

See Judiciary 3/30/87 to Pass 4/1/87 (p. 1035)

MAR 20 1987

HOUSE FILE 612
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

Place On Calendar

(Formerly House Study Bill 234)

Passed House, Date 3-27-87 (p. 873) Passed Senate, Date 4-13-87 (p. 1228)

Vote: Ayes 90 Nays 1 Vote: Ayes 47 Nays 0

Approved April 22, 1987 (p. 1593)

A BILL FOR

1 An Act relating to appeal of a magistrate's decision.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 612

1 Section 1. Rule of criminal procedure 48, subsection 9,
2 Iowa court rules, second edition, is amended to read as
3 follows:

4 9. RECORD. The proceedings upon trial shall not be
5 reported, unless a party provides a reporter at such party's
6 expense. ~~By agreement of the parties the~~ The magistrate may
7 cause the proceedings upon trial to be reported
8 electronically. If the proceedings are being electronically
9 recorded both parties shall be notified in advance of that
10 recording. If the defendant is indigent and requests that the
11 proceedings upon trial be reported, the judicial magistrate
12 shall cause them to be reported by a reporter, or
13 electronically, at public expense. If the proceedings are not
14 reported electronically, the judicial magistrate shall make
15 minutes of the testimony of each witness and append the
16 exhibits or copies thereof. If the proceedings have been
17 reported electronically the recording shall be retained under
18 the jurisdiction of the magistrate and upon request shall be
19 transcribed only by a person designated by the court under the
20 supervision of the magistrate. The transcription shall be
21 provided anyone requesting it upon payment of actual cost of
22 transcription or to an indigent defendant as herein above
23 provided.

24 Sec. 2. Rule of criminal procedure 54, subsection 3, Iowa
25 court rules, second edition, is amended to read as follows:

26 3. PROCEDURE IF APPEAL FROM LAWYER MAGISTRATE. If the
27 original action was tried by a district judge, district
28 associate judge, or judicial magistrate ~~who is admitted to~~
29 ~~practice law in Iowa~~, the appellant shall file and serve,
30 within fourteen days after taking the appeal, a brief in
31 support of the appeal. The brief shall include statements of
32 the specific issues presented for review and the precise
33 relief requested. The appellee may file and serve, within ten
34 days after service of the appellant's brief, a responding
35 brief. Either party may request, at the end of the party's

1 brief, permission to be heard in oral argument. Within thirty
2 days after the filing, or expiration of time for filing, of
3 the appellee's brief, the appeal shall be submitted to the
4 court on the record and any briefs without oral argument,
5 unless otherwise ordered by the court or its designee. If the
6 court, on its own motion or motion of a party, finds the
7 record to be inadequate, it may order the presentation of
8 further evidence. If the original action was tried by a
9 district judge, the appeal shall be decided by a different
10 district judge. If the original action was tried by a
11 district associate judge, the appeal shall be decided by a
12 district judge or a different district associate judge. If
13 the original action was tried by a judicial magistrate, the
14 appeal shall be decided by a district judge or district
15 associate judge. Findings of fact in the original action
16 shall be binding on the judge deciding the appeal if they are
17 supported by substantial evidence. The judge deciding the
18 appeal may affirm, or reverse and enter judgment as if the
19 case were being originally tried, or enter any judgment which
20 is just under the circumstances.

21 Sec. 3. Rule of criminal procedure 54, subsection 4, Iowa
22 court rules, second edition, is repealed.

23 Sec. 4. This Act shall apply to appeals taken on or after
24 the effective date of the Act.

25 EXPLANATION

26 This bill provides that an appeal from a decision of a
27 magistrate involving a simple misdemeanor shall be on the
28 record.

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HSB 234

Judiciary & Law Enforcement

HOUSE FILE _____

BY (PROPOSED COMMITTEE ON
JUDICIARY AND LAW
ENFORCEMENT BILL)

Passed House, Date _____ Passed Senate, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to appeal of a magistrate's decision.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SUB COMMITTEE ASSIGNMENTS

CHAIR: *McKinney*

COMMITTEE: *Judiciary*

3/16/87

1 Section 1. Rule of criminal procedure 2, subsection 4,
2 Iowa court rules, second edition, is amended by adding the
3 following new paragraph:

4 NEW PARAGRAPH. h. RECORD OF SIMPLE MISDEMEANOR
5 PROCEEDINGS. In an action before a magistrate involving a
6 simple misdemeanor, a verbatim record of the proceedings shall
7 be made.

8 Sec. 2. Rule of criminal procedure 54, subsections 2 and
9 4, are amended to read as follows:

10 2. RECORD. When an appeal is taken, the magistrate shall
11 forward to the appropriate district court clerk a transcript
12 of the proceedings from which the appeal is taken, if the
13 appeal involves a simple misdemeanor, a copy of the
14 magistrate's docket entries, together with copies of the
15 complaint, warrant, motions, pleadings, the magistrate's
16 minutes of the witnesses' testimony, the exhibits or the
17 originals thereof, and the other papers in the case. Within
18 ten days after an appeal is taken, unless extended by order of
19 a district judge or district associate judge, any party may
20 file with the clerk, as a part of the record, a transcript of
21 the official report, if any, and ~~in-the-event~~ if the report
22 was made electronically, the tape or other medium on which the
23 proceedings were preserved.

24 4. PROCEDURE IF APPEAL FROM NONLAWYER MAGISTRATE. If the
25 original action was tried by a judicial magistrate who is not
26 admitted to practice law in Iowa, a district judge or district
27 associate judge shall promptly try the case anew without a
28 jury unless the appellant demands an appeal only on the record
29 already made and briefs thereon. However, in an action
30 involving a simple misdemeanor, the appeal shall be submitted
31 to the court pursuant to subsection 3 of this rule. Within
32 fourteen days after the taking of the appeal, the court or its
33 designee shall set the date and time for trial. Judgment
34 shall be rendered as though the case were being originally
35 tried. If, within seven days after taking an appeal, the

1 appellant files with the clerk of the district court and
2 serves on the appellee a demand for an appeal on the record
3 and briefs only, the appeal shall proceed and judgment shall
4 be entered in the manner prescribed in subsection 3 of this
5 rule.

6 EXPLANATION

7 This bill provides that an appeal from a decision of a
8 magistrate involving a simple misdemeanor shall be on the
9 record.

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HOUSE FILE 612

AN ACT

RELATING TO APPEAL OF A MAGISTRATE'S DECISION.

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

Section 1. Rule of criminal procedure 48, subsection 9, Iowa court rules, second edition, is amended to read as follows:

9. RECORD. The proceedings upon trial shall not be reported, unless a party provides a reporter at such party's expense. ~~By agreement of the parties the~~ The magistrate may cause the proceedings upon trial to be reported electronically. If the proceedings are being electronically recorded both parties shall be notified in advance of that recording. If the defendant is indigent and requests that the proceedings upon trial be reported, the judicial magistrate shall cause them to be reported by a reporter, or electronically, at public expense. If the proceedings are not reported electronically, the judicial magistrate shall make minutes of the testimony of each witness and append the exhibits or copies thereof. If the proceedings have been reported electronically the recording shall be retained under the jurisdiction of the magistrate and upon request shall be transcribed only by a person designated by the court under the supervision of the magistrate. The transcription shall be

provided anyone requesting it upon payment of actual cost of transcription or to an indigent defendant as herein above provided.

Sec. 2. Rule of criminal procedure 54, subsection 3, Iowa court rules, second edition, is amended to read as follows:

3. PROCEDURE IF APPEAL FROM LAWYER MAGISTRATE. If the original action was tried by a district judge, district associate judge, or judicial magistrate ~~who is admitted to practice law in Iowa~~, the appellant shall file and serve, within fourteen days after taking the appeal, a brief in support of the appeal. The brief shall include statements of the specific issues presented for review and the precise relief requested. The appellee may file and serve, within ten days after service of the appellant's brief, a responding brief. Either party may request, at the end of the party's brief, permission to be heard in oral argument. Within thirty days after the filing, or expiration of time for filing, of the appellee's brief, the appeal shall be submitted to the court on the record and any briefs without oral argument, unless otherwise ordered by the court or its designee. If the court, on its own motion or motion of a party, finds the record to be inadequate, it may order the presentation of further evidence. If the original action was tried by a district judge, the appeal shall be decided by a different district judge. If the original action was tried by a district associate judge, the appeal shall be decided by a district judge or a different district associate judge. If the original action was tried by a judicial magistrate, the appeal shall be decided by a district judge or district associate judge. Findings of fact in the original action shall be binding on the judge deciding the appeal if they are supported by substantial evidence. The judge deciding the appeal may affirm, or reverse and enter judgment as if the case were being originally tried, or enter any judgment which is just under the circumstances.

H.F. 612

Sec. 3. Rule of criminal procedure 54, subsection 4, Iowa court rules, second edition, is repealed.

Sec. 4. This Act shall apply to appeals taken on or after the effective date of the Act.

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 612, Seventy-second General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved April 22, 1987

TERRY E. BRANSTAD
Governor