizing employees of organizations to
- 19 appear for the organization.
- 20 i. Authorizing the supreme court to promulgate forms of
- 21 pleadings.

22 The numerous changes affect every section of chapter 631,

23 and the Code sections are redrafted to eliminate inconsis-

24 tencies, consolidate related subjects, and remove ambiguities.

25 12. Sec. 31 authorizes the clerk of court to return bench

26 warrants to municipal authorities for service, thereby re-

27 lieving pressure and backlogs in the county offices.

28 13. Sec. 32 authorizes verification of uniform citations

29 before the chief of a law enforcement agency or his desig-

30 nate to enable citations to be filed without each officer

31 having to go to the magistrate or clerk to swear to the com-

32 plaint.

33 14. Sec. 33 authorizes locked fine collection boxes for

34 overweight violations at weigh stations under the adminis-

35 trative control of the chief judge.

1 15. Secs. 34 and 36, in conjunction, provide for de novo
2 hearings on appeals of criminal actions heard by magistrates.

3 16. Secs. 35 and 39 are parallel language providing for
4 contempt citations for failure of a defendant to pay fine
5 installments previously ordered by a court. Code sections
6 762.32 and 789.17 which are thereby amended have been deter-
7 mined unconstitutional by implication under federal supreme
8 court decisions.

9 17. Sec. 37 eliminates an inconsistency by a cross-refer-
10 ence.

11 18. Sec. 38 provides for a forfeiture of bond for failure
12 to appear in any nonindictable misdemeanor action without
13 the requirement of a forfeiture hearing.

14 19. Sec. 40 strikes 602.48 which was transferred to 602.43
15 as amended by this bill; and Secs. 762.21 and 762.23 which
16 are obsolete sections referring to justice's courts.

17 20. Sec. 41 postpones reapportionment of magistrates by
18 the supreme court administrator until July 1, 1975.

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HOUSE FILE 1470

H-2812

1 Amend House File 1470 as follows:

2 1. Page 20, by striking lines 21 through 28,
3 and inserting in lieu thereof the following:

4 3. RECORD. Upon the trial, the judicial magis-
5 trate shall make detailed minutes of the testimony
6 of each witness and append the exhibits or copies
7 thereof to the record. The proceedings upon trial
8 shall not be reported by a certified court reporter, un-
9 less a the party provides a the reporter at such party's
10 expense. ~~By agreement the parties~~ The magistrate,
11 in his discretion, may cause the proceedings upon
12 trial to be reported electronically. If the proceed-
13 ings are being electronically recorded both parties
14 shall be notified in advance of that recording.
15 If the proceedings have been reported electronically
16 the recording shall be retained under the jurisdiction
17 of the magistrate unless appealed, and upon appeal
18 shall be transcribed only by a person designated
19 by the court under the supervision of the magistrate.

20 2. Page 20, by inserting after line 30, the fol-
21 lowing subsection:

22 5. DESTRUCTION OF RECORDINGS. Unless an appeal
23 is taken, an electronic recording of a proceeding
24 in small claims shall be retained until the time
25 for appeal has expired as specified in section six
26 hundred thirty-one point thirteen (631.13) of the
27 Code. Thereafter, the magistrate may direct that
28 the recording tape or other device be erased and
29 used for subsequent recordings. If the proceeding
30 is appealed, the recording may be erased following
31 entry of judgment by the district judge hearing the
32 appeal.

33 3. Page 21, by striking lines 15 through 20,
34 and inserting in lieu thereof the following:

35 3. TRANSCRIPT. Within twenty days after an
36 appeal is taken, unless extended by order of a
37 district judge or by stipulation of the parties,
38 any party may file with the clerk as part of the
39 record a transcript of the official report, if any,
40 or in the event the report was made electronically,
41 a transcription of the recording. If a transcription
42 of an electronic recording is filed, the record on
43 appeal shall contain the tape or other medium on
44 which the proceedings were preserved. A transcription
45 of an electronic recording shall be provided any
46 party upon request and upon payment by the party
47 of the actual costs of transcription.

48 4. PROCEDURE ON APPEAL.

49 a. A district judge shall promptly hear the ap-
50 peal upon the record thus filed without further evi-

H-2831

1 Amend House File 1470 as follows:

2 1. Page 2, by inserting before line 1 the follow-
3 ing:

4 Sec. _____. Chapter forty-six (46), Code 1973, is
5 amended by adding the following new sections:

6 Sec. _____. NEW SECTION. The terms of office of all
7 judicial nominating commissioners in election district
8 5A who are in office on July 1, 1974, shall terminate
9 on that date. Election district 5B shall, beginning
10 July 1, 1974, be known as election district 5C, but
11 this change in name shall not affect its judicial
12 nominating commissioners or their terms.

13 Sec. _____. NEW SECTION. In judicial election
14 districts 5A and 5B, the governor shall in July, 1974,
15 appoint five electors of district 5A and five electors
16 of district 5B to their respective judicial nominating
17 commissions for terms commencing August 1, 1974. In
18 each such district, two commissioners shall serve
19 until January 31, 1975, two shall serve until January
20 31, 1977, and one shall serve until January 31, 1979.
21 In the month of January when each of those terms
22 expires and every six years thereafter the governor
23 shall appoint district judicial nominating commis-
24 sioners for six-year terms.

25 Sec. _____. NEW SECTION. In judicial election dis-
26 tricts 5A and 5B, the resident members of the bar
27 shall elect five electors of their respective districts
28 to their respective judicial nominating commissions for
29 terms commencing August 1, 1974. In each such district,
30 one of the commissioners shall serve until January 31,
31 1975, two shall serve until January 31, 1977, and two
32 shall serve until January 31, 1979, as determined by
33 lot by such commissioners. In the month of January
34 when each of those terms expires and every six years
35 thereafter such members of the bar of each such dis-
36 trict shall elect district nominating commissioners
37 for six-year terms.

38 2. Page 2, by inserting after line 9 the follow-
39 ing:

40 Sec. _____. Section six hundred two point eighteen
41 (602.18), subsection four (4), is amended to read as
42 follows:

43 4. In those districts having more judges than the
44 number of judgeships specified by the formula set out
45 in subsection 2 hereof, vacancies shall not be filled.
46 Provided, however, that such limitation shall not
47 prevent or delay the election district with the seat
48 of government from having its full formula complement
49 of judges plus the additional judge provided for the
50 seat of government.

51 3. By renumbering sections and correcting internal
52 references in conformity with this amendment.

H-2831 Filed - *Lot 4/11*
April 10, 1974

By ANDERSON of Ringgold

51 dence. The judge shall decide the appeal without
52 regard to technicalities or defects which have not
53 prejudiced the substantial rights of the parties,
54 and may affirm, reverse, or modify the judgment,
55 or render judgment as the magistrate should have
56 rendered.

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

60 4. Page 23, by striking lines 26 through 35,
61 and inserting in lieu thereof the following:

B

62 Upon the trial, the judicial magistrate shall
63 make detailed minutes of the testimony of each wit-
64 ness and append the exhibits or copies thereof to
65 the record. The proceedings upon trial shall not
66 be reported, unless the party provides a reporter
67 at such party's expense. By agreement of the parties
68 the magistrate may cause the proceedings upon trial
69 to be reported electronically. If the proceedings
70 are being electronically recorded both parties shall
71 be notified in advance of that recording. If the
72 defendant is indigent and requests that the
73 proceedings upon trial be reported, the judicial
74 magistrate shall cause them to be reported by a
75 reporter, or electronically, at public expense.
76 If the proceedings have been reported electronically
77 the recording shall be retained under the jurisdiction
78 of the magistrate unless appealed, and upon appeal
79 shall be transcribed only by a person designated
80 by the court under the supervision of the magistrate.
81 The transcription shall be provided any defendant
82 requesting same upon payment of the actual cost of
83 transcription, or to an indigent defendant without
84 cost as provided in this section.

85 Unless an appeal is taken, an electronic recording
86 of a trial under this chapter shall be retained until
87 time for appeal has expired as specified in section
88 seven hundred sixty-two point forty-three (762.43)
89 of the Code. Thereafter, the magistrate may
90 direct that the recording tape or other device be
91 erased and used for subsequent recordings. If the
92 judgment is appealed, the recording may be erased
93 following entry of judgment by the district judge
94 hearing the appeal.

95 5. Page 24, by striking lines 15 through 35,
96 and inserting in lieu thereof the following:

97 762.43 APPEAL. An appeal may be taken by the
98 plaintiff only upon a finding of invalidity of an
99 ordinance or statute. In all other cases, an appeal
100 may only be taken by the defendant and only upon

101 a judgment of conviction. Execution of the judgment
102 shall be stayed upon the filing with the clerk of
103 the district court an appeal bond with surety ap-
104 proved by the clerk, in the sum specified in the
105 judgment. The defendant may take an appeal, by
106 giving notice orally to the magistrate that he ap-
107 peals, or by delivering to the magistrate not later
108 than ten days thereafter, a written notice of his
109 appeal, and in either case the magistrate must make
110 an entry on its docket of the giving of such notice.
111 Payment of fine or service of a sentence of im-
112 prisonment does not waive the right of appeal, nor
113 render the appeal moot. When an appeal is taken,
114 the magistrate shall forward to the appropriate
115 district court clerk a copy of the docket entries
116 in his court, together with copies of the complaint,
117 warrant, motions, pleadings, his minutes of the
118 witness' testimony and the exhibits or copies there-
119 of, and all other papers in the case. Within ten
120 days after an appeal is taken, unless extended by
121 order of a district judge or by stipulation of the
122 parties, any party may file with the clerk, as a
123 part of the record, a transcript of the official
124 report, if any, and, or in the event the report was
125 made electronically, a transcription of the record-
126 ing. If a transcription of an electronic recording
127 is filed, the record on appeal shall contain the
128 tape or other medium on which the proceedings were
129 preserved. A district judge shall promptly hear
130 the appeal upon the record thus filed without further
131 evidence. If the original action was tried before
132 a district judge acting as a judicial magistrate,
133 the appeal shall be to a different district judge.
134 The judge shall decide the appeal without regard
135 to technicalities or defects which have not prejudiced
136 the substantial rights of the parties, and may affirm,
137 reverse or modify the judgment. The case shall stand
138 for trial anew in the district court in the same
139 manner as it should have been tried before the
140 judicial magistrate, without regard to technical
141 errors or defects which have not substantially
142 prejudiced the rights of either party. The court
143 shall have full power over the case, the judicial
144 magistrate and his record, and shall give judgment
145 as though the case were being originally tried.
146 6. Page 25, by striking lines 1 through 12.

H-2812 Filed - A - Adopted 4/11
April 9, 1974 B - Lost 4/11

By KNOKE of Pottawattamie

HOUSE FILE 1470

H-2798

1 Amend House File 1470 as follows:

2 1. Page 2, by inserting after line 9 the following:

3 Section 1. Section six hundred two point eighteen
4 (602.18), subsection four (4), is amended to read as
5 follows:

6 4. In those districts having more judges than the
7 number of judgeships specified by the formula set out
8 in subsection 2 hereof, vacancies shall not be filled.
9 Provided, however, that such limitation shall not
10 prevent or delay the election district with the seat
11 of government from having its full formula complement
12 of judges plus the additional judge provided for the
13 seat of government.

14 2. Page 2, by striking lines 10 through 35.

15 3. Page 3, by striking from line 1 the following:
16 "ary 1, 1973."

17 4. Page 29, by inserting after line 18, the follow-
18 ing new sections:

19 Sec. _____. NEW SECTION. The terms of office of all
20 judicial nominating commissioners in election district
21 5A who are in office on July 1, 1974, shall terminate
22 on that date. Election district 5B shall, beginning
23 July 1, 1974, be known as election district 5C, but
24 this change in name shall not affect its judicial
25 nominating commissioners or their terms.

26 Sec. _____. NEW SECTION. In judicial election
27 districts 5A and 5B, the governor shall in July, 1974,
28 appoint five electors of district 5A and five electors
29 of district 5B to their respective judicial nominating
30 commissions for terms commencing August 1, 1974. In
31 each such district, two commissioners shall serve
32 until January 31, 1975, two shall serve until January
33 31, 1977, and one shall serve until January 31, 1979.
34 In the month of January when each of those terms
35 expires and every six years thereafter the governor
36 shall appoint district judicial nominating commissioners
37 for six-year terms.

38 Sec. _____. NEW SECTION. In judicial election districts
39 5A and 5B, the resident members of the bar shall elect
40 five electors of their respective districts to their
41 respective judicial nominating commissions for terms
42 commencing August 1, 1974. In each such district, one
43 of the commissioners shall serve until January 31, 1975,
44 two shall serve until January 31, 1977, and two shall
45 serve until January 31, 1979, as determined by lot by
46 such commissioners. In the month of January when each
47 of those terms expires and every six years thereafter
48 such members of the bar of each such district shall
49 elect district nominating commissioners for six-year
50 terms.

HOUSE FILE 1470

H-2763

1 Amend House File 1470 as follows:

2 1. Page 8, by striking lines 21 through 23, and
3 inserting in lieu thereof the following:
4 "the substitution be made. An order of substitution
5 is renewable for successive terms upon the vote of the
6 judges, but shall not be effective for any term unless
7 a copy of the order is received by the chairman of the
8 county judicial magistrate appointing commission not
9 later than the thirty-first day of March of the year
10 in which the substitution is to take effect. A copy
11 of the order also shall be sent to the supreme court
12 administrator."

13 2. Page 10, by inserting after line 6, the follow-
14 ing:

15 Sec. _____. Section six hundred two point seventy-
16 one (602.71), Code 1973, as amended by Acts of the
17 Sixty-fifth General Assembly, 1973 Session, chapter
18 two hundred eighty-two (282), sections fifty (50),
19 fifty-one (51) and fifty-two (52), is amended by
20 striking the section.

21 3. Page 22, by inserting after line 4, the follow-
22 ing:

23 Sec. _____. Chapter six hundred thirty-one (631),
24 Code 1973, is amended by adding the following new
25 section:

26 NEW SECTION. DISCRETIONARY REVIEW BY SUPREME
27 COURT.

28 1. A civil action originally tried as a small claim
29 shall not be appealed to the supreme court except by
30 discretionary review as provided herein.

31 2. "Discretionary review" is the process by which
32 the supreme court may exercise its discretion, in like
33 manner as under the rules pertaining to interlocutory
34 appeals and certiorari in civil cases, to review
35 specified matters not subject to appeal as a matter
36 of right. The supreme court may adopt additional rules
37 to control access to discretionary review.

38 3. The party seeking review shall be known as the
39 appellant and the adverse party as the appellee, but
40 the title of the action shall not be changed from that
41 in the court below.

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

45 5. When an application for discretionary review
46 is filed, the clerk of the court in which the judgement
47 or order was rendered shall:

48 a. Immediately prepare and mail by certified mail,
49 return receipt requested, to the appellees and their
50 attorneys of record, true copies of the application,

51 together with the date of filing.

52 b. Immediately prepare and transmit to the clerk
53 of the supreme court a transcript of all record
54 entries relevant to the application, together with
55 copies of all papers in the case on file with the
56 court, and a transcript of the official report, all
57 duly certified under seal of the court.

58 Failure of the clerk of the district court to
59 transmit all the papers as required by this subsection
60 shall not prejudice the rights of the parties.

61 6. The record and case shall be presented to the
62 supreme court as provided by its rules; and the provi-
63 sions of law in civil procedure relating to the filing
64 of decisions and opinions of the supreme court shall
65 apply in such cases.

66 7. An application shall not be dismissed for an
67 informality or defect in taking it if corrected as
68 directed by the supreme court. The supreme court,
69 after an examination of the entire record, may dispose
70 of the case by affirmation, reversal or modification
71 of the lower court judgment, and may order a new trial.
72 It also may dismiss the application if both of the
73 following are true:

74 a. The court determines that there has been no
75 substantial miscarriage of justice.

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

78 9. The decision of the supreme court with any
79 opinion filed or judgment rendered must be recorded
80 by its clerk. After the expiration of the period
81 allowed for a rehearing, or as ordered by the court
82 or provided by its rules, a certified copy of the
83 decision and opinion shall be transmitted to the clerk
84 of the trial court, and filed and entered of record
85 in the district court.

86 10. The jurisdiction of the supreme court shall
87 cease after the certified copy of the decision and
88 opinion is transmitted to the clerk of the trial court.
89 All proceedings for executing the judgment shall be
90 had in the trial court or by its clerk.

91 4. Page 25, by striking lines 13 through 21.

92 5. By renumbering sections and correcting internal
93 references in conformity with this amendment.

H-2763 Filed *Adopted 4/11*
April 3, 1974

By HILL of Polk

1 Amend House File 1470 as follows:

2 1. Page 3, line 4, by inserting after the word
3 "number" the words "of commissioners".

4 2. Page 8, by inserting after line 4 the follow-
5 ing:

6 Sec. _____. Section six hundred two point fifty-seven
7 (602.57), unnumbered paragraph one (1), Code 1973, as
8 amended by Acts of the Sixty-fifth General Assembly,
9 1973 Session, chapter two hundred eighty-two (282),
10 section ten (10), is amended to read as follows:

11 Except as provided in section six hundred two
12 point fifty-eight (602.58) of the Code, there shall
13 be a total of one hundred ninety-one Iowa judicial
14 magistrates to be appointed pursuant to section six
15 hundred two point fifty (602.50) of the Code. During
16 January of ~~1974~~ 1975 and every two years thereafter,
17 the supreme court administrator shall apportion the
18 number of judicial magistrates to be so appointed
19 among the counties in accordance with the following
20 criteria:

21 Sec. _____. Section six hundred two point fifty-
22 seven (602.57), unnumbered paragraph three (3), Code
23 1973, is amended to read as follows:

24 During February of ~~1974~~ 1975 and during February
25 of every two years thereafter, the supreme court ad-
26 ministrator shall notify the clerk of the district
27 court of each county and the chief judge of the appro-
28 priate judicial district, of the number of magistrates
29 to which the county is entitled.

30 3. Page 8, line 8, by striking the word "one (1)"
31 and inserting in lieu thereof the word "eleven (11)".

32 4. Page 17, line 29, by striking the word "thirty-
33 three (33)" and inserting in lieu thereof the word
34 "thirty-four (34)".

35 5. Page 17, line 32, by striking the word "three
36 (3)" and inserting in lieu thereof the word "four (4)".

37 6. Page 18, line 5, by striking the word "thirty-
38 three (33)" and inserting in lieu thereof the word
39 "thirty-four (34)".

40 7. Page 18, by striking line 6 and inserting in
41 lieu thereof the words "civil procedure and the".

42 8. Page 26, by striking lines 8 through 14 and
43 inserting in lieu thereof the following:

44 Sec. 41. The apportionment of judicial magistrates
45 made in January, 1974, and the notice thereof given
46 in February, 1974, by the supreme court administrator
47 pursuant to section six hundred two point fifty-seven
48 (602.57) of the Code is void and each county shall
49 have and retain until January, 1975, the allotment of
50 judicial magistrates in effect for that county as of
51 December 1, 1973, except for a substitution permitted
52 by section ten (10) of this Act.

53 9. Page 26, line 19, by striking the word "This"
54 and inserting in lieu thereof the words "Section forty-
55 one (41) of this".

56 10. Page 26, line 20, by striking the word "its".

57 11. Page 26, line 21, by inserting after the word
58 "cation" the words "of this Act".

59 12. Renumber sections and correct internal refer-
60 ences as necessary in conformity with this amendment.

H—2811

1 Amend House File 1470, page 23, by inserting after
2 line 20 the following:

3 3. The chief judge of the district may permit the
4 maintenance of locked collection boxes to be carried
5 by peace officers in official vehicles. Such boxes
6 shall be used solely for the collection of fines and
7 costs or the deposits authorized to be mailed to the
8 court pursuant to paragraphs a and b of subsection
9 three (3) of section seven hundred fifty-three point
10 sixteen (753.16) of the Code. The collection
11 boxes shall remain locked at all times and shall be
12 opened only by the clerk of the district court or
13 his designee. The chief judge of the district may
14 prescribe procedures for the system and may discontinue
15 its use if necessary.

H—2811 Filed - *Lost 4/11*
April 9, 1974

By MILLER of Buchanan

H—2836

1 Amend House File 1470 as follows:

2 1. Page 8, by inserting after line 4 the follow-
3 ing:

4 Sec. _____. Section six hundred two point fifty-
5 seven (602.57), unnumbered paragraph one (1), Code
6 1973, as amended by Acts of the Sixty-fifth General
7 Assembly, 1973 Session, chapter two hundred eighty-
8 two (282), section ten (10), is amended to read as
9 follows:

10 Except as provided in section six hundred two
11 point fifty-eight (602.58) of the Code, there shall
12 be a total of one hundred ninety-one Iowa judicial
13 magistrates to be appointed pursuant to section six
14 hundred two point fifty (602.50) of the Code. During
15 January of ~~1974~~ 1975 and every two years thereafter,
16 the supreme court administrator shall apportion the
17 number of judicial magistrates to be so appointed
18 among the counties in accordance with the following
19 criteria:

20 Sec. _____. Section six hundred two point fifty-
21 seven (602.57), unnumbered paragraph three (3), Code
22 1973, is amended to read as follows:

23 During February of ~~1974~~ 1975 and during February
24 of every two years thereafter, the supreme court ad-
25 ministrator shall notify the clerk of the district
26 court of each county and the chief judge of the appro-
27 priate judicial district, of the number of magistrates
28 to which the county is entitled.

29 2. Page 26, by striking lines 8 through 14, and
30 inserting in lieu thereof the following:

31 Sec. _____. The number of judicial magistrates
32 apportioned to the counties by the court administrator
33 in February of 1974 pursuant to section six hundred
34 two point fifty-seven (602.57) of the Code shall be
35 appointed by the respective counties for a term to
36 commence July 1, 1974, and to end June 30, 1975.

37 3. By renumbering sections and correcting internal
38 references in conformity with this amendment.

H—2836 Filed - *Lost 4/11*
April 10, 1974

By BRANSTAD of Winnebago

H—2842

1 Amend the Hill amendment, H-2763, to House File
2 1470, at line 56, by inserting before the word "all"
3 the words ", if any,".

H—2842 Filed - *Adopted 4/11*
April 10, 1974

By HILL of Polk

H—2843

1 Amend House File 1470 as follows:
2 1. Page 6, line 19, by striking after each word
3 "district" the word "court".
4 2. Page 9, line 33, by striking the words ", and
5 small claims actions,".

H—2843 Filed and adopted
April 11, 1974

By HILL of Polk

H—2844

1 Amend the title to House File 1430 by striking
2 all of the title after the word "children" in line 2
3 and inserting in lieu thereof the following: " , per-
4 mitting the department to pay foster care parents
5 directly for foster care, relating to responsibility
6 for cost of foster care services, and authorizing the
7 department to maintain accounts in the names of such
8 children in which the funds of the children may be
9 placed."

H—2844 Filed and adopted
April 11, 1974

By LIPSKY of Linn

H—2850

1 Amend House File 1470 as follows:
2 1. Page 4, by inserting after line 23 the following
3 new subsection:
4 2. APPLICATIONS. The appointing commission for
5 each county shall prescribe the content of an appli-
6 cation for an appointment pursuant to this section.
7 For a minimum of thirty days prior to any appoint-
8 ment, the commission shall accept applications, and
9 shall make available during that period of time any
10 printed application forms the commission may, in its
11 discretion, prescribe.
12 2. By renumbering subsections in conformity with
13 this amendment.

H—2850 Filed and lost
April 11, 1974

By HUTCHINS of Guthrie

HOUSE FILE 1470

H-3161

- 1 Amend the Senate amendment to House File 1470,
2 as amended, passed and reprinted by the House, as
3 follows:
- 4 1. By striking all of lines 45 through 47 and
5 inserting in lieu thereof the following:
6 "3. Page 8B, by inserting after line 51 the follow-
7 ing new paragraph:
8 The district judges of a judicial election dis-
9 trict may determine, for the year 1974, that a sub-
10 stitution be made pursuant to this section, by an
11 affirmative vote of a majority rendered and with
12 written notice thereof delivered to the chairman
13 of the county judicial magistrate appointing commission
14 not later than June 1, 1974. A magistrate appointed
15 in 1974 pursuant to this subsection shall be subject
16 to all of the provisions of this section, except that
17 the term of office shall be an irregular one for a
18 period of five years from July 1, 1974."
19 2. By striking all of lines 59 through 84 and
20 inserting in lieu thereof the following:
21 "5. Page 26A, by inserting after line 16, the
22 following new paragraph:
23 In any county where the judicial magistrate
24 appointing commission, pursuant to section six hundred
25 two point fifty (602.50) of the Code, made a number of
26 appointments of judicial magistrates in 1974 which
27 number is inconsistent with the number of magistrates
28 permitted by this section, or where the appointing
29 commission prior to June 2, 1974 receives notice of a
30 substitution pursuant to section twelve (12) of this
31 Act, the judicial magistrate appointing commission
32 for that county is authorized and directed to recon-
33 vene prior to July 1, 1974, and appoint the number
34 permitted by this section. For the purpose of this
35 paragraph, such a nominating commission is authorized
36 to declare prior appointments made in 1974 void.
37 6. Page 26A, by striking line 17, and inserting
38 in lieu thereof the words 'Sections one (1) through
39 eleven (11), and thirteen (13) through forty-two (42)'.
40 7. Page 26A, line 19, by striking the words
41 'Section forty-three (43)' and inserting in lieu
42 thereof the words 'Sections twelve (12) and forty-
43 three (43)'."
44 3. By renumbering the remaining amendment.

H-3161 Filed *Adopted 5/2*
May 3, 1974

By HILL of Polk
DOYLE of Woodbury

SENATE AMENDMENT TO HOUSE FILE 1470

1 Amend House File 1470, as amended, passed and re-
2 printed by the House, as follows:

3 1. Page 2, by inserting before line 1 the follow-
4 ing section:

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

7 2A.4 MEETINGS--DUTIES. The commission shall
8 elect its own chairman from among its membership
9 and shall meet on the call of the chairman to re-
10 view compensation and expenses received by members
11 of the general assembly and salaries of the other
12 elective state officials. The commission shall
13 review compensation and expenses paid to members of
14 the general assembly and salaries paid to other
15 elective state officials, and ~~constitutional~~
16 statutory judicial officers, and shall review
17 compensation, expenses, and salaries paid for
18 comparable positions in other states, the federal
19 government, and private enterprise. Based on such
20 review and other factors deemed relevant, the
21 commission shall make its determination as to
22 compensation and expense levels for members of the
23 general assembly and as to salary levels for other
24 elective state officials to be recommended to the
25 governor and the members of the general assembly.
26 No later than February 1, 1973, and each two years
27 thereafter, the commission shall report to the
28 governor and to the general assembly its recommenda-
29 tions for compensation and expenses for members of
30 the general assembly and for salaries for other
31 elective state officials.

32 2. Page 4, by inserting after line 23 the follow-
33 ing new subsection:

34 2. APPLICATIONS. The appointing commission for
35 each county shall prescribe the content of an application
36 for an appointment pursuant to this section. The
37 commission shall publicize in at least two publications
38 in the official county newspaper, notice of any vacancy
39 to be filled. For a minimum of fifteen days prior to any
40 appointment, the commission shall accept applications,
41 and shall make available during that period of time any
42 printed application forms the commission may, in its
43 discretion, prescribe.

44 3. Page 8A, line 12, by striking the words "ninety-
45 one" and inserting in lieu thereof the words "~~ninety-~~
46 one ninety-three".

47 4. Page 21A, by inserting after line 34 the following
48 paragraph:

49 If the record, in the opinion of the district judge,
50 is inadequate for the purpose of rendering a judgment

House 27
May 6, 1974

51 on appeal, the district judge may order that additional
52 evidence be presented before him relative to one or
53 more issues, and may enter any other order which may be
54 necessary to protect the rights of the parties. The
55 district judge shall take minutes of any additional
56 evidence, but the hearing shall not be reported by a
57 certified court reporter.

58 5. Page 26A, by inserting after line 16, the following
59 new paragraphs as part of section forty-three (43):

60 Notwithstanding paragraph one (1) of this section
61 the number of judicial magistrates allotted to Linn
62 county for appointment in 1974 shall be five, and the
63 number of judicial magistrates allotted to Polk county
64 for appointment in 1974 shall be seven. The judicial
65 magistrate appointing commissions of those respective
66 counties shall reconvene prior to July 1, 1974 and make
67 the appointments necessary to comply with this Act.
68 Appointments shall be for one year terms, and the
69 allotments of judicial magistrates to apportionment
70 by the court administrator in January 1975 shall be
71 five for Linn county and seven for Polk county.

72 In any county where the judicial magistrate appoint-
73 ing commission, pursuant to section six hundred two
74 point fifty (602.50) of the Code, made a number of
75 appointments of judicial magistrates in 1974 which
76 number is inconsistent with the number of magistrates
77 permitted by this section, the judicial magistrate
78 appointing commission for that county is authorized
79 and directed to reconvene prior to July 1, 1974, and
80 appoint the number permitted by this section. For the
81 purpose of this paragraph, such a nominating commission
82 is authorized to declare prior appointments made in
83 1974 void.

84 6. By correcting section numbers and internal references
85 in accordance with this amendment.

Received from the Senate
May 3, 1974

*Have concurred as amended
by 3161 5/4*

H-2851

1 Amend House File 1470 as follows:

2 1. Page 16, line 29, by striking the words "the
3 clerk shall cer-".

4 2. Page 16, by striking lines 30 through 34, and
5 inserting in lieu thereof the following:

6 "judgment shall be rendered against the defendant
7 by the clerk if the relief is readily ascertainable.
8 If the relief is not readily ascertainable the claim
9 shall be assigned to a judicial magistrate for deter-
10 mination and the clerk shall immediately notify the
11 plaintiff or his attorney and the judicial magistrate
12 of such assignment by ordinary mail."

13 3. Page 19, by striking lines 22 through 25 and
14 inserting in lieu thereof the following:

15 "that proper notice as provided in subsection four
16 (4) of section nineteen (19) of this Act has been given
17 a party before proceeding further as to him, unless
18 he has appeared or is an existing party, and also
19 shall determine that the action is properly brought
20 as a small claim."

21 4. Page 19, by striking lines 26 through 35.

22 5. Page 20, by striking lines 1 through 4.

H-2851 Filed and adopted
April 11, 1974

By KNOKE of Pottawattamie

H-2852

1 Amend House File 1470, page 7, by striking lines
2 31 and 32 and inserting in lieu thereof the following:
3 "showing the total number of such cases, the total of
4 all fines and forfeited bail collected and the total
5 of all cases dismissed. The clerk shall remit".

H-2852 Filed and adopted
April 11, 1974

By KNOKE of Pottawattamie

H-2853

1 Amend the Anderson amendment, H-2831, to House
2 File 1470, by inserting after line 39, the following:
3 Sec. ____ . Section six hundred two point eighteen
4 (602.18), unnumbered paragraph fourteen (14), Code
5 1973, is amended to read as follows:

6 Election district 5A shall consist of the counties
7 county of Polk. Election district 5B shall consist
8 of the counties of Guthrie, Dallas, Polk, Jasper,
9 Madison, Warren, and Marion. Election district 5B
10 5C shall consist of the counties of Adair, Adams,
11 Union, Clarke, Lucas, Taylor, Ringgold, Decatur, and
12 Wayne.

H-2853 Filed and adopted
April 11, 1974

By ANDERSON of Ringgold

April 18, 1974

See Judiciary 4-22, Pass 5-2

HOUSE FILE 1470

By COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(AS AMENDED AND PASSED BY THE HOUSE)

as amended by Senate
Passed House, Date 5-4-74 (2452) Passed Senate, Date 5-3-74 (2004)

Vote: Ayes 82 Nays 6 Vote: Ayes 42 Nays 3

Approved 5-27-74
Passed Senate as further amended by House (2053)
5-4-74 (2053)
43-2

A BILL FOR

- 1 An Act relating to the Iowa district court, and the admin-
- 2 istration, funding, personnel and procedures thereof.
- 3 *Be It Enacted by the General Assembly of the State of Iowa:*

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

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

6 [26. The state shall pay the reasonable cost of the bonds
7 required in subsections 1 to 25, both inclusive, of this sec-
8 tion.]

9 [27] 26. Judicial magistrates, five thousand dollars.

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

14 602.42 COMPOSITION OF COUNTY JUDICIAL MAGISTRATE
APPOINT-

15 ING COMMISSIONS.

16 1. There shall be in each county a judicial magistrate
17 appointing commission which shall be composed of the follow-
18 ing members[, except as provided in section 602.48]:

19 [1] a. A district court judge designated by the chief judge
20 of the district to serve until a successor is designated.

21 [2] b. Three members appointed by the board of supervisors,
22 *except as provided in section six hundred two point forty-*
23 *three (602.43) of the Code.*

24 [3] c. Two attorneys elected by the county bar.

25 2. The clerk of the district court shall maintain a per-
26 manent record of the name, address, and terms of office [for]
27 of each commissioner designated, appointed or elected.

28 Sec. 3. Section six hundred two point forty-three (602.43),
29 Code 1973, as amended by Acts of the Sixty-fifth General As-
30 sembly, 1973 Session, chapter two hundred eighty-two (282),
31 section six (6), is amended to read as follows:

32 602.43 [APPOINTING] COMMISSIONERS APPOINTED BY A
COUNTY.

33 1. The board of supervisors of each county shall appoint
34 three electors to the county judicial magistrate appointing
35 commission for the county for six-year terms beginning Janu-

1 ary 1, 1973. *However, in the event there is only one resi-*
 2 *dent member of the bar in a county who is qualified and will-*
 3 *ing to serve pursuant to section six hundred two point forty-*
 4 *four (602.44) of the Code, the number of commissioners*
 5 *appointed by the county*
 6 *board of supervisors shall be two. In the event there is*
 7 *no resident member of the bar within the county qualified*
 8 *and willing to serve, the county board of supervisors shall*
 9 *appoint one commissioner.*

10 2. *A commissioner appointed pursuant to this section shall*
 11 *not be an attorney at law, or an active law enforcement of-*
 12 *ficer.*

13 3. *The county auditor shall certify the name, address*
 14 *and expiration date of term for all regular and special ap-*
 15 *pointees of the board of supervisors to the clerk of the*
 16 *court.*

17 Sec. 4. *Section six hundred two point forty-four (602.44),*
 18 *Code 1973, is amended to read as follows:*

19 602.44 [ELECTION] COMMISSIONERS *ELECTED BY THE*
 20 *BAR.*

21 1. *The resident members of the bar of each county shall*
 22 *elect resident members of the bar of such county to the county*
 23 *judicial magistrate appointing commission for six-year terms*
 24 *beginning on January [1] first. During December 1972, and in*
 25 *each December thereafter[,] which immediately [preceding] precedes*
 26 *the expiration of the terms of the members of the commission,*
 27 *the members of the bar shall elect commissioners to six-year*
 28 *terms.*

29 2. *A county attorney shall not be elected to the com-*
 30 *mission.*

31 Sec. 5. *Section six hundred two point forty-seven (602.47),*
 32 *Code 1973, is amended to read as follows:*

33 602.47 NO MEMBER OF COMMISSION TO BE APPOINTED
 34 *MAGISTRATE.*

35 *No person while a member of the county judicial magistrate*
 36 *appointing commission shall be appointed to the office of*
 37 *judicial magistrate. [No member appointed by the board of*

H. F. 1470

—3B—

36 supervisors to the judicial magistrate appointing commission

1 shall be an attorney at law or an active law enforcement of-
2 ficer.]

3 Sec. 6. Section six hundred two point fifty (602.50),
4 Code 1973, as amended by Acts of the Sixty-fifth General As-
5 sembly, 1973 Session, chapter two hundred eighty-two (282),
6 section eight (8), is amended to read as follows:

7 602.50 *APPOINTMENT OF JUDICIAL MAGISTRATES.*

8 1. *REGULAR APPOINTMENTS.* [During April, 1973, the ju-
9 dicial magistrate appointing commission shall, by majority
10 vote, appoint Iowa judicial magistrates in such number as
11 provided in section six hundred two point fifty-nine (602.59)
12 of the Code.] In April of each year in which magistrates'
13 terms expire, the commission shall appoint, *except as other-*
14 *wise permitted in section twelve (12)*

15 *of this Act*, the number
16 of magistrates [allotted] *apportioned* to the county by the
17 supreme court administrator as provided in section six hundred
18 two point fifty-seven (602.57) of the Code, and *may appoint*
19 the [magistrates] *additional magistrate* allowed by section six
20 hundred two point fifty-eight (602.58) of the Code. The
21 commission shall appoint no more magistrates than [allotted]
22 *are apportioned* to the county by the supreme court
23 administrator except as provided in [sections 602.57 and] *section*
24 602.58.

25 2. *VACANCIES.* Within thirty days following receipt of
26 notification of a vacancy in the office of judicial magis-
27 trate appointed under this section, the commission shall ap-
28 point a person to the office vacated to serve the remainder
29 of the unexpired term. For purposes of this section, vacancy
30 means death, resignation, retirement, removal, or increase
31 in the number of positions authorized.

32 3. *TERM OF OFFICE.* [The judicial magistrates appointed
33 initially shall take office July 1, 1973, and their term of
34 office shall expire June 30, 1974. Thereafter,] *The office*
35 *of judicial [magistrates] magistrate, when appointed pursuant*

H. F. 1470

—4B—

36 *to this section, shall [take office on] be for a term of two*

1 *years from July 1, [1974] 1975, and [every] each two years*
2 *thereafter[, provided however, judicial magistrates appointed*
3 *pursuant to section six hundred two point fifty-one (602.51)*
4 *of the Code for the term commencing July 1, 1974, shall hold*
5 *office for a term of four years and shall be subject to*
6 *appointment every four years thereafter].*

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

9 **4. CERTIFICATION.** The commission shall promptly certify
10 the names and addresses of the magistrates appointed to the
11 clerk of the district court and the chief judge of the judi-
12 cial district. The clerk shall certify to the supreme court
13 administrator and to the state comptroller the names and ad-
14 dresses of magistrates so appointed. The certification of
15 the clerk to the comptroller shall be authority for the comp-
16 troller to pay the salaries *and expenses* in accordance with
17 section 602.54. Judicial magistrates shall be officers of
18 the state.

19 **5. OATH AND INSTRUCTION.** Before assuming office, a ju-
20 dicial magistrate shall subscribe and file in the office of
21 the clerk of the district court of the county of his resi-
22 dence his oath of office to uphold and support the Constitu-
23 tions of the United States of America and the state of Iowa, the
24 laws enacted pursuant thereto, and the law and ordinances
25 of the political subdivisions of the state of Iowa. [Before
26 July 1, 1973, and annually thereafter] *Annually*, the supreme
27 court administrator shall cause a school of instruction to
28 be conducted for judicial magistrates, which shall include
29 a comprehensive examination over the material presented, and
30 which each judicial magistrate appointed as provided in this
31 chapter prior to the time he takes office shall attend unless
32 excused by the chief justice for good cause. A judicial mag-
33 istrate appointed under this section to fill a vacancy shall
34 attend the first school of instruction held following his
35 appointment unless excused by the chief justice for good

1 cause.

2 Sec. 7. Acts of the Sixty-fifth General Assembly, 1973
3 Session, chapter two hundred eighty-two (282), section thirty-
4 nine (39), unnumbered paragraphs one (1) and two (2), amending
5 section six hundred two point fifty-one (602.51), Code 1973,
6 are amended to read as follows:

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

25 The judicial magistrates authorized by this section, and
26 *section twelve (12)*
27 *of this Act*, shall be appointed by the dis-
28 trict judges of the election district from persons nominated
29 by the county judicial magistrate appointing commission.
30 *Each office of judicial magistrate authorized by this section*
31 *shall be for a term of four years from July 1, 1974, and each*
32 *four years thereafter.*

33 Sec. 8. Section six hundred two point fifty-three (602.53),
34 Code 1973, as amended by Acts of the Sixty-fifth General
35 Assembly, 1973 Session, chapter two hundred eighty-two (282),

36 section nine (9), is amended to read as follows:

37 602.53 PROHIBITIONS.

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

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

13 Sec. 9. Section six hundred two point fifty-five (602.55),
14 unnumbered paragraph one (1), Code 1973, as amended by Acts
15 of the Sixty-fifth General Assembly, 1973 Session, chapter
16 two hundred eighty-two (282), section forty-two (42), is
17 amended to read as follows:

18 Each month each judicial magistrate and district associate
19 judge shall file with the clerk of the district court of the
20 proper county a sworn, itemized statement, [by case,] of all
21 *cases disposed of and all funds received and disbursed per*
22 *case, and at least monthly shall remit to the clerk all funds*
23 *received by him. The clerk shall provide adequate clerical*
24 *assistance to judicial magistrates [serving pursuant to sec-*
25 *tion six hundred two point fifty-one (602.51) of the Code]*
26 *and district associate judges to carry out this section.*

27 The clerk shall remit ninety percent of all fines and for-
28 feited bail received from a magistrate or district associate
29 judge to the city or town that was the plaintiff in any ac-
30 tion, *and shall provide that city or town with a statement*
31 *showing the total number of such cases, the total of all*
32 *finest and forfeited bail collected and the total of all*
33 *cases dismissed. The clerk shall remit*

34 the remaining ten percent to the county treasurer for deposit
35 in the county general fund. The clerk shall remit to the

36 treasurer of the county, for the benefit of the school fund,

1 all other fines and forfeited bail received from a magis-
2 trate. All fees and costs for the filing of a complaint or
3 information or upon forfeiture of bail received from a magis-
4 trate shall be remitted monthly by the clerk as follows:

5 Sec. 10. Section six hundred two point fifty-seven
6 (602.57), unnumbered paragraph one (1), Code 1973, as
7 amended by Acts of the Sixty-fifth General Assembly,
8 1973 Session, chapter two hundred eighty-two (282),
9 section ten (10), is amended to read as follows:

10 Except as provided in section six hundred two point
11 fifty-eight (602.58) of the Code, there shall be a total
12 of one hundred ninety-one Iowa judicial magistrates to
13 be appointed pursuant to section six hundred two point
14 fifty (602.50) of the Code. During January of [1974] 1975
15 and every two years thereafter, the supreme court
16 administrator shall apportion the number of judicial
17 magistrates to be so appointed among the counties in
18 accordance with the following criteria:

19 Sec. 11. Section six hundred two point fifty-seven
20 (602.57), unnumbered paragraph three (3), Code 1973,
21 is amended to read as follows:

22 During February of [1974] 1975 and during February of
23 every two years thereafter, the supreme court administrator
24 shall notify the clerk of the district court of each county
25 and the chief judge of the appropriate judicial district,
26 of the number of magistrates to which the county is entitled.

27 Sec. 12. Section six hundred two point fifty-nine (602.59),
28 Code 1973, as amended by Acts of the Sixty-fifth General As-
29 sembly, 1973 Session, chapter two hundred eighty-two (282),
30 section eleven (11),

31 is amended by striking the section and in-
32 serting in lieu thereof the following:

33 602.59 SUBSTITUTION FOR APPORTIONMENT.

34 1. APPLICABILITY. In any county having an apportionment
35 of three or more judicial magistrates appointable pursuant

36 to section six hundred two point fifty (602.50) of the Code,
37 the chief judge of the district, subject to the limitations
38 of this section, may designate by order that magistrates ap-
39 pointed pursuant to this section be utilized in lieu of
40 magistrates appointed pursuant to section six hundred two
41 point fifty (602.50) of the Code. The order of substitution
42 may be made only upon the affirmative vote of a majority of
43 the district judges in that judicial election district that
44 the substitution be made. An order of substitution is
45 renewable for successive terms upon the vote of the judges,
46 but shall not be effective for any term unless a copy
47 of the order is received by the chairman of the county
48 judicial magistrate appointing commission not later
49 than the thirty-first day of March of the year in which
50 the substitution is to take effect. A copy of the order
51 also shall be sent to the supreme court administrator.

52 2. REDUCTION IN APPOINTMENTS. For any county in which
53 such an order is in effect, the number of magistrates actually
54 appointed pursuant to section six hundred two point fifty
55 (602.50) of the Code shall be reduced by three for each magis-
56 trate substituted under the provisions of this section.

57 Upon any subsequent reduction in the apportionment of
58 magistrates to the county, either the commission shall fur-
59 ther reduce the number of magistrates appointed, or the chief
60 judge shall revoke an order of substitution.

61 3. APPOINTMENT. A judicial magistrate ordered pursuant
62 to this section shall be nominated and appointed, and shall
63 have qualifications, rights, salary, duties, responsibilities,

1 liabilities, authority and jurisdiction, the same as a
2 magistrate authorized by paragraph one (1) of section six
3 hundred two point fifty-one (602.51) of the Code.

4 4. LIMITATIONS.

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

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

11 c. A substitution shall not be made or maintained where
12 the apportionment to a county is insufficient to permit the
13 full reduction in appointments required by subsection two
14 (2) of this section.

15 5. REVERSION. If an apportionment by the supreme court
16 administrator pursuant to section six hundred two point fifty-
17 seven (602.57) of the Code reduces the number of judicial
18 magistrate offices in the county to less than three, or a
19 majority of the district judges in that judicial election
20 district determines that a substitution is no longer desir-
21 able, then the substituted office shall not be renewed for
22 a successive term. At the end of the term, appointments shall
23 be made pursuant to section six hundred two point fifty
24 (602.50) of the Code.

25 Sec. 13. Section six hundred two point sixty-three
26 (602.63), Code 1973, as amended by Acts of the Sixty-fifth
27 General Assembly, 1973 Session, chapter two hundred eighty-
28 two (282), section forty-seven (47), is amended by adding
29 the following new unnumbered paragraph:

30 *NEW UNNUMBERED PARAGRAPH.* The chief judge of a dis-
trict

31 may order that criminal proceedings which are within the
32 jurisdictions of judicial magistrates and district associate
33 judges be combined into centralized
34 dockets for the county if the chief judge determines that
35 administration could be improved thereby. When so ordered,

1 a centralized docket shall be in lieu of individual dockets
2 otherwise prescribed, and the clerk shall compile a centralized
3 docket in the manner prescribed for an individual docket.
4 The chief judge may assign actions and proceedings on
5 centralized dockets to judicial magistrates and district
6 associate judges as he deems necessary.

7 **Sec. 14. Section six hundred two point seventy-one**
8 **(602.71), Code 1973, as amended by Acts of the Sixty-**
9 **fifth General Assembly, 1973 Session, chapter two hundred**
10 **eighty-two (282), sections fifty (50), fifty-one (51)**
11 **and fifty-two (52), is amended by striking the section.**

12 **Sec. 15. Chapter six hundred two (602), Code 1973, is**
13 **amended by adding the following new section:**

14 ***NEW SECTION. ALTERNATE JUDICIAL MAGISTRATE.***

15 1. **AUTHORIZATION.** In any county having only one dis-
16 trict associate judge, or only one judicial magistrate ap-
17 pointed pursuant to section six hundred two point fifty-one
18 (602.51) of the Code, the county judicial magistrate appoint-
19 ing commission, by majority vote, may authorize that an
20 alternate judicial magistrate be selected.

21 2. **SELECTION.** The procedures for selecting an alter-
22 nate judicial magistrate shall be as provided in section six
23 hundred two point fifty-one (602.51) of the Code, but any
24 person so appointed shall be designated as an alternate ju-
25 dicial magistrate, and shall be subject to the limitations
26 contained in this section.

27 3. **JURISDICTION.** An alternate judicial magistrate shall
28 have the same qualifications, jurisdiction, obligations and
29 liabilities as a judicial magistrate appointed pursuant to
30 section six hundred two point fifty-one (602.51) of the Code.

31 4. **DUTIES.** In case of inability of a district associate
32 judge or judicial magistrate to act, the chief judge of the
33 district may order that the alternate temporarily sit in place
34 of that officer. The words "inability to act" shall mean
35 a temporary absence from court duties, including a reasonable

36 vacation period. An alternate may practice as an attorney
37 except at such times as he is acting as judicial magistrate,
38 but he shall not act in any manner on any case in which he
39 is interested as an attorney.

40 5. SALARY. The alternate shall be compensated by the

1 state at the rate of forty dollars per day for each day of
2 actual duty as magistrate, and for actual expenses incurred
3 in the performance of duties as magistrate, upon certifica-
4 tion to the comptroller by the chief judge of the days of
5 duty and the expenses incurred.

6 6. LIMITATIONS. The appointment of an alternate judicial
7 magistrate shall not affect the rights, duties or remuneration
8 of any regular judicial officer, and the appointment of an
9 alternate shall not affect the number or apportionment of
10 judicial magistrates authorized by this chapter.

11 Sec. 16. Section six hundred twenty-two point seventy-
12 three (622.73), Code 1973, is amended to read as follows:

13 622.73 FEES PAYABLE BY COUNTY OR CITY. For attending
14 before the trial jury or court in criminal cases where the
15 defendant is adjudged not guilty *or the action is dismissed*,
16 the fees above provided for attending court shall be paid
17 [by the county, upon a certificate of the clerk or judicial
18 magistrate showing the amount of the services to which they
19 are entitled.] *as follows:*

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

23 2. *In actions based on a violation of a city ordinance,*
24 *by the city, upon a written statement of the clerk or a ju-*
25 *dicial officer showing the amount due.*

26 Sec. 17. Section six hundred twenty-two point seventy-
27 five (622.75), Code 1973, is amended to read as follows:

28 622.75 REIMBURSEMENT TO PARTY, [OR] COUNTY, OR
CITY. When

29 [the] a county or city or any party has paid the fees of any
30 witness, and the same is afterward collected from the defend-
31 ant or adverse party, the county, city or person so paying
32 the same shall, upon the production of the receipt of such
33 witness or other satisfactory evidence, be entitled to such
34 fee.

35 Sec. 18. Section six hundred thirty-one point one (631.1),

1 Code 1973, as amended by Acts of the Sixty-fifth General As-
2 sembly, 1973 Session, chapter two hundred eighty-two (282),
3 section sixty-one (61), is amended to read as follows:

4 631.1 SMALL CLAIMS.

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

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

17 Sec. 19. Section six hundred thirty-one point two (631.2),
18 Code 1973, as amended by Acts of the Sixty-fifth General As-
19 sembly, 1973 Session, chapter two hundred eighty-two (282),
20 section sixty-two (62), is amended by striking the section
21 and inserting in lieu thereof the following:

22 631.2 JURISDICTION AND PROCEDURES.

23 1. The district court sitting in small claims shall ex-
24 ercise the jurisdiction conferred by this chapter, and shall
25 determine small claims according to the statutes and the rules
26 prescribed by this chapter. Except when transferred from
27 the small claims docket as provided in section six hundred
28 thirty-one point eight (631.8) of this chapter, small claims
29 may be tried by a judicial magistrate, a district associate
30 judge, or a district judge.

31 2. The clerk of court shall maintain a separate docket
32 for small claims which shall be known as the small claims
33 docket, and which shall contain all matters relating to those
34 small claims which are required by section six hundred six
35 point seven (606.7) of the Code to be contained in a

1 combination docket.

2 3. Statutes and rules relating to venue and jurisdiction
3 shall apply to small claims, except that a provision of this
4 chapter which is inconsistent therewith shall supersede that
5 statute or rule.

6 Sec. 20. Section six hundred thirty-one point three
7 (631.3), Code 1973, as amended by Acts of the Sixty-fifth
8 General Assembly, 1973 Session, chapter two hundred eighty-
9 two (232), section sixty-three (63), is amended by striking
10 the section and inserting in lieu thereof the following:

11 631.3 COMMENCEMENT OF ACTIONS—CLERK TO FURNISH
FORMS;
12 SUBPOENA.

13 1. All actions shall be commenced by the filing of an
14 original notice with the clerk. At the time of filing, the
15 clerk shall enter on the original notice and the copies to
16 be served, the file number and the date the action is filed.

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

22 3. The clerk shall cause to be entered upon each copy
23 of the original notice and in the docket the day for appear-
24 ance, which date shall be determined in accordance with sec-
25 tion six hundred thirty-one point four (631.4) of this chap-
26 ter. Appearance dates shall be set only for days on which
27 the office of the clerk is scheduled to be open.

28 4. Upon the request of any party to the action, the clerk
29 or a judicial officer shall issue subpoenas for the attendance
30 of witnesses at a hearing. The provisions of sections six
31 hundred twenty-two point sixty-three (622.63) through six
32 hundred twenty-two point sixty-nine (622.69), and six hun-
33 dred twenty-two point seventy-six (622.76) through six hun-
34 dred twenty-two point seventy-seven (622.77) of the Code shall
35 apply to subpoenas issued pursuant to this chapter.

1 Sec. 21. Section six hundred thirty-one point four (631.4),
2 Code 1973, as amended by Acts of the Sixty-fifth General
3 Assembly, 1973 Session, chapter two hundred eighty-two (282),
4 section sixty-four (64), is amended by striking the section
5 and inserting in lieu thereof the following:
6 631.4 SERVICE—TIME FOR APPEARANCE. The manner of
7 vice of original notice and the times for appearance shall
8 be as provided in this section.

9 1. ACTIONS FOR MONEY JUDGMENT.

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

17 b. Except as provided in paragraph c of this subsection,
18 at the option of the plaintiff and upon receipt of the pre-
19 scribed costs, the clerk either shall mail, by certified mail,
20 restricted delivery, return receipt to the clerk requested,
21 a copy of the original notice together with a conforming copy
22 of an answer form to each defendant, or shall cause the orig-
23 inal notice and answer form to be delivered to a peace officer
24 or other person for personal service as provided in rules
25 fifty-two (52) and fifty-six (56) of the rules of civil pro-
26 cedure.

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

1 inal notice and answer to be mailed to each defendant in the
2 manner prescribed in section six hundred seventeen point three
3 (617.3) of the Code.

4 2. ACTIONS FOR FORCIBLE ENTRY OR DETENTION.

5 a. In an action for the forcible entry or detention of
6 real property, the clerk shall set a date, time and place
7 for hearing, and shall cause service as provided in this sub-
8 section.

9 b. Original notice shall be served personally upon each
10 defendant as provided in rule fifty-six (56) of the rules
11 of civil procedure, which service shall be made at least five
12 days prior to the date set for hearing. Upon receipt of the
13 prescribed costs the clerk shall cause the original notice
14 to be delivered to a peace officer or other person for ser-
15 vice upon each defendant.

16 Sec. 22. Section six hundred thirty-one point five (631.5),
17 Code 1973, as amended by Acts of the Sixty-fifth General
18 Assembly, 1973 Session, chapter two hundred eighty-two (282),
19 section sixty-five (65), is amended by striking the section
20 and inserting in lieu thereof the following:

21 631.5 APPEARANCE—DEFAULT. This section shall apply to
22 all small claims except actions for forcible entry or de-
23 tention of real property.

24 2. APPEARANCE. A defendant may appear in person or by
25 attorney, and by the denial of a claim a defendant does not
26 waive any defenses.

27 2. HEARING SET. If all defendants either have entered
28 a timely appearance or have defaulted, the clerk shall assign
29 a contested claim to the small claims calendar for hearing
30 at a place and time certain. The time of hearing shall be
31 not less than five days nor more than twenty days after the
32 latest timely appearance. The clerk shall transmit the orig-
33 inal notice and all other papers relating to the case to the
34 judicial officer to whom the case is assigned, and copies
35 of all papers so transmitted shall be retained in the clerk's

1 office.

2 3. PARTIAL SERVICE. If the plaintiff has joined more
3 than one defendant, and less than all defendants are served
4 with notice as determined by subsection four (4) of this sec-
5 tion, the plaintiff may elect to proceed against all defen-
6 dants served, or he may elect to have a continuance, issu-
7 able by the clerk, to a date certain not more than sixty days
8 thereafter. If the plaintiff elects to proceed, the action
9 shall be dismissed without prejudice as against each defen-
10 dant not served with notice.

11 4. RETURN OF SERVICE. Proper notice shall be established
12 by a signed return receipt or a return of service as provided
13 in rule fifty-nine (59) of the rules of civil procedure.

14 5. FAILURE OF SERVICE. In the event a sole defendant
15 or all defendants fail to appear and the clerk, in accor-
16 dance with subsection four (4) of this section, determines
17 that proper notice has not been given, the clerk shall re-
18 set the date for appearance and upon receipt of the prescribed
19 fees shall cause personal service upon each defendant as
20 prescribed in section six hundred thirty-one point four (631.4)
21 of this chapter.

22 6. NOTIFICATION TO PARTIES. When a small claim is set
23 for hearing the clerk immediately shall notify by ordinary
24 mail each party or the attorney representing the party, and
25 the judicial officer to whom the action is assigned, of the
26 date, time and place of hearing.

27 7. DEFAULT. If a defendant fails to appear and the clerk
28 in accordance with subsection four (4) of this section deter-
29 mines that proper notice has been given, judgment shall
30 be rendered against the defendant by the clerk if the
31 relief is readily ascertainable. If the relief is not
32 readily ascertainable the claim shall be assigned to a
33 judicial magistrate for determination and the clerk shall
34 immediately notify the plaintiff or his attorney and the
35 judicial magistrate of such assignment by ordinary mail.

36 Sec. 23. Section six hundred thirty-one point six (631.6),

1 Code, 1973, is amended by striking the section and inserting
2 in lieu thereof the following:

3 631.6 FEES AND COSTS. All fees and costs required to
4 be paid in small claims actions shall be paid in advance,
5 and shall be assessed as costs in the action.

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

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

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

13 4. Fees for service of notice on nonresidents shall be
14 as provided in section six hundred seventeen point three
15 (617.3) of the Code.

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

21 Sec. 24. Section six hundred thirty-one point seven
22 (631.7), Code 1973, is amended to read as follows:

23 631.7 PARTIES PLEADINGS AND MOTIONS.

24 1. Except as *specifically* provided in [sections 631.4 and
25 631.8] *this chapter*, there shall be no written pleadings or
26 motions unless the court in the interests of justice [requires]
27 *permits* them, in which event they shall be similar in form
28 to the original notice.

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

32 3. *Except as provided in subsection four (4) of section*
33 *six hundred thirty-one point eight (631.8) of this chapter,*
34 *a counterclaim, cross-petition or intervention shall be in*
35 *writing and in the form promulgated under section six hundred*

1 *thirty-one point fifteen (631.15) of this chapter. Copies*
2 *shall be submitted for each party appearing, and shall be*
3 *mailed by ordinary mail to those parties by the clerk. A*
4 *cross-petition against persons not a party to the action shall*
5 *be made pursuant to rule thirty-four (34) of the rules of*
6 *civil procedure and the*
7 *new party shall be served with notice as provided in this*
8 *chapter.*

9 4. *The rules of civil procedure pertaining to actions,*
10 *joinder of actions, parties and intervention shall apply to*
11 *small claims actions, except that rule twenty-nine shall not*
12 *apply. No counterclaim is necessary to assert an offset*
13 *arising out of the subject matter of the plaintiff's claim.*
14 *A counterclaim, cross-petition, or intervention against an*
15 *existing party is deemed denied and no responsive pleading*
16 *by such party is required.*

17 Sec. 25. Section six hundred thirty-one point eight
18 (631.8), subsections one (1) and two (2), Code 1973, are
19 amended to read as follows:

20 1. [The rules of civil procedure pertaining to action,
21 joinder of actions and parties and rule 75 of the rules of
22 civil procedures shall be applicable to small claims actions,
23 except that rule 29 shall not apply to actions originating
24 as small claims actions] *Small claims not determined within*
25 *ninety days following the expiration of any period of con-*
26 *tinuance or following the last entry placed on the record*
27 *for that action shall be dismissed by the clerk without*
28 *prejudice.*

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

31 a. Order the small claim to be heard under this [division]
32 chapter and dismiss the other claim without prejudice, or

33 b. As to parties who have appeared or are existing par-
34 ties, either (1) order the small claim to be heard under [the
35 procedures specified in] this chapter and the other claim to

1 be tried by regular procedure or (2) order both claims to
2 be tried by regular procedure.

3 Sec. 26. Section six hundred thirty-one point eight
4 (631.8), subsection three (3), Code 1973, is amended by strik-
5 ing the subsection and inserting in lieu thereof the following:

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

15 Sec. 27. Section six hundred thirty-one point nine (631.9),
16 Code 1973, as amended by Acts of the Sixty-fifth General
17 Assembly, 1973 Session, chapter two hundred eighty-two (282),
18 section sixty-seven (67), is amended by striking the section
19 and inserting in lieu thereof the following:

20 631.9 JURISDICTION DETERMINED. At the time set for the
21 hearing of a small claim, the court first shall determine
22 that proper notice as provided in subsection four (4) of
23 section twenty-two (22) of this Act has been given a
24 party before proceeding further as to him, unless he has
25 appeared or is an existing party, and also shall determine
26 that the action is properly brought as a small claim.

1 Sec. 28. Section six hundred thirty-one point eleven
2 (631.11), Code 1973, as amended by Acts of the Sixty-fifth
3 General Assembly, 1973 Session, chapter two hundred eighty-
4 two (282), section sixty-nine (69), is amended to read as
5 follows:

6 631.11 HEARING.

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

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

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

32 4. *JUDGMENT*. Judgment shall be rendered, based upon
33 applicable law and upon a preponderance of the evidence.

34 5. *DESTRUCTION OF RECORDINGS*. Unless an appeal is
35 taken, an electronic recording of a proceeding in

36 *small claims shall be retained until the time for appeal*
37 *has expired as specified in section six hundred thirty-*
38 *one point thirteen (631.13) of the Code. Thereafter, the*
39 *magistrate may direct that the recording tape or other*
40 *device be erased and used for subsequent recordings. If*
41 *the proceeding is appealed, the recording may be erased*
42 *following entry of judgment by the district judge hearing*
43 *the appeal.*

44 Sec. 29. Section six hundred thirty-one point twelve
45 (631.12), subsection two (2), Code 1973, is amended by strik-
46 ing the subsection.

47 Sec. 30. Section six hundred thirty-one point thirteen
48 (631.13), Code 1973, is amended by striking the section and

1 inserting in lieu thereof the following:

2 631.13 APPEALS.

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

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

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

27 4. PROCEDURE ON APPEAL.

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

35 b. Upon entry of judgment the clerk may cause any

36 recording tape or other device contained in the record to
37 be erased for subsequent use.

38 Sec. 31. Chapter six hundred thirty-one (631), Code 1973,
39 is amended by adding the following new section as section
40 six hundred thirty-one point fourteen (631.14):

41 631.14 *NEW SECTION*. REPRESENTATION IN SMALL
CLAIMS

42 *ACTIONS*. Actions constituting small claims may be brought
43 or defended by an individual, partnership, association,
44 corporation, or other entity. In actions in which a person
45 other than an individual is a party, that person may be
46 represented by an officer or an employee. Any person, however,
47 may be represented in small claims action by an attorney.

48 Sec. 32. Chapter six hundred thirty-one (631), Code 1973,
49 is amended by adding the following new section as section
50 six hundred thirty-one point fifteen (631.15):

51 631.15 *NEW SECTION*. The supreme court shall prescribe
52 standard forms of pleadings to be used in small claims ac-

1 tions. Standard forms promulgated by the supreme court shall
2 be the exclusive forms used after December 31, 1975, but forms
3 prepared in accordance with the law prior to the effective
4 date of this Act may be used until December 31, 1975.

5 Sec. 33. Chapter six hundred thirty-one (631), Code
6 1973, is amended by adding the following new section:

7 **NEW SECTION. DISCRETIONARY REVIEW BY SUPREME**
8 **COURT.**

8 1. A civil action originally tried as a small claim
9 shall not be appealed to the supreme court except by
10 discretionary review as provided herein.

11 2. "Discretionary review" is the process by which
12 the supreme court may exercise its discretion, in like
13 manner as under the rules pertaining to interlocutory
14 appeals and certiorari in civil cases, to review
15 specified matters not subject to appeal as a matter of
16 right. The supreme court may adopt additional rules to
17 control access to discretionary review.

18 3. The party seeking review shall be known as the
19 appellant and the adverse party as the appellee, but the
20 title of the action shall not be changed from that in
21 the court below.

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

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

28 a. Immediately prepare and mail by certified mail,
29 return receipt requested, to the appellees and their attorneys
30 of record, true copies of the application, together with
31 the date of filing.

32 b. Immediately prepare and transmit to the clerk
33 of the supreme court a transcript of all record entries
34 relevant to the application, together with copies of all
35 papers in the case on file with the court, and a trans-

36 cript of the official report, if any, all duly certified
37 under seal of the court.

38 Failure of the clerk of the district court to transmit
39 all the papers as required by this subsection shall not
40 prejudice the rights of the parties.

41 6. The record and case shall be presented to the
42 supreme court as provided by its rules; and the provisions
43 of law in civil procedure relating to the filing of
44 decisions and opinions of the supreme court shall apply
45 in such cases.

46 7. An application shall not be dismissed for an
47 informality or defect in taking it if corrected as directed
48 by the supreme court. The supreme court, after an examina-
49 tion of the entire record, may dispose of the case by
50 affirmation, reversal or modification of the lower court
51 judgment, and may order a new trial. It also may dismiss
52 the application if both of the following are true:

53 a. The court determines that there has been no sub-
54 stantial miscarriage of justice.

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

57 8. The decision of the supreme court with any opinion
58 filed or judgment rendered must be recorded by its clerk.
59 After the expiration of the period allowed for a rehearing,
60 or as ordered by the court or provided by its rules, a
61 certified copy of the decision and opinion shall be transmitted
62 to the clerk of the trial court, and filed and entered of
63 record in the district court.

64 9. The jurisdiction of the supreme court shall cease
65 after the certified copy of the decision and opinion is
66 transmitted to the clerk of the trial court. All proceedings
67 for executing the judgment shall be had in the trial court
68 or by its clerk.

69 Sec. 34. Section seven hundred fifty-three point nine
70 (753.9), Code 1973, as amended by Acts of the Sixty-fifth

71 General Assembly, 1973 Session, chapter two hundred eighty-
72 two (282), section seventy-six (76), is amended by adding
73 the following new unnumbered paragraph:

74 *NEW UNNUMBERED PARAGRAPH.* In a case where a defend-
ant

75 fails to make a required court appearance, the court shall
76 issue an arrest warrant for the offense of failure to appear,
77 and shall forward the warrant and the original citation to
78 the clerk. The clerk shall enter a transfer to the issuing
79 agency on the docket, and shall return the warrant with the
80 original citation attached to the law enforcement agency which
81 issued the original citation for enforcement of the warrant.
82 Upon arrest of the defendant, the warrant and the original
83 citation shall be returned to the court, and the offenses
84 shall be heard and disposed of simultaneously.

85 Sec. 35. Section seven hundred fifty-three point thir-
86 teen (753.13), Code 1973, as amended by Acts of the Sixty-
87 fifth General Assembly, 1973 Session, chapter two hundred
88 eighty-two (282), section seventy-seven (77), is amended by
89 adding the following new paragraph:

90 *NEW PARAGRAPH.* The uniform citation and complaint shall
91 contain a place for the verification of the officer issuing
92 the citation. The complaint may be verified before the chief
93 officer of the law enforcement agency or his designee, and
94 the chief officer of each law enforcement agency of the state
95 is authorized to designate specific individuals to adminis-
96 ter oaths and certify verifications. Nothing in this section
97 shall be deemed to invalidate forms of uniform citation and
98 complaint in existence prior to the effective date of this
99 Act, and existing forms may be used until supplies are ex-

1 hausted.

2 Sec. 36. Section seven hundred fifty-three point fourteen
3 (753.14), Code 1973, is amended to read as follows:

4 753.14 TRAFFIC VIOLATIONS OFFICES—FINE COLLEC-
5 TION BOXES.

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

11 2. COLLECTION BOXES. *The chief judge of the district*
12 *may permit the maintenance of locked collection boxes to be*
13 *used at weigh stations. Such boxes shall be used solely for*
14 *the deposit of fines and costs received upon written admis-*
15 *sions of scheduled violations respecting weight and other*
16 *nonmoving scheduled violations applicable to commercial*
17 *carriers. The collection boxes shall remain locked at all*
18 *times and shall be opened only by the clerk of the district*
19 *court or his designee. The chief judge of the district may*
20 *prescribe procedures for the system and may discontinue its*
21 *use if necessary.*

22 Sec. 37. Acts of the Sixty-fifth General Assembly, 1973
23 Session, chapter two hundred eighty-two (282), section eighty-
24 nine (89), unnumbered paragraph two (2), amending section
25 seven hundred sixty-two point twelve (762.12), Code 1973,
26 is amended to read as follows:

27 Upon the trial, the judicial magistrate shall [make minutes
28 of the testimony of each witness and] append the exhibits or
29 copies thereof *to the record*. The proceedings upon trial
30 shall not be reported[, unless the party provides a reporter
31 at such party's expense. By agreement the parties may cause
32 the proceedings upon trial to be reported electronically.
33 If the defendant is indigent and requests that the proceedings
34 upon trial be reported, the judicial magistrate shall cause
35 them to be reported by a reporter, or electronically, at pub-
lic expense.]

1 any party may file with the clerk, as a part of the record,
2 a transcript of the official report, if any, and, in the event
3 the report was made electronically, the tape or other medium
4 on which the proceedings were preserved.] The case shall stand
5 for trial anew in the district court in the same manner as
6 it *originally* should have been tried [before the judicial
7 magistrate, without regard to technical errors or defects
8 which have not substantially prejudiced the rights of either
9 party]. The court shall have full power over the case, the
10 judicial magistrate and his record, and shall [give] *render*
11 *original* judgment [as though the case were being originally
12 tried].

13 Sec. 40. Section seven hundred sixty-six point seven
14 (766.7), Code 1973, is amended to read as follows:

15 766.7 [TRAFFIC VIOLATIONS] *NONINDICTABLE MISDE-*
MEANORS. The
16 provisions of sections 766.2 through 766.6 shall not apply
17 to [traffic violations] *nonindictable misdemeanors, and when*
18 *a defendant fails to appear as required in such a case, the*
19 *court shall enter a judgment of forfeiture of the bond which*
20 *shall be final upon entry and shall not be set aside.*

21 Sec. 41. Section seven hundred eighty-nine point seven-
22 teen (789.17), Code 1973, is amended by striking the section
23 and inserting in lieu thereof the following:

24 789.17 SATISFACTION OF JUDGMENT. Upon entering a judg-
25 ment imposing a fine, the court may provide that the judgment
26 be paid in installments. If the defendant willfully fails

1 to pay installments when due, he shall be guilty of contempt
2 and shall be punished as provided in chapter six hundred
3 sixty-five (665) of the Code.

4 Sec. 42. Sections six hundred two point forty-eight
5 (602.48), seven hundred sixty-two point twenty-one (762.21),
6 and seven hundred sixty-two point twenty-three (762.23), Code
7 1973, are amended by striking those sections.

8 Sec. 43. The apportionment of judicial magistrates
9 made in January, 1974, and the notice thereof given in
10 February, 1974, by the supreme court administrator
11 pursuant to section six hundred two point fifty-seven
12 (602.57) of the Code is void and each county shall have
13 and retain until January, 1975, the allotment of
14 judicial magistrates in effect for that county as of
15 December 1, 1973, except for a substitution permitted
16 by section twelve (12) of this Act.

17 Sec. 44. Sections one (1) through forty-two (42)
18 of this Act

19 shall take effect on July 1, 1974. Section forty-three (43)
20 of this Act shall take effect when published as provided in
21 section forty-five (45) of this Act.

22 Sec. 45. Section forty-three (43) of this

23 Act, being deemed of immediate importance,
24 shall take effect and be in force from and after publi-
25 cation of this Act

26 in The Sioux City Journal, a newspaper published in
27 Sioux City, Iowa, and in the West Des Moines Express, a
28 newspaper published in West Des Moines, Iowa.

29 EXPLANATION

30 This bill amends selected provisions of the United Trial
31 Court Act as follows:

32 1. Sec. 1 requires the state to pay magistrates bond
33 premiums.

34 2. Secs. 2 through 5 are clarifying amendments, but add
35 the proviso that a county attorney cannot be a nominating

36 committee member.

37 3. Sec. 6 deletes transition language no longer needed
38 and makes coordinating amendments necessitated by section
39 10 of the bill. Clarifying amendments are also made. The
40 section also provides for another one-year term for magis-

1 trates appointed in 1974 to facilitate section 41 of the bill.

2 4. Sect. 7 adds language to conform the section with sec-
3 tion 10 of the bill, and adds the term of office language
4 for clarity.

5 5. Sec. 8 adds new language to deal with the conflict
6 of interest problem created because of magistrates also
7 practicing law.

8 6. Sec. 9 requires the court, and judicial officers, to
9 report dispositions of all citations originating from a
10 municipality, whether or not a fine is imposed, thereby
11 increasing accountability and records management at both
12 municipality and county levels.

13 7. Sec. 10 strikes the initial magistrate allotment pro-
14 vision which is no longer necessary. For convenience a new
15 concept was inserted in its place.

16 The new concept is a "substitution" alternative which would
17 permit qualifying counties to exchange three "part-time" mag-
18 istrate allotments for one "full-time" position. Some judges
19 believe the exchange would improve efficiency in the adminis-
20 tration of justice.

21 8. Sec. 11 of the bill authorizes the chief judge of the
22 district to authorize centralized county dockets to improve
23 administration. It has been suggested that dockets for each
24 magistrate or district associate judge are not convenient
25 or efficient in some counties.

26 9. Sec. 12 authorizes the selection of an alternative ju-
27 dicial magistrate in the least populous counties to serve
28 in a temporary capacity. The provision is basically the old
29 alternate municipal court judge provision.

30 10. Secs. 13 and 14 provide for the assessment of court
31 costs against the city bringing a criminal action to place
32 the burdens with the benefits, and provides for the distri-
33 bution of recovered costs to the city.

34 11. Secs. 15 through 30 constitute a substantial but not
35 a substantive revision of chapter 631 relating to small claims

1 actions. The material changes to small claims actions are:

2 a. Reducing the hearing time in forcible entry actions

3 to five days.

4 b. Specifically authorizing subpoenas to be issued.

5 c. Specifically providing for jurisdiction over nonresident
6 defendants.

7 d. Equalizing the small claims costs imposed with those
8 of regular actions.

9 e. Requiring the judicial officer to examine each case
10 for party and subject matter jurisdiction prior to receiving
11 evidence.

12 f. Requiring the judicial officer to take evidence, either
13 orally or by affidavit, establishing both the amount of the
14 claim and that the statute of limitations has not run prior
15 to rendering a default judgment.

16 g. Providing that appeals of small claims actions to the
17 district court shall be tried de novo.

18 h. Expressly authorizing employees of organizations to
19 appear for the organization.

20 i. Authorizing the supreme court to promulgate forms of
21 pleadings.

22 The numerous changes affect every section of chapter 631,
23 and the Code sections are redrafted to eliminate inconsis-
24 tencies, consolidate related subjects, and remove ambiguities.

25 12. Sec. 31 authorizes the clerk of court to return bench
26 warrants to municipal authorities for service, thereby re-
27 lieving pressure and backlogs in the county offices.

28 13. Sec. 22 authorizes verification of uniform citations
29 before the chief of a law enforcement agency or his desig-
30 nate to enable citations to be filed without each officer
31 having to go to the magistrate or clerk to swear to the com-
32 plaint.

33 14. Sec. 33 authorizes locked fine collection boxes for
34 overweight violations at weigh stations under the adminis-
35 trative control of the chief judge.

1 15. Secs. 34 and 36, in conjunction, provide for de novo
2 hearings on appeals of criminal actions heard by magistrates.

3 16. Secs. 35 and 39 are parallel language providing for
4 contempt citations for failure of a defendant to pay fine
5 installments previously ordered by a court. Code sections
6 762.32 and 789.17 which are thereby amended have been deter-
7 mined unconstitutional by implication under federal supreme
8 court decisions.

9 17. Sec. 37 eliminates an inconsistency by a cross-refer-
10 ence.

11 18. Sec. 38 provides for a forfeiture of bond for failure
12 to appear in any nonindictable misdemeanor action without
13 the requirement of a forfeiture hearing.

14 19. Sec. 40 strikes 602.48 which was transferred to 602.43
15 as amended by this bill; and Secs. 762.21 and 762.23 which
16 are obsolete sections referring to justice's courts.

17 20. Sec. 41 postpones reapportionment of magistrates by
18 the supreme court administrator until July 1, 1975.

Senate 3
May 7, 1974

HOUSE AMENDMENT TO SENATE AMENDMENT TO
HOUSE FILE 1470

1 Amend the Senate amendment to House File 1470,
2 as amended, passed and reprinted by the House, as
3 follows:
4 1. By striking all of lines 45 through 47 and
5 inserting in lieu thereof the following:
6 "3. Page 8B, by inserting after line 51 the follow-
7 ing new paragraph:
8 The district judges of a judicial election dis-
9 trict may determine, for the year 1974, that a sub-
10 stitution be made pursuant to this section, by an
11 affirmative vote of a majority rendered and with
12 written notice thereof delivered to the chairman
13 of the county judicial magistrate appointing commission
14 not later than June 1, 1974. A magistrate appointed
15 in 1974 pursuant to this subsection shall be subject
16 to all of the provisions of this section, except that
17 the term of office shall be an irregular one for a
18 period of five years from July 1, 1974."
19 2. By striking all of lines 59 through 84 and
20 inserting in lieu thereof the following:
21 "5. Page 26A, by inserting after line 16, the
22 following new paragraph:
23 In any county where the judicial magistrate
24 appointing commission, pursuant to section six hundred
25 two point fifty (602.50) of the Code, made a number of

Page 2

1 appointments of judicial magistrates in 1974 which
2 number is inconsistent with the number of magistrates
3 permitted by this section, or where the appointing
4 commission prior to June 2, 1974 receives notice of a
5 substitution pursuant to section twelve (12) of this
6 Act, the judicial magistrate appointing commission
7 for that county is authorized and directed to recon-
8 vene prior to July 1, 1974, and appoint the number
9 permitted by this section. For the purpose of this
10 paragraph, such a nominating commission is authorized
11 to declare prior appointments made in 1974 void.
12 6. Page 26A, by striking line 17, and inserting
13 in lieu thereof the words 'Sections one (1) through
14 eleven (11), and thirteen (13) through forty-two (42)'.
15 7. Page 26A, line 19, by striking the words
16 'Section forty-three (43)' and inserting in lieu
17 thereof the words 'Sections twelve (12) and forty-
18 three (43)'."
19 3. By renumbering the remaining amendment.

Received from the House
May 4, 1974

Senate concurred 5/4

S-2821

1 Amend House File 1470, as amended, passed and re-
2 printed by the House, as follows:
3 1. Page 23, by striking lines 10 and 11 and inserting
4 in lieu thereof the following:
5 "2. COLLECTION BOXES.
6 a. The chief judge of the district may
7 permit the maintenance of locked collection boxes to
8 be".
9 2. Page 23, by adding the following after line 20:
10 "b. The chief judge of the district may permit
11 the maintenance of locked collection boxes to be
12 carried by peace officers in official vehicles. Such
13 boxes shall be used solely for the collection of fines
14 and costs or the deposits authorized to be mailed to
15 the court pursuant to paragraphs a and b of subsection
16 three (3) of section seven hundred fifty-three point
17 sixteen (753.16) of the Code. The collection boxes
18 shall remain locked at all times and shall be opened
19 only by the clerk of the district court or his desig-
20 nee. The chief judge of the district may prescribe
21 procedures for the system and may discontinue its use
22 if necessary."

S-2821 Filed - *Lost 5/3*
April 22, 1974

By GALLAGHER

S--2827

1 Amend House File 1470 as follows:
2 1. Page 4, by inserting after line 23 the follow-
3 ing new subsections:
4 2. APPLICATIONS. The appointing commission for
5 each county shall ~~prescribe the content of an appli-~~
6 ~~cation for an appointment pursuant to this section.~~
7 ~~The commission shall publicize in at least two~~
8 ~~publications in the official county newspaper, notice~~
9 ~~of any vacancy to be filed. For a minimum of fifteen~~
10 ~~days prior to any appointment, the commission shall~~
11 ~~accept applications, and shall make available during~~
12 ~~that period of time any printed application forms the~~
13 ~~commission may, in its discretion, prescribe.~~
14 2. By renumbering subsections in conformity with
15 this amendment.

S--2827 Filed - *adopted 5/3*
April 22, 1974

KARL NOLIN

S-2998

- 1 Amend the DeKoster amendment S-2836 to House File
- 2 1470, page 1, line 15, by inserting after the
- 3 word "~~constitutional~~" the word "statutory".

S-2998 Filed - *Adopted 5/3*
May 2, 1974

By DE KOSTER

S-3005

- 1 Amend House File 1470, as amended, passed and reprinted
- 2 by the House, as follows:
- 3 1. Page 14, line 22 by striking the word "answer"
- 4 and inserting in lieu thereof the word "appearance".
- 5 2. Page 14, line 23 by striking the word "answer"
- 6 and inserting in lieu thereof the word "appearance".

S-3005 Filed and adopted By RILEY
May 3, 1974 *Reconsidered and withdrawn 5/3*

S-2997

- 1 Amend House File 1470, as amended, passed and reprinted
- 2 by the House, as follows:
- 3 1. Page 8A, line 12 by striking the words "ninety-
- 4 one" and inserting in lieu thereof the words "ninety-
- 5 one ninety-three".
- 6 2. Page 26A, by inserting after line 6, the following
- 7 new paragraphs as part of section forty-three (43):
- 8 Notwithstanding paragraph one (1) of this section
- 9 the number of judicial magistrates allotted to Linn
- 10 County for appointment in 1974 shall be five, and the
- 11 number of judicial magistrates allotted to Polk county
- 12 for appointment in 1974 shall be seven. The judicial
- 13 magistrate appointing commissions of those respective
- 14 counties shall reconvene prior to July 1, 1974 and make
- 15 the appointments necessary to comply with this Act.
- 16 Appointments shall be for one year terms, and the
- 17 allotments of judicial magistrates to apportionment
- 18 by the court administrator in January 1975 shall be
- 19 five for Linn County and seven for Polk County.
- 20 In any county where the judicial magistrate ap-
- 21 pointing commission, pursuant to section six hundred
- 22 two point fifty (602.50) of the Code, made a number of
- 23 appointments of judicial magistrates in 1974 which
- 24 number is inconsistent with the number of magistrates
- 25 permitted by this section, the judicial magistrate

Page 2

- 1 appointing commission for that county is authorized
- 2 and directed to reconvene prior to July 1, 1974, and
- 3 appoint the number permitted by this section. For the
- 4 purpose of this paragraph, such a nominating commission
- 5 is authorized to declare prior appointments made in
- 6 1974 void.

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By RILEY and KINLEY