

# House Study Bill 172

## Bill Text

PAG LIN

1 1 Section. 1. Section [321.484](#), unnumbered paragraph 2, Code  
1 2 2001, is amended to read as follows:

1 3 The owner of a vehicle shall not be held responsible for a  
1 4 violation of a provision regulating the stopping, standing, or  
1 5 parking of a vehicle, whether the provision is contained in  
1 6 this chapter, or chapter 321L, or an ordinance or other  
1 7 regulation or rule, if the owner establishes that at the time  
1 8 of the violation the vehicle was in the custody of an  
1 9 identified person other than the owner pursuant to a lease as  
1 10 defined in chapter 321F or pursuant to a rental agreement as  
1 11 defined in section 516D.3. The furnishing to

~~the clerk of the~~

1 12

~~district court~~

~~the county attorney of the county~~ where the

1 13 charge is pending of a copy of the lease prescribed by section  
1 14 321F.6 or rental agreement that was in effect for the vehicle  
1 15 at the time of the alleged violation shall be prima facie  
1 16 evidence that the vehicle was in the custody of an identified  
1 17 person other than the owner within the meaning of this  
1 18 paragraph, and the charge against the owner

~~shall~~

~~may be~~

1 19 dismissed. The

~~clerk of the district court~~

~~county attorney~~

1 20 then shall cause a uniform citation and complaint to be issued  
1 21 against the lessee or renter of the vehicle, and the citation  
1 22 shall be served upon the defendant by ordinary mail directed  
1 23 to the defendant at the address shown in the lease or rental  
1 24 agreement.

1 25 Sec. 2. Section [602.1215](#), subsection 1, Code 2001, is  
1 26 amended to read as follows:

1 27 1. The district judges of each judicial election district  
1 28 shall by majority vote appoint persons to serve as clerks of  
1 29 the district court, one for each county within the judicial  
1 30 election district.

~~A person does not qualify for appointment~~

1 31

~~to the office of clerk of the district court unless the person~~

1 32

~~is at the time of application a resident of the state. Within~~

1 33

~~three months of appointment the clerk of the district court~~

~~must establish residence and physically reside in the county.~~

1 35 A clerk of the district court may be removed from office for  
2 1 cause by a majority vote of the district judges of the  
2 2 judicial election district. Before removal, the clerk of the  
2 3 district court shall be notified of the cause for removal.  
2 4 Sec. 3. Section [631.6](#), subsection 1, paragraph c, Code  
2 5 2001, is amended to read as follows:  
2 6 c.

~~Postage~~

- ~~Fees~~ charged for the mailing of original notice  
2 7 shall be

~~the actual costs of the postage~~

- ~~ten dollars.~~

2 8 Sec. 4. Section [902.4](#), Code 2001, is amended to read as  
2 9 follows:

2 10 902.4 RECONSIDERATION OF FELON'S SENTENCE.  
2 11 For a period of ninety days from the date when a person  
2 12 convicted of a felony, other than a class "A" felony or a  
2 13 felony for which a minimum sentence of confinement is imposed,  
2 14 begins to serve a sentence of confinement, the court, on its  
2 15 own motion or on the recommendation of the director of the  
2 16 Iowa department of corrections, may order the person to be  
2 17 returned to the court, at which time the court may review its  
2 18 previous action and reaffirm it or substitute for it any  
2 19 sentence permitted by law. Copies of the order to return the  
2 20 person to the court shall be provided to the attorney for the  
2 21 state, the defendant's attorney, and the defendant. Upon a  
2 22 request of the attorney for the state, the defendant's  
2 23 attorney, or the defendant if the defendant has no attorney,  
2 24 the court may, but is not required to, conduct a hearing on  
2 25 the issue of reconsideration of sentence. The court shall not  
2 26 disclose its decision to reconsider or not to reconsider the  
2 27 sentence of confinement until the date reconsideration is  
2 28 ordered or the date the ninety-day period expires, whichever  
2 29 occurs first. The district court retains jurisdiction for the  
2 30 limited purposes of conducting such review and entering an  
2 31 appropriate order notwithstanding the timely filing of a  
2 32 notice of appeal. The court's final order in the proceeding  
2 33 shall be delivered to the defendant

~~personally or by certified~~

~~mail~~

- ~~by regular mail.~~ The court's decision to take the action  
2 35 or not to take the action is not subject to appeal. However,  
3 1 for the purposes of appeal, a judgment of conviction of a  
3 2 felony is a final judgment when pronounced.

3 3 Sec. 5. Section [903.2](#), Code 2001, is amended to read as  
3 4 follows:

3 5 903.2 RECONSIDERATION OF MISDEMEANANT'S SENTENCE.  
3 6 For a period of thirty days from the date when a person  
3 7 convicted of a misdemeanor begins to serve a sentence of  
3 8 confinement, the court may order the person to be returned to  
3 9 the court, at which time the court may review its previous  
3 10 action and reaffirm it or substitute for it any sentence  
3 11 permitted by law. The sentencing court retains jurisdiction  
3 12 for the limited purposes of conducting such review and  
3 13 entering an appropriate order notwithstanding the timely  
3 14 filing of a notice of appeal or an application for

3 15 discretionary review. The court's final order in the  
3 16 proceeding shall be delivered to the defendant

~~personally or~~

3 17

~~by certified mail~~

- by regular mail. Such action is

3 18 discretionary with the court and its decision to take the  
3 19 action or not to take the action is not subject to appeal.  
3 20 The other provisions of this section notwithstanding, for the  
3 21 purposes of appeal a judgment of conviction is a final  
3 22 judgment when pronounced.

3 23 Sec. 6. Section 907.8, unnumbered paragraph 4, Code 2001,  
3 24 is amended to read as follows:

3 25 In each case wherein the court shall order said person  
3 26 committed to the custody, care, and supervision of the  
3 27 judicial district department of correctional services, the  
3 28 clerk of the district court shall at once furnish the director  
3 29 of the judicial district department of correctional services  
3 30 with certified copies of the indictment or information, the  
3 31 minutes of testimony attached thereto, and the judgment entry  
3 32 if judgment is not deferred

~~, and the original mittimus~~

- The

3 33 county attorney shall at once advise the director, by letter,  
3 34 that the defendant has been placed under the supervision of  
3 35 the judicial district department of correctional services and  
4 1 give the director a detailed statement of the facts and  
4 2 circumstances surrounding the crime committed and the record  
4 3 and history of the defendant as may be known to the county  
4 4 attorney. If the defendant is confined in the county jail at  
4 5 the time of sentence, the court may order the defendant held  
4 6 until arrangements are made by the judicial district  
4 7 department of correctional services for the defendant's  
4 8 employment and the defendant has signed the necessary  
4 9 probation papers. If the defendant is not confined in the  
4 10 county jail at the time of sentence, the court may order the  
4 11 defendant to remain in the county wherein the defendant has  
4 12 been convicted and sentenced and report to the sheriff as to  
4 13 the defendant's whereabouts.

#### EXPLANATION

4 14 This bill relates to the practices and duties of a clerk of  
4 15 court.

4 16 Code section 321.484, concerning traffic citations issued  
4 17 to a motor vehicle under lease, is amended to provide that the  
4 18 clerk of court shall not be responsible for dismissing a  
4 19 traffic citation against the owner of a motor vehicle upon  
4 20 receipt of a lease which states that the motor vehicle was in  
4 21 the custody of another person under a lease agreement. The  
4 22 amended Code section further provides that the county attorney  
4 23 shall be responsible for deciding whether to dismiss a traffic  
4 24 citation against the owner of a motor vehicle which is under a  
4 25 lease agreement and in the possession of another person. If  
4 26 the traffic citation is dismissed, the amended Code section  
4 27 further provides the county attorney shall issue a new traffic  
4 28 citation against the person in custody of the vehicle at the  
4 29 time the first citation was issued.

4 30 Code section 602.1215, concerning clerks of the district  
4 31 court, is amended to delete a requirement that the clerk be a  
4 32 resident of this state at the time of application for the job  
4 33 as clerk of the district court. The amended Code section also  
4 34 deletes the requirement the clerk of court establish residency  
4 35 in the county within three months of appointment.

5 1 Code section 631.6, concerning postage fees assessed as  
5 2

5 3 court costs, is amended to provide that the postage fee for  
5 4 mailing the original notice in a small claims case shall be  
5 5 \$10. Under current law, the postage fee for mailing the  
5 6 original notice is the actual cost of postage.

5 7 Code section 907.8, concerning the duties of the clerk of  
5 8 court when a person is placed on probation, is amended to  
5 9 provide that if a person is assigned to a judicial district  
5 10 department of correction services facility, the clerk of court  
5 11 is not required to furnish the director of the facility with a  
5 12 copy of the original mittimus. Under current law, the clerk  
5 13 is required to furnish the original mittimus to the director.  
5 14 A mittimus generally means a court order placing a person in  
5 15 confinement and ordering the place of confinement to accept  
5 16 the person.

5 17 Code sections 902.4 and 903.2, concerning the duties of the  
5 18 clerk of court in a reconsideration of a sentence action, are  
5 19 amended to provide that the clerk shall notify a felon or a  
5 20 misdemeanor by regular mail of the final court order  
5 21 determining whether the sentence shall be reconsidered. Under  
5 22 current law, the clerk of court must notify the defendant of  
5 23 the final court order by either personal service on the  
5 24 defendant or by certified mail.

5 25 LSB 1234DP 79  
5 26 jm/pj/5.2