

House Study Bill 78

SENATE/HOUSE JOINT RESOLUTION _____
BY (PROPOSED DEPARTMENT OF
TRANSPORTATION RESOLUTION)

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

SENATE JOINT RESOLUTION

1 A Joint Resolution proposing an amendment to the Constitution of
2 the State of Iowa eliminating a requirement that a criminal
3 offense, where the maximum permissible penalty does not exceed
4 thirty days of imprisonment, be prosecuted on information
5 under oath.
6 BE IT RESOLVED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
7 TLSB 1356DP 83
8 jm/rj/5

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1 1 Section 1. The following amendment to the Constitution of
1 2 the State of Iowa is proposed:
1 3 Section 11, unnumbered paragraph 1, of Article 1 of the
1 4 Constitution of the State of Iowa, is amended to read as
1 5 follows:
1 6 All offenses less than felony and in which the maximum
1 7 permissible imprisonment does not exceed thirty days shall be
1 8 tried summarily before an officer authorized by law, on
1 9 information certified under ~~oath~~ penalty of perjury, without
1 10 indictment, or the intervention of a grand jury, saving to the
1 11 defendant the right of appeal; and no person shall be held to
1 12 answer for any higher criminal offense, unless on presentment
1 13 or indictment by a grand jury, except in cases arising in the
1 14 army, or navy, or in the militia, when in actual service, in
1 15 time of war or public danger.
1 16 Sec. 2. REFERRAL AND PUBLICATION. The foregoing proposed
1 17 amendment to the Constitution of the State of Iowa is referred
1 18 to the General Assembly to be chosen at the next general
1 19 election for members of the General Assembly, and the
1 20 Secretary of State is directed to cause the proposed amendment
1 21 to be published for three consecutive months previous to the
1 22 date of that election as provided by law.
1 23 EXPLANATION
1 24 This joint resolution proposes an amendment to the
1 25 Constitution of the State of Iowa eliminating requirements
1 26 that a criminal offense where the maximum permissible penalty
1 27 is less than 30 days of imprisonment be prosecuted on
1 28 information under oath.
1 29 The resolution removes the word "oath" from the
1 30 constitutional provision and inserts the words "certified
1 31 under penalty of perjury". The resolution effectively permits
1 32 a simple misdemeanor to be prosecuted on information that is
1 33 certified under penalty of perjury rather than under oath.
1 34 The resolution is in response to an Iowa supreme court
1 35 case, City of Cedar Rapids v. Atsinger, 617 N.W.2d, 272.
2 1 The resolution, if adopted, would be referred to the
2 2 Eighty-fourth General Assembly for adoption, before being
2 3 submitted to the electorate for ratification.
2 4 LSB 1356DP 83
2 5 jm/rj/5.1