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MAR 14 1989

HOUSE FILE 596

Place On Calendar

BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HSB 252)

Passed House, Date 3-21-89 (p.884) Passed Senate, Date _____
Vote: Ayes 93 Nays 5 Vote: Ayes _____ Nays _____

Approved _____

*MOTION TO RECONSIDER
3-21-89 (P. 417)*

*MOTION TO RECONSIDER
4-7-89 (P. 1316)*

A BILL FOR

APPROVED AYES 92, NAYS 0, 4-7-89 (P. 1318)

1 An Act relating to the handling and use of county and municipal
2 infractions, making a Code correction in regard to such
3 infractions, and providing for penalties and remedies for such
4 infractions.

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

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HF 596

1 Section 1. Section 331.307, subsection 4, unnumbered
2 paragraph 1, Code 1989, is amended to read as follows:

3808-3 An officer authorized by a county to enforce a county code
4 or regulation may issue a civil citation to a person who
5 commits a county infraction. The citation may be served by
6 personal service ~~or~~ as provided in rule of civil procedure
7 56.1, by certified mail addressed to the defendant at the
8 defendant's last known mailing address, return receipt
9 requested, or by publication as provided in rule of civil
10 procedure 60. A copy of the citation shall be retained by the
11 issuing officer, and one copy shall be sent to the clerk of
12 the district court. The citation shall serve as notification
13 that a civil offense has been committed and shall contain the
14 following information:

15 Sec. 2. Section 331.307, subsection 5, Code 1989, is
16 amended by adding the following new paragraph a, and
17 relettering the remaining paragraphs:

18 NEW PARAGRAPH. a. The matter shall be tried before a
19 magistrate or district associate judge in the same manner as a
20 small claim.

21 Sec. 3. Section 331.307, subsections 9 and 10, Code 1989,
22 are amended to read as follows:

23 9. When judgment has been entered against a defendant, the
24 court may ~~impose a civil penalty or may grant appropriate~~
25 ~~relief to abate or halt the violation, or both, and the court~~
26 ~~may direct that payment of the civil penalty be suspended or~~
27 ~~deferred under conditions established by the court.~~ do any of
28 the following:

29 a. Impose a civil penalty by entry of a personal judgment
30 against the defendant.

31 b. Direct that payment of the civil penalty be suspended
32 or deferred under conditions imposed by the court.

33 c. Grant appropriate alternative relief ordering the
34 defendant to abate or cease the violation.

35 d. Authorize the county to abate or correct the violation.

1 e. Order that the county's costs for abatement or
2 correction of the violation be entered as a personal judgment
3 against the defendant or assessed against the property where
4 the violation occurred, or both.

5 PARAGRAPH DIVIDED. If a defendant willfully fails-to-pay
6 ~~the-civil-penalty-or~~ violates the terms of any other an order
3887-7 imposed by the court, the failure is contempt.

3808-8 10. A defendant ~~against-whom-a-judgment-is-entered~~ or the
9 county 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 may appeal the decision of the magistrate or
12 district associate judge to the district court. The appeal
13 shall be determined on the record made in the trial court. A
14 factual determination made by the trial court, and supported
15 by substantial evidence as shown in the record, is binding on
16 the district court for purposes of appeal of the violation at
17 issue, but is not admissible or binding at any subsequent
18 proceeding for prosecution of the same or a similar violation
19 by the same defendant.

20 Sec. 4. Section 331.307, subsection 12, Code 1987, is
21 amended to read as follows:

22 12. The issuance of a civil citation for a county
23 infraction or the ensuing court proceedings do not provide an
24 action for false arrest, false imprisonment, or malicious
25 prosecution.

26 Sec. 5. Section 364.22, subsection 4, unnumbered paragraph
27 1, Code 1989, is amended to read as follows:

3808-28 An officer authorized by a city to enforce a city code or
29 regulation may issue a civil citation to a person who commits
30 a municipal infraction. The citation may be served by
31 personal service or as provided in rule of civil procedure
32 56.1, by certified mail addressed to the defendant at the
33 defendant's last known mailing address, return receipt
34 requested, or by publication as provided in rule of civil
35 procedure 60. A copy of the citation shall be retained by the

1 issuing officer, and one copy shall be sent to the clerk of
2 the district court. The citation shall serve as notification
3 that a civil offense has been committed and shall contain the
4 following information:

348-5 Sec. 6. Section 364.22, subsection 5, unnumbered paragraph
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7 In ~~proceedings-before-the-court-for-a~~ municipal infraction
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9 Sec. 7. Section 364.22, subsection 5, Code 1989, is
10 amended by adding the following new paragraph a and
11 relettering the remaining paragraphs:

12 NEW PARAGRAPH. a. The matter shall be tried before a
13 magistrate or district associate judge in the same manner as a
14 small claim.

15 Sec. 8. Section 364.22, subsections 9, 10, and 12, Code
16 1989, are amended to read as follows:

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18 court may ~~impose a civil penalty or may grant appropriate~~
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26 or deferred under conditions imposed by the court.

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28 defendant to abate or cease the violation.

29 d. Authorize the city to abate or correct the violation.

30 e. Order that the city's costs for abatement or correction
31 of the violation be entered as a personal judgement against
32 the defendant or assessed against the property where the
33 violation occurred, or both.

34 PARAGRAPH DIVIDED. If a defendant willfully ~~fails to pay~~
35 ~~the civil penalty or~~ violates the terms of any other an order

387

1 imposed by the court, the failure is contempt.

2 10. A ~~The defendant against whom a judgement is entered or~~
3 ~~the city~~ may file a motion for a new trial or ~~a motion for a~~
4 ~~reversal of a judgment as provided by law or rule of civil~~
5 ~~procedure~~ may appeal the decision of the magistrate or
6 ~~district associate judge to the district court.~~ The appeal
7 shall be determined on the record made in the trial court. A
8 ~~factual determination made by the trial court, and supported~~
9 ~~by substantial evidence as shown in the record, shall be~~
10 ~~binding on the district court for purposes of appeal of the~~
11 ~~violation at issue, but is not admissible or binding at any~~
12 ~~subsequent proceeding for prosecution of the same or a similar~~
13 ~~violation by the same defendant.~~

14 12. The issuance of a civil citation for a municipal
15 infraction or the ensuing court proceedings do not provide an
16 action for false arrest, false imprisonment, or malicious
17 prosecution.

18 Sec. 9. Section 331.307, subsection 12, Code 1987, which
19 was inadvertently omitted in the 1987 Code Supplement and the
20 1989 Code, shall be published in the 1989 Code Supplement,
21 with the amendment enacted in this Act.

22 EXPLANATION

23 This bill relates to county and municipal infractions, and
24 amends existing law by allowing service of notice to be
25 published according to the rules of civil procedure. The bill
26 provides that county and municipal infractions be tried to the
27 court in the same manner as a small claim, and that a personal
28 judgment may be entered against a defendant in addition to
29 other authority provided to the court. The bill allows a
30 defendant, municipality, or county the right to appeal the
31 trial court's decision to the district court. The fact that a
32 defendant is issued a civil citation for a county or municipal
33 infraction does not provide the defendant an action for
34 malicious prosecution.

35 Section 331.307, subsection 12, was inadvertently omitted

1 from the 1987 Code Supplement and the 1989 Code, so this bill
2 directs that it be published in the 1989 Code Supplement along
3 with the amendment enacted in this Act.

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LOCAL GOVERNMENT

HOUSE FILE 596

BY (PROPOSED COMMITTEE ON LOCAL GOVERNMENT BILL)

Passed House, Date _____ Passed Senate, Date _____

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

Approved _____

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

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15 by substantial evidence as shown in the record, is binding on
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19 ~~relief-to-abate-or-halt-the-violation,-or-both,-and-the-court~~
20 ~~may-direct-that-payment-of-the-civil-penalty-be-suspended-or~~
21 ~~deferred-under-conditions-established-by-the-court:~~ do any of
22 the following:

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25 b. Direct that payment of the civil penalty be suspended
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31 of the violation be entered as a personal judgement against
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2 10. A The defendant against-whom-a-judgement-is-entered or
3 the city may file a motion for a new trial or a-motion-for-a
4 reversal-of-a-judgment-as-provided-by-law-or-rule-of-civil
5 procedure may appeal the decision of the magistrate or
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1 from the 1987 Code Supplement and the 1989 Code, so this bill
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HOUSE FILE 596

H-3808

1 Amend House File 596 as follows:

2 1. Page 1, by striking lines 9 and 10 and
3 inserting the following: "requested, or by
4 publication in the manner as provided in rule of civil
5 procedure 60 and subject to the conditions of rule of
6 civil procedure 60.1. A copy of the citation shall be
7 retained by the".

8 2. Page 2, by striking lines 12 through 18 and
9 inserting the following: "district associate judge to
10 the district court. The procedure on appeal shall be
11 the same as for a small claim pursuant to section
12 631.13. A factual determination made by the trial
13 court, supported by substantial evidence as shown in
14 the record, is binding for purposes of appeal relating
15 to the violation at issue, but shall not be admissible
16 or binding as to any future violation for the same or
17 similar ordinance provision".

18 3. Page 2, by striking lines 34 and 35 and
19 inserting the following: "requested, or by
20 publication in the manner as provided in rule of civil
21 procedure 60 and subject to the conditions of rule of
22 civil procedure 60.1. A copy of the citation shall be
23 retained by the".

24 4. Page 4, by striking lines 6 through 13 and
25 inserting the following: "district associate judge to
26 the district court. The procedure on appeal shall be
27 the same as for a small claim pursuant to section
28 631.13. A factual determination made by the trial
29 court, supported by substantial evidence as shown in
30 the record, is binding for purposes of appeal relating
31 to the violation at issue, but shall not be admissible
32 or binding as to any future violation for the same or
33 similar ordinance provision by the same defendant."

By JAY of Appanoose
FOGARTY of Palo Alto

H-3808 FILED APRIL 4, 1989

Adopted 4-7-89 (p.1316)

HOUSE FILE 596

H-3807

1 Amend House File 596 as follows:

2 1. Page 2, by inserting after line 7 the
3 following:

4 "The magistrate or district associate judge shall
5 have jurisdiction to assess or enter judgment for
6 costs of abatement or correction in an amount not to
7 exceed the jurisdictional amount for a money judgment
8 in a civil action pursuant to section 631.1,
9 subsection 1, for magistrates and section 602.6306,
10 subsection 2, for district associate judges. If the
11 county seeks abatement or correction costs in excess
12 of those amounts, the case shall be referred to the
13 district court for hearing and entry of an appropriate
14 order. The procedure for hearing in the district
15 court shall be the same procedure as that for a small
16 claims appeal pursuant to section 631.13."

17 2. Page 4, by inserting after line 1 the
18 following:

19 "The magistrate or district associate judge shall
20 have jurisdiction to assess or enter judgment for
21 costs of abatement or correction in an amount not to
22 exceed the jurisdictional amount for a money judgment
23 in a civil action pursuant to section 631.1,
24 subsection 1, for magistrates and section 602.6306,
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26 city seeks abatement or correction costs in excess of
27 those amounts, the case shall be referred to the
28 district court for hearing and entry of an appropriate
29 order. The procedure for hearing in the district
30 court shall be the same procedure as that for a small
31 claims appeal pursuant to section 631.13."

By JAY of Appanoose

H-3807 FILED APRIL 4, 1989

Adopted 4-7-89 (p.1317)

HOUSE FILE 596
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO HSB 252)

(As Amended and Passed by the House April 7, 1989)

Passed House, Date 4-7-89 (p. 884) Passed Senate, Date 4-13-89 (p. 1419)
Vote: Ayes 93 Nays 5 Vote: Ayes 45 Nays 1
Approved May 8, 1989

A BILL FOR

1 An Act relating to the handling and use of county and municipal
2 infractions, making a Code correction in regard to such
3 infractions, and providing for penalties and remedies for such
4 infractions.

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

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House Amendments _____

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3 correction of the violation be entered as a personal judgment
4 against the defendant or assessed against the property where
5 the violation occurred, or both.

6 PARAGRAPH DIVIDED. If a defendant willfully fails-to-pay
7 ~~the-civil-penalty-or~~ violates the terms of ~~any-other~~ an order
8 imposed by the court, the failure is contempt.

9 The magistrate or district associate judge shall have
10 jurisdiction to assess or enter judgment for costs of
11 abatement or correction in an amount not to exceed the
12 jurisdictional amount for a money judgment in a civil action
13 pursuant to section 631.1, subsection 1, for magistrates and
14 section 602.6306, subsection 2, for district associate judges.
15 If the county seeks abatement or correction costs in excess of
16 those amounts, the case shall be referred to the district
17 court for hearing and entry of an appropriate order. The
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20 section 631.13.

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28 court, supported by substantial evidence as shown in the
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4 provision by the same defendant.

5 12. The issuance of a civil citation for a municipal
6 infraction or the ensuing court proceedings do not provide an
7 action for false arrest, false imprisonment, or malicious
8 prosecution.

9 Sec. 9. Section 331.307, subsection 12, Code 1987, which
10 was inadvertently omitted in the 1987 Code Supplement and the
11 1989 Code, shall be published in the 1989 Code Supplement,
12 with the amendment enacted in this Act.

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HOUSE FILE 596

AN ACT

RELATING TO THE HANDLING AND USE OF COUNTY AND MUNICIPAL
INFRACTIONS, MAKING A CODE CORRECTION IN REGARD TO SUCH
INFRACTIONS, AND PROVIDING FOR PENALTIES AND REMEDIES
FOR SUCH INFRACTIONS.

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

Section 1. Section 331.307, subsection 4, unnumbered
paragraph 1, Code 1989, is amended to read as follows:

An officer authorized by a county to enforce a county code
or regulation may issue a civil citation to a person who
commits a county infraction. The citation may be served by
personal service or as provided in rule of civil procedure
56.1, by certified mail addressed to the defendant at the

defendant's last known mailing address, return receipt
requested, or by publication in the manner as provided in rule
of civil procedure 60 and subject to the conditions of rule of
civil procedure 60.1. A copy of the citation shall be
retained by the issuing officer, and one copy shall be sent to
the clerk of the district court. The citation shall serve as
notification that a civil offense has been committed and shall
contain the following information:

Sec. 2. Section 331.307, subsection 5, Code 1989, is
amended by adding the following new paragraph a, and
relettering the remaining paragraphs:

NEW PARAGRAPH. a. The matter shall be tried before a
magistrate or district associate judge in the same manner as a
small claim.

Sec. 3. Section 331.307, subsections 9 and 10, Code 1989,
are amended to read as follows:

9. When 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; do any of~~
the following:

a. Impose a civil penalty by entry of a personal judgment
against the defendant.

b. Direct that payment of the civil penalty be suspended
or deferred under conditions imposed by the court.

c. Grant appropriate alternative relief ordering the
defendant to abate or cease the violation.

d. Authorize the county to abate or correct the violation.

e. Order that the county's costs for abatement or
correction of the violation be entered as a personal judgment
against the defendant or assessed against the property where
the violation occurred, or both.

PARAGRAPH DIVIDED. If a defendant willfully fails to pay
the civil penalty or violates the terms of any other an order
imposed by the court, the failure is contempt.

The magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to section 611.1, subsection 1, for magistrates and section 602.6306, subsection 2, for district associate judges. If the county seeks abatement or correction costs in excess of those amounts, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to section 611.13.

10. ~~A defendant against whom a judgment is entered or the county may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure may appeal the decision of the magistrate or district associate judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to section 611.13. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same defendant.~~

Sec. 4. Section 331.307, subsection 12, Code 1987, is amended to read as follows:

12. The issuance of a civil citation for a county infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

Sec. 5. Section 364.22, subsection 4, unnumbered paragraph 1, Code 1989, is amended to read as follows:

An officer authorized by a city to enforce a city code or regulation may issue a civil citation to a person who commits a municipal infraction. The citation may be served by

personal service or as provided in rule of civil procedure 56.1, by certified mail addressed to the defendant at the defendant's last known mailing address, return receipt requested, or by publication in the manner as provided in rule of civil procedure 60 and subject to the conditions of rule of civil procedure 60.1. A copy of the citation shall be retained by the issuing officer, and one copy shall be sent to the clerk of the district court. The citation shall serve as notification that a civil offense has been committed and shall contain the following information:

Sec. 6. Section 364.22, subsection 5, unnumbered paragraph 1, Code 1989, is amended to read as follows:

~~In proceedings before the court for a municipal infraction proceedings:~~

Sec. 7. Section 364.22, subsection 5, Code 1989, is amended by adding the following new paragraph a and relettering the remaining paragraphs:

NEW PARAGRAPH. a. The matter shall be tried before a magistrate or district associate judge in the same manner as a small claim.

Sec. 8. Section 364.22, subsections 9, 10, and 12, Code 1989, are amended to read as follows:

9. When 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; do any of the following:

a. Impose a civil penalty by entry of a personal judgment against the defendant.

b. Direct that payment of the civil penalty be suspended or deferred under conditions imposed by the court.

c. Grant appropriate alternative relief ordering the defendant to abate or cease the violation.

d. Authorize the city to abate or correct the violation.

e. Order that the city's costs for abatement or correction of the violation be entered as a personal judgment against the defendant or assessed against the property where the violation occurred, or both.

PARAGRAPH DIVIDED. If a defendant willfully fails to pay the civil penalty or violates the terms of any other an order imposed by the court, the failure is contempt.

The magistrate or district associate judge shall have jurisdiction to assess or enter judgment for costs of abatement or correction in an amount not to exceed the jurisdictional amount for a money judgment in a civil action pursuant to section 611.1, subsection 1, for magistrates and section 602.6106, subsection 2, for district associate judges. If the city seeks abatement or correction costs in excess of those amounts, the case shall be referred to the district court for hearing and entry of an appropriate order. The procedure for hearing in the district court shall be the same procedure as that for a small claims appeal pursuant to section 611.13.

10. A The defendant against whom a judgment is entered or the city may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure may appeal the decision of the magistrate or district associate judge to the district court. The procedure on appeal shall be the same as for a small claim pursuant to section 611.13. A factual determination made by the trial court, supported by substantial evidence as shown in the record, is binding for purposes of appeal relating to the violation at issue, but shall not be admissible or binding as to any future violation for the same or similar ordinance provision by the same defendant.

12. The issuance of a civil citation for a municipal infraction or the ensuing court proceedings do not provide an action for false arrest, false imprisonment, or malicious prosecution.

Sec. 9. Section 331.307, subsection 12, Code 1987, which was inadvertently omitted in the 1987 Code Supplement and the 1989 Code, shall be published in the 1989 Code Supplement, with the amendment enacted in this 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 596, Seventy-third General Assembly.

JOSEPH O'MERN
Chief Clerk of the House

Approved *May 8*, 1989

TERRY E. BRANSTAD
Governor