

4/1/81
Amend file 2501 +
to Pass 4/15 (p. 1295)

Judiciary
Doyle, Chairperson
Baugher
Small

HOUSE FILE 751

BY COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

1981

Place On Calendar

(Formerly Study Bill 146)

Passed House, Date 3-26-81 (p. 902) Passed Senate, Date 4-24-81 (p. 1416)

Vote: Ayes 96 Nays 0 Vote: Ayes 44 Nays 0

Approved May 19, 1981

Re-passed House 5-6-81 (p. 1683)
94-0

A BILL FOR

1 An Act to provide for special arson inspection warrants
2 for the inspection of property destroyed by fire for
3 the purpose of determining the cause, origin and
4 circumstances of the fire.

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

- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19

751

HOUSE FILE 751

H-3352

1 Amend House File 751 as follows:
2 1. Page 1, line 12, by striking the words
3 "at all times" and inserting in lieu thereof the
4 words "~~at-all-times~~".

H-3352 FILED MARCH 25, 1981

Adopted 3/26/81 (p. 902)

BY SPEAR of Lee

1 Section 1. Section 100.5, Code 1981, is amended to read
2 as follows:

3 100.5 RECORD OF FIRES. The fire marshal shall keep in
4 ~~his~~ the fire marshal's office a record of all fires occurring
5 in the state, showing the name of the owners, ~~name-or~~ names
6 of occupants of the property at the time of the fire, the
7 ~~sound~~ value of the property, the amount of insurance ~~thereon~~
8 on the property, the total amount of insurance collected,
9 the total amount of loss to the property owner, together with
10 all the facts, statistics, and circumstances, including the
11 origin of the fire, which may be determined by the
12 investigation. ~~Such~~ The record shall at all times be open
13 to public inspection, except where there are reasonable grounds
14 to suspect involvement or participation in criminal activity.

15 Sec. 2. Chapter 100, Code 1981, is amended by adding
16 sections 3 through 7 of this Act.

17 Sec. 3. NEW SECTION. APPLICATION FOR WARRANT. If consent
18 to inspect property damaged or destroyed by fire to determine
19 the cause, origin and circumstances of the fire or to inspect
20 property subject to rules adopted under section 100.35 has
21 been refused to the official authorized to make the inspection,
22 the state fire marshal, a state arson investigator or official
23 authorized to make such an inspection may apply to the district
24 court for a special inspection warrant for authority to conduct
25 the inspection.

26 Sec. 4. NEW SECTION. GROUNDS FOR ISSUANCE. The judicial
27 officer shall review the application and may take sworn
28 testimony or receive affidavits to supplement it.

29 If the judicial officer is satisfied that there are legal
30 grounds under the circumstances specified in the application
31 and any supplementary testimony taken sufficient to justify
32 the issuance of an inspection warrant, it shall be issued.

33 Sec. 5. NEW SECTION. WARRANT REQUIREMENTS. Each
34 inspection warrant issued under this chapter shall:

35 1. State the grounds for its issuance.

1 2. Be directed to the applicant or some other designated
2 person authorized to conduct the inspection.

3 3. Command the person to whom it is directed to inspect
4 the area, premises, building or conveyance identified for
5 the purpose specified and, if appropriate, direct the seizure
6 of property specified.

7 4. Identify the item or type of property, if any, to be
8 seized.

9 5. Direct that it be served, if appropriate, during normal
10 business hours and designate the magistrate to whom it shall
11 be returned.

12 Sec. 6. NEW SECTION. EXECUTION OF WARRANT. A warrant
13 issued under this chapter must be executed and returned within
14 ten days from the date of issuance unless, upon the showing
15 of a need for additional time, the court so instructs otherwise
16 in the warrant. A copy of the warrant shall be delivered
17 to a person in charge of the premises being inspected or,
18 if no one is present, a copy of the warrant shall be posted
19 upon the premises. If property is seized pursuant to a
20 warrant, the person executing the warrant shall give to the
21 person from whom the property is seized, or the person in
22 charge of the premises from which the property is seized,
23 a receipt for the property seized or shall leave the copy
24 and receipt at the place from which the property is seized.
25 The return of the warrant shall be made promptly and
26 accompanied by a written inventory of property seized. The
27 inventory shall be made in the presence of the person executing
28 the warrant and of the person from whose possession or premises
29 the property was seized, if they are present, or in the
30 presence of at least one credible person other than the person
31 executing the warrant.

32 A copy of the return, the inventory and any receipts issued
33 shall be promptly filed with the clerk of the district court
34 for the county in which the inspection is made.

35 Sec. 7. NEW SECTION. SEARCHES NOT LIMITED. This chapter

1 shall not be construed to prevent the inspection without a
2 warrant pursuant to subpoena, nor shall this chapter be
3 construed to prevent entries and administrative inspections,
4 including seizures of property, without a warrant:

5 1. With the consent of the owner, operator, agent or other
6 person believed in good faith to be in charge of the premises;

7 2. In situations presenting imminent danger to public
8 health or safety;

9 3. In situations involving inspection of conveyances where
10 there is reasonable cause to believe that the mobility of
11 the conveyance makes it impracticable to obtain a warrant;

12 4. In other exceptional or emergency circumstances where
13 time or opportunity to apply for a warrant is lacking; and

14 5. In all other situations where a warrant is not
15 constitutionally required.

16 Except when the owner, operator, or agent in charge of
17 the controlled premises so consents in writing, an inspection
18 authorized by this section shall not extend to financial or
19 sales data, other than shipment data or pricing data.

20 EXPLANATION

21 The bill creates a special inspection warrant which is
22 to be obtained from the district court to be used to obtain
23 authority to inspect property destroyed by fire to determine
24 the cause, origin and circumstances of the fire. The warrant
25 must be issued to the state fire marshal, a state arson
26 investigator or local official required to inspect the property
27 destroyed by fire when entry to inspect the property has been
28 denied by the owner of the property or it is impractical to
29 obtain the consent of the property owner. The bill becomes
30 effective July 1 following its enactment.

31
32
33
34
35

HOUSE FILE 751

S-3501

1 Amend House File 751, as passed by the House, as
2 follows:

3 1. Page 1, line 12, by inserting after the period
4 the words "Notwithstanding chapter 692, the fire
5 marshal may share information collected by the fire
6 marshal's office relative to fires investigated by
7 the fire marshal's office with local fire chiefs and
8 fire marshals of fire departments organized under
9 chapter 400 or arson investigators employed by those
10 departments."

11 2. Page 1, lines 13 and 14, by striking the words
12 ", except where there are reasonable grounds to suspect
13 involvement or participation in criminal activity".

14 3. Page 1, line 14, by inserting after the period
15 the words "However, in those unusual circumstances
16 where disclosure of particular facts in the record
17 would plainly and seriously jeopardize an investigation
18 of suspected criminal activity, those portions of
19 the record pertaining to those facts shall be deemed
20 to be peace officers' investigative reports and subject
21 to chapter 68A."

22 4. Page 2, by striking line 35.

23 5. Page 3, by striking lines 1 through 19.

24 6. Amend the title, by striking lines 2, 3, and
25 4 and inserting in lieu thereof the words "for the
26 inspection of property damaged or destroyed by fire
27 for the purpose of determining the cause, origin,
28 and circumstances of the fire and the availability
29 of information obtained from inspections."

S-3501 FILED
APRIL 15, 1981

BY COMMITTEE ON JUDICIARY
LUCAS J. DeKOSTER, CHAIRPERSON

Adopted 4/24/81 (p. 1416)

SENATE AMENDMENT TO
HOUSE FILE 751

H-3855

1 Amend House File 751, as passed by the House, as
2 follows:

3 1. Page 1, line 12, by inserting after the period
4 the words "Notwithstanding chapter 692, the fire
5 marshal may share information collected by the fire
6 marshal's office relative to fires investigated by
7 the fire marshal's office with local fire chiefs and
8 fire marshals of fire departments organized under
9 chapter 400 or arson investigators employed by those
10 departments."

11 2. Page 1, lines 13 and 14, by striking the words
12 ", except where there are reasonable grounds to suspect
13 involvement or participation in criminal activity".

14 3. Page 1, line 14, by inserting after the period
15 the words "However, in those unusual circumstances
16 where disclosure of particular facts in the record
17 would plainly and seriously jeopardize an investigation
18 of suspected criminal activity, those portions of
19 the record pertaining to those facts shall be deemed
20 to be peace officers' investigative reports and subject
21 to chapter 68A."

22 4. Page 2, by striking line 35.

23 5. Page 3, by striking lines 1 through 19.

24 6. Amend the title, by striking lines 2, 3, and
25 4 and inserting in lieu thereof the words "for the
26 inspection of property damaged or destroyed by fire
27 for the purpose of determining the cause, origin,
28 and circumstances of the fire and the availability
29 of information obtained from inspections."

H-3855 FILED APRIL 28, 1981 RECEIVED FROM THE SENATE

House concurred 5/6/81 (p 1683)

HOUSE FILE 751

AN ACT

TO PROVIDE FOR SPECIAL ARSON INSPECTION WARRANTS FOR THE INSPECTION OF PROPERTY DAMAGED OR DESTROYED BY FIRE FOR THE PURPOSE OF DETERMINING THE CAUSE, ORIGIN, AND CIRCUMSTANCES OF THE FIRE AND THE AVAILABILITY OF INFORMATION OBTAINED FROM INSPECTIONS.

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

Section 1. Section 100.5, Code 1981, is amended to read as follows:

100.5 RECORD OF FIRES. The fire marshal shall keep in ~~his~~ the fire marshal's office a record of all fires occurring in the state, showing the name of the owners, ~~name-or~~ names of occupants of the property at the time of the fire, the

sworn value of the property, the amount of insurance ~~thereon~~ on the property, the total amount of insurance collected, the total amount of loss to the property owner, together with all the facts, statistics, and circumstances, including the origin of the fire, which may be determined by the investigation. Notwithstanding chapter 692, the fire marshal may share information collected by the fire marshal's office relative to fires investigated by the fire marshal's office with local fire chiefs and fire marshals of fire departments organized under chapter 400 or arson investigators employed by those departments. Such ~~The~~ record shall at all times be open to public inspection. However, in those unusual circumstances where disclosure of particular facts in the record would plainly and seriously jeopardize an investigation of suspected criminal activity, those portions of the record pertaining to those facts shall be deemed to be peace officers' investigative reports and subject to chapter 68A.

Sec. 2. Chapter 100, Code 1981, is amended by adding sections 3 through 7 of this Act.

Sec. 3. NEW SECTION. APPLICATION FOR WARRANT. If consent to inspect property damaged or destroyed by fire to determine the cause, origin and circumstances of the fire or to inspect property subject to rules adopted under section 100.35 has been refused to the official authorized to make the inspection, the state fire marshal, a state arson investigator or official authorized to make such an inspection may apply to the district court for a special inspection warrant for authority to conduct the inspection.

Sec. 4. NEW SECTION. GROUNDS FOR ISSUANCE. The judicial officer shall review the application and may take sworn testimony or receive affidavits to supplement it.

If the judicial officer is satisfied that there are legal grounds under the circumstances specified in the application and any supplementary testimony taken sufficient to justify the issuance of an inspection warrant, it shall be issued.

Sec. 5. NEW SECTION. WARRANT REQUIREMENTS. Each inspection warrant issued under this chapter shall:

1. State the grounds for its issuance.
2. Be directed to the applicant or some other designated person authorized to conduct the inspection.
3. Command the person to whom it is directed to inspect the area, premises, building or conveyance identified for the purpose specified and, if appropriate, direct the seizure of property specified.
4. Identify the item or type of property, if any, to be seized.
5. Direct that it be served, if appropriate, during normal business hours and designate the magistrate to whom it shall be returned.

Sec. 6. NEW SECTION. EXECUTION OF WARRANT. A warrant issued under this chapter must be executed and returned within ten days from the date of issuance unless, upon the showing of a need for additional time, the court so instructs otherwise in the warrant. A copy of the warrant shall be delivered to a person in charge of the premises being inspected or, if no one is present, a copy of the warrant shall be posted upon the premises. If property is seized pursuant to a warrant, the person executing the warrant shall give to the person from whom the property is seized, or the person in charge of the premises from which the property is seized, a receipt for the property seized or shall leave the copy and receipt at the place from which the property is seized. The return of the warrant shall be made promptly and accompanied by a written inventory of property seized. The inventory shall be made in the presence of the person executing the warrant and of the person from whose possession or premises the property was seized, if they are present, or in the presence of at least one credible person other than the person executing the warrant.

A copy of the return, the inventory and any receipts issued shall be promptly filed with the clerk of the district court for the county in which the inspection is made.

DEIWYN STROMER
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 751, Sixty-ninth General Assembly.

FAT H. HARPER
Chief Clerk of the House

Approved 5/19, 1981

ROBERT D. RAY
Governor