

CHAPTER 143.

RELATING TO SUPERIOR COURTS IN CITIES.

AN ACT to Provide for Establishing Superior Courts in Cities of a Certain Grade. [Additional to Chapter 10, Title IV, of the Code; "Of Cities and Incorporated Towns."] S. F. 74.

Be it enacted by the General Assembly of the State of Iowa:

SECTION 1. That any city in this state containing five thousand inhabitants whether organized under a special charter or the general act for the incorporation of cities and towns, may establish a superior court as hereinafter provided, which, when established, shall take the place of the police court of such city. What cities may establish.

SEC. 2. Upon the petition of one hundred citizens of any such city, the mayor by and with the consent of the common council, may at least ten days before an annual election for city officers, issue a proclamation submitting to the qualified voters of said city, the question of establishing said court. At the same election and every fourth year thereafter, (if the said court is established) there shall be elected a judge of the superior court, the votes for whom shall be upon the same ballot with other city officers. Should two-thirds of all the votes cast at such election be in favor of said court, the same shall thereby be established, and the said judge shall qualify and hold his office for the term of four years, and until his successor is elected and qualified. Immediately after each election of said judge, the mayor of said city shall transmit a certificate of the election of said judge to the governor of the state, who shall thereupon issue to him a commission empowering him to act as judge as herein provided. Question of establishment to be submitted to vote.

SEC. 3. Said judge shall be a qualified elector of the city, and be possessed of the legal acquirements prescribed in section 208 of the Code of Iowa, and shall subscribe in writing the same oath required of judges of the district court, and file the same with the mayor of the city, and shall give bond to the state of Iowa in the sum of four thousand dollars, for the faithful discharge of his duties, which bond must be filed with and approved by the mayor; and the effect of such election and qualification shall be to abolish the office of police judge of such city. Judge—his acquirements and bond.

SEC. 4. In case of a vacancy occurring in the said office of judge, the mayor, by and with the consent of the common council, shall appoint a judge, who shall hold the office until the next annual city election, and until his successor is elected and qualified, who shall be chosen to fill the unexpired time. Vacancy.

SEC. 5. Said judge shall hold at least one term of court in each month, except in August, commencing on the first Monday in each month, but as a police court it shall always be open for the dispatch of business. Terms of court.

SEC. 6. Said court shall have jurisdiction concurrent with the district and circuit courts, as now and hereafter provided by law, Jurisdiction.

except where said courts respectively have exclusive jurisdiction and except actions for divorce, and of all appeals and writs of error, in civil cases, from justice's courts within the township or townships in which the city is located, and by consent of parties from justice's courts in other townships in the county, said appeals and writs of error to be taken in the same time and manner as if the same were taken to the circuit court, and the exclusive original jurisdiction to try and determine all actions civil and criminal, for the violation of city ordinances, and all the jurisdiction conferred upon police courts, as now and heretofore provided by law, and all the jurisdiction co-extensive and concurrent with justices of the peace, in all actions, civil and criminal, as now are or may be hereafter provided by law, and for the trial of criminal actions, shall be open at such times and under such rules as the court shall prescribe.

Changes of venue.

SEC. 7. Changes of venue may be had from said court in all civil actions to the circuit court in the same manner, for like causes, and with the same effect, as the venue is now changed from the circuit court as provided by law. In criminal actions changes of venue may be had to the district court, as provided by law for changes of venue in the district court, and when criminal actions are tried in vacations, without jury, an appeal will lie to the district court, as provided by law for appeals in like cases from justices of the peace.

Powers of judge in vacation.

SEC. 8. The said judges shall have the same power in regard to injunctions, writs, orders and other proceedings, out of courts as are now or may be hereafter possessed for [by] the judges of the district or circuit courts; and may also administer oaths, take acknowledgments and depositions (except depositions to be used in his own court,) and solemnize marriages. But he shall not practise in any of the courts of this state.

Pleadings, modes of trial, rules of practice, etc.

SEC. 9. The superior court shall be a court of record, and all statutes in force respecting venue and commencement of actions, the jurisdiction process, and practice of the circuit and district court, the pleadings and mode of trial of action at law or in equity, and the enforcement of its judgments by execution or otherwise, and the allowance and taxing of costs, and the making of rules for practice or otherwise, shall be deemed applicable to the superior court, except wherein the same may be inconsistent with the provisions of this act. The records and papers properly filed in a cause in either the district or circuit courts are equally evidence in said superior court.

Seal.

SEC. 10. The said court shall have and use its own seal, having on the face thereof the words, "superior court," and the name of the city, county, and state.

Clerk.

SEC. 11. As long as the business of the court can be done with convenience and dispatch, without a clerk, the judge shall be the clerk of the said court. Whenever, from the accumulation of causes and other demands upon the court a clerk shall become necessary, the city recorder, or clerk, shall be the clerk of the superior court, and shall receive such compensation for his services as the city council may from time to time allow; and

he shall perform the duties in said court provided by law for the clerk of the circuit court, and shall give bonds as required of the said judge.

SEC. 12. The city marshal shall be the executive officer of said court and his duties and authority in court and in executing process shall correspond with those of the sheriff of the county in the circuit court, and with process from that court, and he shall receive the same fees and compensation as the sheriff for like services. But the process of said court may be also served by the sheriff. Marshal.

SEC. 13. The judge of said court shall receive in full compensation for his services the sum of two thousand dollars per annum, to be paid to him quarterly; the first two quarters of the municipal year shall be paid from the city treasury, and the last two quarters from the county treasury wherein said city is located. The costs and fees of said court in civil actions shall be the same as in the circuit and district courts except herein otherwise provided, and the clerk of the superior court shall account for and pay over to the city all fees that may be paid into the said court, and also for all fines for the violation of city ordinances. Of all other fines he shall render the same account as is provided for justices of the peace. In actions for the violation of city ordinances, if unsuccessful, the city shall pay all costs, the same as provided by law for the county in other criminal actions prosecuted in the name and behalf of the state. The fees in criminal actions shall be the same as in justices courts, and shall be paid and accounted for as hereinbefore stated, and as otherwise provided by law for justices of the peace and their courts. Compensation of Judge.
Costs.
Fees.

SEC. 14. Upon the first regular consecutive call of the calendar of causes by the court, either party to an action may elect to have such cause tried by jury, and a minute of said election shall be made upon the calendar. Causes thus designated shall be tried first in their order, and when a disposition shall have been made of such causes the jury shall be discharged from further attendance at that term. No juror shall be detained as juror longer than one week, except upon a trial commenced within the first week of his attendance. Jury.

SEC. 15. In order to provide jurors for said court, the judge, mayor, and recorder shall immediately after qualifying and every three months thereafter, make out a list of twelve names of persons from the body of the county in which the city is situated, qualified to serve as jurors in the district court, which list shall be furnished to the clerk of said superior court, and from this list there shall be drawn by the clerk and marshal nine persons in the same manner as jurors are drawn in the district court, and a precept from the court shall issue accordingly five days before the first day of next term, as provided by law in like cases in the district court. Selection of jurors.

SEC. 16. The jury shall consist of six qualified jurors, unless a jury of twelve is demanded, in which case the clerk may issue a special venire for that purpose or the city marshal may complete the jury from the bystanders. (But no party shall be entitled to Number of jury.

- a jury of twelve, until the person demanding the same, shall deposit with the clerk the sum of six dollars to be paid said jurors and taxed with the costs.) The pay of the regular jurors shall be one dollar per day of six hours, and mileage as provided by law, to be taxed with the costs not exceeding twenty-five dollars in any one case; the rest of the jury fees to be paid by the city.
- Fees.**
- Appeals.** SEC. 17. All appeals from judgments or orders of said court or the judge thereof in civil actions shall be taken to the supreme court in the same manner and under the same restriction, within the same time, and with the same effect as appeals are taken from the circuit to the supreme court except upon consent appeals shall be in same manner to the district court.
- Judgment liens.** SEC. 18. Judgments in said court may be made liens upon real estate in the county in which the city is situated by proceeding as provided in sections 3567 and 3568 of the Code, relating to judgments of justices of the peace, and with equal effect and may be made liens upon real estate in other counties in the same manner as judgments in the circuit and district courts.
- City attorney.** SEC. 19. It shall be the duty of the city attorney or solicitor to file informations in the superior court for violation of city ordinances and prosecute the same and for such services he shall receive such compensation as the city council shall allow.
- Powers of judge ex-officio.** SEC. 20. The said judge shall be ex-officio a magistrate and in preliminary examinations, the proceedings and practice shall be the same as before any other magistrate, and all warrants issued in criminal proceedings under the seal of the court, may be used in any other part of the state without further attestation, in like manner as if issued by the district court, and parties may be committed to the city prison for confinement or punishment instead of the county jail.
- To take effect.** SEC. 21. This act being deemed of immediate importance, shall take effect and be in force from and after its publication in the Daily State Register, a newspaper published in the city of Des Moines, and the Daily Republican, a newspaper published in the city of Cedar Rapids, Iowa.
- Approved March 17, 1876.

I hereby certify that the foregoing act was published in the *Iowa State Register*, and in the *Cedar Rapids Daily Republican*, March 22, 1876.

JOSIAH T. YOUNG, *Secretary of State.*