

Senate Study Bill 1032

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL
BRANCH BILL)

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

A BILL FOR

1 An Act relating to the judicial branch including contested and
2 uncontested parking violations, filing civil citations of
3 municipal infractions with the clerk, records kept by the
4 clerk, and service of original notice in a small claims
5 action.

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

7 TLSB 1402XD 83

8 jm/rj/8

PAG LIN

1 1 Section 1. Section 321.236, subsection 1, unnumbered
1 2 paragraph 2, Code 2009, is amended to read as follows:
1 3 Parking meter, snow route, and overtime parking violations
1 4 which are ~~denied~~ contested shall be charged and proceed before
1 5 a court the same as other traffic violations. Filing fees and
1 6 court costs shall be assessed as provided in section 602.8106,
1 7 subsection 1 and section 805.6, subsection 1, paragraph "a"
1 8 for parking violation cases. ~~Parking violations which are~~
1 9 ~~admitted.~~

1 10 Sec. 2. Section 321.236, subsection 1, paragraphs a and b,
1 11 Code 2009, are amended to read as follows:

1 12 a. ~~May~~ Parking violations which are uncontested shall be
1 13 charged and collected upon a simple notice of a fine payable
1 14 to the city clerk, if authorized by ordinance. The fine for
1 15 each violation charged under a simple notice of a fine shall
1 16 be established by ordinance. The fine may be increased by
1 17 five dollars if the parking violation is not paid within
1 18 thirty days of the date upon which the violation occurred, ~~if~~
1 19 ~~authorized by ordinance.~~ Violations of section 321L.4,
1 20 subsection 2, ~~may~~ shall be charged and collected upon a simple
1 21 notice of a one hundred dollar fine payable to the city clerk,
1 22 ~~if authorized by ordinance.~~ No costs ~~Costs~~ or other charges
1 23 shall be assessed. All fines collected by a city pursuant to
1 24 this paragraph shall be retained by the city and all fines
1 25 collected by a county pursuant to this paragraph shall be
1 26 retained by the county, except as provided by an agreement
1 27 between a city and a county treasurer for the collection of
1 28 fines pursuant to section 331.553, subsection 8.

1 29 b. ~~Notwithstanding any such ordinance, may be prosecuted~~
1 30 ~~under the provisions of sections 805.7 to 805.13 or as any~~
1 31 ~~other traffic violation.~~

1 32 Sec. 3. Section 364.22, subsection 4, unnumbered paragraph
1 33 1, Code 2009, is amended to read as follows:

1 34 An officer authorized by a city to enforce a city code or
1 35 regulation may issue a civil citation to a person who commits
2 1 a municipal infraction. ~~The~~ A copy of the citation may be
2 2 served by personal service as provided in rule of civil
2 3 procedure 1.305, by certified mail addressed to the defendant
2 4 at the defendant's last known mailing address, return receipt
2 5 requested, or by publication in the manner as provided in rule
2 6 of civil procedure 1.310 and subject to the conditions of rule
2 7 of civil procedure 1.311. A copy of the citation shall be
2 8 retained by the issuing officer, and ~~one copy~~ the original
2 9 citation shall be sent to the clerk of the district court.

2 10 The citation shall serve as notification that a civil offense
2 11 has been committed and shall contain the following
2 12 information:

2 13 Sec. 4. Section 523I.602, subsection 4, Code 2009, is
2 14 amended to read as follows:

2 15 4. RECEIPT == ~~CEMETERY~~ RECORD. Every such trustee shall
2 16 execute and deliver to the donor a receipt showing the amount

2 17 of money or other property received, and the use to be made of
2 18 the net proceeds from the same, duly attested by the clerk of
2 19 the court granting letters of trusteeship, ~~and a copy thereof,~~
~~2 20 signed by the trustee and so attested, shall be filed with and~~
~~2 21 recorded by the clerk in a book to be known as the cemetery~~
~~2 22 record, in which shall be recorded all reports and other~~
~~2 23 papers, including orders made by the court relative to~~
~~2 24 cemetery matters and the trustee shall keep a signed and~~
2 25 attested copy of the receipt.

2 26 Sec. 5. Section 602.8104, subsection 2, paragraph h, Code
2 27 2009, is amended by striking the paragraph.

2 28 Sec. 6. Section 602.8104, subsection 2, Code 2009, is
2 29 amended by adding the following new paragraph:

2 30 NEW PARAGRAPH. k. A record book of certificates of
2 31 deposit, not in the clerk's name, which are being held by the
2 32 clerk on behalf of a conservatorship, trust, or an estate
2 33 pursuant to a court order as provided in section 636.37.

2 34 Sec. 7. Section 602.8106, subsection 1, paragraph c, Code
2 35 2009, is amended to read as follows:

3 1 c. For filing and docketing a complaint or information or
3 2 uniform citation and complaint for parking violations under
3 3 sections 321.236, 321.239, 321.358, 321.360, and 321.361,
3 4 eight dollars, effective January 1, 2004. The court costs in
3 5 cases of parking meter and overtime parking violations which
3 6 are ~~denied~~ contested, and charged and collected pursuant to
3 7 section 321.236, subsection 1, or pursuant to a uniform
3 8 citation and complaint, are eight dollars per information or
3 9 complaint or per uniform citation and complaint effective
3 10 January 1, 1991.

3 11 Sec. 8. Section 631.4, subsection 1, paragraph a, Code
3 12 2009, is amended to read as follows:

3 13 a. If the defendant is a resident of this state, or if the
3 14 defendant is a nonresident of this state and is subject to the
3 15 jurisdiction of the court under rule of civil procedure 1.306,
3 16 the plaintiff may elect service under this paragraph, and upon
3 17 receipt of the prescribed costs the clerk shall mail to the
3 18 defendant by certified mail, restricted delivery, return
3 19 receipt to the clerk requested, a copy of the original notice
3 20 together with a conforming copy of an answer form. However,
~~3 21 if the defendant is a corporation, partnership, or~~
~~3 22 association, the clerk shall mail to the defendant by~~
~~3 23 certified mail, return receipt to the clerk requested, a copy~~
~~3 24 of the original notice with a conforming copy of an answer~~
3 25 form. The defendant is required to appear within twenty days
3 26 following the date service is made.

3 27 Sec. 9. Section 636.37, Code 2009, is amended to read as
3 28 follows:

3 29 636.37 DUTY OF CLERK.

3 30 1. The clerk of the district court with whom any deposit
3 31 of funds, moneys, or securities shall be made, as provided by
3 32 any law or an order of court, shall enter in a book, to be
3 33 provided and kept for that purpose, the amount of such
3 34 deposit, the character thereof, the date of its deposit, from
3 35 whom received, from what source derived, to whom due or to
4 1 become due, if known.

4 2 2. A separate book shall be maintained for all
~~4 3 certificates of deposit not in the name of the clerk of the~~
~~4 4 district court that are being held by the clerk on behalf of a~~
~~4 5 conservatorship, trust, or estate. The book shall list the~~
~~4 6 relevant details of the transaction, including but not limited~~
~~4 7 to the name of the conservator, trustee, or executor, and~~
~~4 8 cross references to the court orders opening and closing the~~
4 9 conservatorship, trust, or estate.

4 10 Sec. 10. Section 805.8A, subsection 1, paragraph a, Code
4 11 2009, is amended to read as follows:

4 12 a. For parking violations under sections 321.236, 321.239,
4 13 321.358, 321.360, and 321.361, the scheduled fine is five
4 14 dollars, except if the local authority has established the
4 15 fine by ordinance ~~pursuant to section 321.236, subsection 1.~~
4 16 The scheduled fine for a parking violation pursuant to section
4 17 321.236 increases by five dollars, ~~as if~~ authorized by
4 18 ordinance ~~pursuant to section 321.236, subsection 1, and if~~
4 19 the parking violation is not paid within thirty days of the
4 20 date upon which the violation occurred. For purposes of
4 21 calculating the unsecured appearance bond required under
4 22 section 805.6, the scheduled fine shall be five dollars, or if
4 23 the amount of the fine is greater than five dollars, the
4 24 unsecured appearance bond shall be the amount of the fine
4 25 established by the local authority ~~pursuant to section~~
~~4 26 321.236, subsection 1.~~ However, violations charged by a city
4 27 or county upon simple notice of a fine instead of a uniform

4 28 citation and complaint ~~as permitted~~ required by section
4 29 321.236, subsection 1, paragraph "a", are not scheduled
4 30 violations, and this section shall not apply to any offense
4 31 charged in that manner. For a parking violation under section
4 32 321.362 or 461A.38, the scheduled fine is ten dollars.

4 33 EXPLANATION

4 34 This bill relates to the judicial branch including
4 35 contested and uncontested parking violations, filing civil
5 1 citations of municipal infractions, records kept by the clerk,
5 2 and service of original notice in a small claims action.

5 3 The bill removes the clerk of the district court from
5 4 collecting uncontested parking violation fines of a city or
5 5 county.

5 6 Under the bill, when a violation of a municipal infraction
5 7 occurs and a civil penalty is assessed, a copy of the citation
5 8 shall be served on the defendant, and the original citation
5 9 shall be sent to the clerk of the district court. Current law
5 10 provides that a copy of the citation be sent to the clerk of
5 11 the district court.

5 12 The bill strikes the requirement that the clerk of the
5 13 district court keep a cemetery record book related to Code
5 14 section 523I.602.

5 15 The bill provides that the clerk of the district court
5 16 shall keep a record book of certificates of deposit that have
5 17 not been issued in the name of the clerk but are being held by
5 18 the clerk on behalf of a conservatorship, trust, or an estate.
5 19 The bill also provides that the record book shall list the
5 20 relevant details of the transaction, including but not limited
5 21 to the name of the conservator, trustee, or executor, and
5 22 cross references to the court orders opening and closing the
5 23 conservatorship, trust, or estate. Current law provides the
5 24 clerk to provide a detailed accounting of all funds deposited
5 25 with the clerk pursuant to Code section 636.37.

5 26 The bill provides that if the defendant in a small claims
5 27 action is a corporation, partnership, or association, the
5 28 clerk, to obtain service, shall mail to the defendant a copy
5 29 of the original notice, with a conforming copy of the answer
5 30 form, by certified mail, return receipt to the clerk
5 31 requested.

5 32 LSB 1402XD 83

5 33 jm/rj/8