

FEB 19 1987

Place On Calendar

HOUSE FILE 318
BY COMMITTEE ON LOCAL GOVERNMENT

(Formerly House Study Bill 104)

Passed House, Date 2-27-87 (p. 481) Passed Senate, Date 4-14-87 (p. 1279)
Vote: Ayes 93 Nays 1 Vote: Ayes 46 Nays 2
Approved May 4, 1987

A BILL FOR

- 1 An Act relating to the use of county and municipal infractions.
- 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

HOUSE FILE 318

H-3101

- 1 Amend House File 318 as follows:
- 2 1. Page 1, line 27, by striking the word "shall"
- 3 and inserting the following: "may".
- 4 2. Page 3, line 19, by striking the word "shall"
- 5 and inserting the following: "may".

H-3101 FILED FEBRUARY 20, 1987 BY SPEAR of Lee
(Adopted 2/27/87 (p. 480))

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318

1 Section 1. Section 331.307, subsection 3, Code 1987, is
2 amended to read as follows:

3 3. A county shall not provide that a violation of an
4 ordinance is a county infraction if the violation is a felony,
5 an aggravated misdemeanor, or a serious misdemeanor by under
6 state law or if the violation is a simple misdemeanor under
7 chapters 687 through 747.

8 Sec. 2. Section 331.307, subsection 4, paragraph a, Code
9 1987, is amended to read as follows:

10 a. The name and address of the violator defendant.

11 Sec. 3. Section 331.307, subsections 5, 7, and 9 through
12 11, Code 1987, are amended to read as follows:

13 5. In proceedings before the court for a county in-
14 fraction:

15 a. The county has the burden of proof that the county
16 infraction occurred and that the violator defendant committed
17 the infraction. The proof shall be by clear, satisfactory,
18 and convincing evidence.

19 b. The court shall ensure that the violator defendant has
20 received a copy of the charges and that the violator defendant
21 understands the charges. The violator defendant may question
22 all witnesses who appear for the county and produce evidence
23 or witnesses on the violator's defendant's behalf.

24 c. The violator defendant may be represented by counsel of
25 the violator's defendant's own selection and at the violator's
26 defendant's own expense.

27 d. The ~~violator may enter a plea~~ defendant shall answer by
28 admitting or denying the infraction.

29 e. ~~The verdict of~~ If a county infraction is proven, the
30 court for a county infraction shall be "guilty" of the county
31 infraction or "not guilty" of the county infraction enter
32 judgment against the defendant. If the infraction is not
33 proven, the court shall dismiss it.

34 7. A person ~~found guilty of a county infraction is liable~~
35 for the against whom judgment is entered, shall pay court

1 costs and fees as in small claims under chapter 631. If a
2 ~~person-is-found-not-guilty-of-a-county-infraction-or~~ the
3 action is dismissed, the county is liable for the court costs
4 and court fees. Where the action is disposed of without
5 payment, or provision for assessment, of court costs, the
6 clerk shall at once enter judgment for costs against the
7 county.

8 9. When ~~a-violator-has-been-found-guilty-of-a-county~~
9 infraction judgment has been entered against a defendant, the
10 court may impose a civil penalty or may grant appropriate
11 relief to abate or halt the violation, or both, and the court
12 may direct that payment of the civil penalty be suspended or
13 deferred under conditions established by the court. If a
14 violator defendant willfully fails to pay the civil penalty or
15 violates the terms of any other order imposed by the court,
16 the failure is contempt.

17 10. A ~~violator-who-has-been-found-guilty-of-a-county~~
18 infraction defendant who has a judgment entered against him or
19 her may file a motion for a new trial or a motion for a
20 reversal of a judgment as provided by law or rule of civil
21 procedure.

22 11. This section does not preclude a peace officer of a
23 county from issuing a criminal citation for a violation of a
24 county code or regulation if criminal penalties are also
25 provided for the violation. Each day that a violation occurs
26 or is permitted by the violator defendant to exist,
27 constitutes a separate offense.

28 Sec. 4. Section 364.22, subsection 3, Code 1987, is
29 amended to read as follows:

30 3. A city shall not provide that a violation of an
31 ordinance is a municipal infraction if the violation is a
32 felony, an aggravated misdemeanor, or a serious misdemeanor by
33 under state law or if the violation is a simple misdemeanor
34 under chapters 687 through 747.

35 Sec. 5. Section 364.22, subsection 4, paragraph a, Code

1 1987, is amended to read as follows:

2 a. The name and address of the violator defendant.

3 Sec. 6. Section 364.22, subsections 5, 7, and 9 through
4 11, Code 1987, are amended to read as follows:

5 5. In proceedings before the court for a municipal in-
6 fraction:

7 a. The city has the burden of proof that the municipal
8 infraction occurred and that the violator defendant committed
9 the infraction. The proof shall be by clear, satisfactory,
10 and convincing evidence.

11 b. The court shall ensure that the violator defendant has
12 received a copy of the charges and that the violator defendant
13 understands the charges. The violator defendant may question
14 all witnesses who appear for the city and produce evidence or
15 witnesses on the violator's defendant's behalf.

16 c. The violator defendant may be represented by counsel of
17 the violator's defendant's own selection and at the violator's
18 defendant's own expense.

19 d. ~~The violator-may-enter-a-plea~~ defendant shall answer by
20 admitting or denying the infraction.

21 e. ~~The-verdict-of~~ If a municipal infraction is proven the
22 ~~court for-a-municipal-infraction shall be-"guilty"-of-the~~
23 ~~municipal-infraction-or-"not-guilty"-of-the-municipal~~
24 ~~infraction~~ enter a judgment against the defendant. If the
25 infraction is not proven, the court shall dismiss it.

26 7. ~~A person found-guilty-of-a-municipal-infraction-is~~
27 ~~liable-for-the~~ against whom judgment is entered, shall pay
28 court costs and fees as in small claims under chapter 631. If
29 ~~a-person-is-found-not-guilty-of-a-municipal-infraction-or~~ the
30 action is dismissed, the city is liable for the court costs
31 and court fees. Where the action is disposed of without
32 payment, or provision for assessment, of court costs, the
33 clerk shall at once enter judgment for costs against the city.

34 9. ~~When a-violator-has-been-found-guilty-of-a-municipal~~
35 ~~infraction~~ judgment has been entered against a defendant, the

1 court may impose a civil penalty or may grant appropriate
2 relief to abate or halt the violation, or both, and the court
3 may direct that payment of the civil penalty be suspended or
4 deferred under conditions established by the court. If a
5 ~~viola~~ defendant willfully fails to pay the civil penalty or
6 violates the terms of any other order imposed by the court,
7 the failure is contempt.

8 10. A ~~viola~~ defendant who has a judgment entered against him or
9 her may file a motion for a new trial or a motion for a
10 reversal of a judgment as provided by law or rule of civil
11 procedure.
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13 11. This section does not preclude a peace officer of a
14 city from issuing a criminal citation for a violation of a
15 city code or regulation if criminal penalties are also
16 provided for the violation. Each day that a violation occurs
17 or is permitted to exist by the viola defendant,
18 constitutes a separate offense.

19 Sec. 7. Section 602.6405, subsection 1, Code 1987, is
20 amended to read as follows:

21 1. Magistrates have jurisdiction of simple misdemeanors,
22 including traffic and ordinance violations, and preliminary
23 hearings, search warrant proceedings, county and municipal
24 infractions, and small claims. They also have jurisdiction to
25 exercise the powers specified in sections 644.2 and 644.12,
26 and to hear complaints or preliminary informations, issue
27 warrants, order arrests, make commitments, and take bail.
28 They also have jurisdiction over violations of section 123.47
29 and section 123.49, subsection 2, paragraph "h".

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EXPLANATION

31 This bill prohibits the use of a county or municipal
32 infraction for a violation of an ordinance if the violation is
33 an aggravated or serious misdemeanor under state law or if the
34 violation is a simple misdemeanor under chapters 687 through
35 747.

1 The bill also gives magistrates jurisdiction over county
2 and municipal infractions.

3 The county and city municipal infractions statutes are also
4 amended to incorporate terminology used in civil proceedings
5 rather than criminal proceedings.

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HSB 104

MWB

LOCAL GOVERNMENT

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON LOCAL GOVERNMENT BILL)

Passed House, Date _____ Passed Senate, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to the use of county and municipal infractions.
 2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUB COMMITTEE ASSIGNMENTS
 CHAIR: *Platt*
 COMMITTEE: *Local Government*
2-3-87

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6 state law.

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21 warrants, order arrests, make commitments, and take bail.
22 They also have jurisdiction over violations of section 123.47
23 and section 123.49, subsection 2, paragraph "h".

24 EXPLANATION

25 This bill prohibits the use of a county or municipal
26 infraction for a violation of an ordinance if the violation is
27 an aggravated or serious misdemeanor under state law. The
28 bill also gives magistrates jurisdiction over county and
29 municipal infractions.

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Sen. L. 0 4-1 3/4/87

House File 318

LOCAL GOVERNMENT: A. Miller, Chair: Wells and Taylor

Do Pass 4/2/87 (p. 1066)

HOUSE FILE 318

BY COMMITTEE ON LOCAL GOVERNMENT

(As Amended and Passed by the House February 27, 1987)

Passed House, Date 2/27/87 (p. 481) Passed Senate, Date 4-14-87 (p. 1279)

Vote: Ayes 95 Nays 1 Vote: Ayes 46 Nays 2

Approved May 4, 1987 (p. 2006)

A BILL FOR

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

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House Amendments _____

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10 a. The name and address of the violator defendant.

11 Sec. 3. Section 331.307, subsections 5, 7, and 9 through
12 11, Code 1987, are amended to read as follows:

13 5. In proceedings before the court for a county in-
14 fraction:

15 a. The county has the burden of proof that the county
16 infraction occurred and that the violator defendant committed
17 the infraction. The proof shall be by clear, satisfactory,
18 and convincing evidence.

19 b. The court shall ensure that the violator defendant has
20 received a copy of the charges and that the violator defendant
21 understands the charges. The violator defendant may question
22 all witnesses who appear for the county and produce evidence
23 or witnesses on the violator's defendant's behalf.

24 c. The violator defendant may be represented by counsel of
25 the violator's defendant's own selection and at the violator's
26 defendant's own expense.

27 d. The violator-may-enter-a-plea defendant may answer by
28 admitting or denying the infraction.

29 e. The-verdict-of If a county infraction is proven, the
30 court for-a-county-infraction shall be-"guilty"-of-the-county
31 infraction-or-"not-guilty"-of-the-county-infraction enter
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4 and court fees. Where the action is disposed of without
5 payment, or provision for assessment, of court costs, the
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7 county.

8 9. When ~~a violator has been found guilty of a county~~
9 infraction judgment has been entered against a defendant, the
10 court may impose a civil penalty or may grant appropriate
11 relief to abate or halt the violation, or both, and the court
12 may direct that payment of the civil penalty be suspended or
13 deferred under conditions established by the court. If a
14 ~~violation~~ defendant willfully fails to pay the civil penalty or
15 violates the terms of any other order imposed by the court,
16 the failure is contempt.

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22 11. This section does not preclude a peace officer of a
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29 and section 123.49, subsection 2, paragraph "h".

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HOUSE FILE 318

AN ACT

RELATING TO THE USE OF COUNTY AND MUNICIPAL INFRACTIONS.

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

Section 1. Section 331.307, subsection 3, Code 1987, is amended to read as follows:

3. A county shall not provide that a violation of an ordinance is a county infraction if the violation is a felony, an aggravated misdemeanor, or a serious misdemeanor by under state law or if the violation is a simple misdemeanor under chapters 687 through 747.

Sec. 2. Section 331.307, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. The name and address of the viotator defendant.

Sec. 3. Section 331.307, subsections 5, 7, and 9 through 11, Code 1987, are amended to read as follows:

5. In proceedings before the court for a county infraction:

a. The county has the burden of proof that the county infraction occurred and that the viotator defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.

b. The court shall ensure that the viotator defendant has received a copy of the charges and that the viotator defendant understands the charges. The viotator defendant may question all witnesses who appear for the county and produce evidence or witnesses on the viotator's defendant's behalf.

c. The viotator defendant may be represented by counsel of the viotator's defendant's own selection and at the viotator's defendant's own expense.

d. The viotator may enter a plea defendant may answer by admitting or denying the infraction.

e. ~~The verdict of~~ If a county infraction is proven, the court for a county infraction shall be "guilty" of the county infraction or "not guilty" of the county infraction enter judgment against the defendant. If the infraction is not proven, the court shall dismiss it.

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9. ~~When a violator has been found guilty of a county~~ infraction judgment has been entered against a defendant, the court may impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a viotator defendant willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.

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11. This section does not preclude a peace officer of a county from issuing a criminal citation for a violation of a county code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted by the viotator defendant to exist, constitutes a separate offense.

Sec. 4. Section 364.22, subsection 3, Code 1987, is amended to read as follows:

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court costs and fees as in small claims under chapter 631. If a person is found not guilty of a municipal infraction or the action is dismissed, the city is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the city.

9. When a violator has been found guilty of a municipal infraction judgment has been entered against a defendant, the court may impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a violator defendant willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.

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Sec. 7. Section 602.6405, subsection 1, Code 1987, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. They also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail.

They also have jurisdiction over violations of section 123.47 and section 123.49, subsection 2, paragraph "h".

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 318, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 4, 1987

TERRY E. BRANSTAD
Governor

HF 318