

CHAPTER 197
JUDICIAL ORGANIZATION AND PROCEDURES
S.F. 570

AN ACT making corrections and other changes relating to court reorganization, court fees, court-imposed fines and costs and the suspension of motor vehicle licenses and the setoff of income tax refunds and rebates, administrative closures under chapter 601A, the ability to pay a criminal fine, the judicial retirement system, and other court procedures and making certain procedures retroactive.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 2.42, subsection 16, Code 1985, is amended to read as follows:

16. Authority to review ~~proposed and delay the effective dates of~~ rules and forms submitted by the supreme court pursuant to section 602.4202.

Sec. 2. Section 14.21, unnumbered paragraph 2, Code 1985, is amended to read as follows:

~~Commencing July 1, 1977, the~~ The Code editor shall cause to be compiled, indexed and published in loose-leaf form the Iowa court rules, which shall consist of all rules of civil procedure, rules of criminal procedure, rules of appellate procedure, and supreme court rules. The Code editor, in consultation with the superintendent of printing, shall cause to be printed and distributed supplements to the compilation on or before the effective date of either new rules, or amendments to or the repeal of existing rules. All expenses incurred by the Code editor under this paragraph shall be defrayed under section 14.22. There shall be established a price for the compilation of rules, and a separate price for each supplement. The price of the compilation and of supplements shall represent the costs of compiling and indexing, the amounts charged for printing and distribution and a cost for labor determined jointly by the legislative council and rules review committee in consultation with the state printer. On request a single copy of each compilation and of each supplement shall be distributed free of charge to each of the persons or agencies referred to in section 18.97, subsections 1, 2, 5, 6, 7, 8 and 16.

Sec. 3. NEW SECTION. 321.210A SUSPENSION FOR FAILURE TO PAY FINE, PENALTY, SURCHARGE, OR COURT COSTS.

The department shall suspend the motor vehicle license of a person who, upon conviction of violating a law regulating the operation of a motor vehicle, has failed to pay the criminal fine or penalty, surcharge, or court costs, as follows:

1. Upon the failure of a person to timely pay the fine, penalty, surcharge, or court costs the clerk of the district court shall notify the person that if the fine, penalty, surcharge, or court costs remain unpaid after sixty days, the clerk will notify the department of the failure for purposes of instituting suspension procedures.

2. Upon the failure of a person to pay the fine, penalty, surcharge, or court costs within sixty days of receiving notice from the clerk of the district court as provided in subsection 1, the clerk shall report the failure to the department.

3. Upon receipt of a report of a failure to pay the fine, penalty, surcharge, or court costs from the clerk of the district court, the department shall in accordance with its rules, suspend the person's motor vehicle license until the fine, penalty, surcharge or court costs are paid, unless the person proves to the satisfaction of the clerk and the department that the person cannot pay the fine, penalty, surcharge, or court costs.

Sec. 4. Section 321.212, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. Except as provided in section 321.210A or 321.513 the department shall not suspend a license for a period of more than one year, except that a license suspended because of incompetency to drive a motor vehicle shall be suspended until the department receives satisfactory evidence that the former holder is competent to operate a motor vehicle and a refusal to reinstate ~~shall constitute~~ constitutes a denial of license within the provisions of section 321.215; upon revoking a license the department shall not grant an application for a new license until the expiration of one year after the revocation, unless another period is specified by law.

Sec. 5. Section 321A.17, subsection 5, Code 1985, is amended to read as follows:

5. An individual applying for a motor vehicle license following a period of suspension or revocation under the provisions of section 321.210A, 321.216 or 321.513 ~~shall~~ is not be required to maintain proof of financial responsibility under the provisions of this section.

Sec. 6. Section 331.506, subsection 2, paragraph b, Code 1985, is amended to read as follows:

b. Witness fees and mileage in trials of criminal actions prosecuted under county ordinance, as certified by the county attorney.

Sec. 7. Section 331.510, subsection 2, Code 1985, is amended by striking the subsection.

Sec. 8. Section 421.17, Code 1985, is amended by adding the following new subsection after subsection 24 and renumbering the subsequent subsection:

NEW SUBSECTION. 25. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court as a criminal fine, civil penalty, surcharge, or court costs. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b. Before setoff the clerk of the district court shall obtain and forward to the department the full name and social security number of the debtor. The department shall cooperate in the exchange of relevant information with the clerk. However, only relevant information required by the clerk shall be provided by the department. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The clerk shall, at least quarterly and monthly if practicable, submit to the department for setoff the debts described in this subsection, which are at least fifty dollars.

d. Upon submission of a claim the department shall notify the clerk if the debtor is entitled to a refund or rebate and of the amount of the refund or rebate and the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the clerk shall send written notification to the debtor of the clerk's assertion of its rights to all or a portion of the debtor's refund or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the

assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, and the debtor's opportunity to give written notice of intent to contest the amount of the claim. The clerk shall send a copy of the notice to the department.

f. Upon the request of a debtor or a debtor's spouse to the clerk, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the clerk shall notify the department of the request to divide a joint income tax refund or rebate. The department shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.

g. The department shall, after notice has been sent to the debtor by the clerk, set off the debt against the debtor's income tax refund or rebate. The department shall transfer at least quarterly and monthly if practicable, the amount set off to the clerk. If the debtor gives timely written notice of intent to contest the amount of the claim, the department shall hold the refund or rebate until final determination of the correct amount of the claim. The clerk shall notify the debtor in writing upon completion of setoff.

Sec. 9. Section 421.17, subsection 25, Code 1985, is amended to read as follows:

~~25~~ 26. To provide that in the case of multiple claims to refunds or rebates filed under subsections 21, ~~and 23, and 25~~ that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college aid commission under subsection 23, ~~and last next~~ priority shall be given to claims filed by the office of investigations under subsection 21, ~~and last priority shall be given to claims filed by a clerk of the district court under subsection 25.~~

Sec. 10. Section 601A.16, subsection 6, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. This section does not authorize administrative closures if an investigation is warranted.

Sec. 11. Section 602.1302, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 4. A revolving fund is created in the state treasury for the payment of jury and witness fees and mileage by the department. The department shall deposit any reimbursements to the state for the payment of jury and witness fees and mileage in the revolving fund. Notwithstanding section 8.33, unencumbered and unobligated receipts in the revolving fund at the end of a fiscal year do not revert to the general fund of the state. The department shall on or before February 1 file a financial accounting of the moneys in the revolving fund with the legislative fiscal bureau. The accounting shall include an estimate of disbursements from the revolving fund for the remainder of the fiscal year and for the next fiscal year.

Sec. 12. Section 602.1303, subsections 7 and 8, Code 1985, are amended to read as follows:

7. A county or city shall pay the costs of its depositions and transcripts ~~and the court fees and costs provided by law in criminal actions prosecuted by that county or city and shall pay the court fees and costs provided by law in criminal actions prosecuted by that county or city under county or city ordinance.~~ A county or city shall pay witness fees and mileage in trials of criminal actions prosecuted by the county or city under county or city ordinance.

8. A county shall pay the fees and expenses allowed under sections 815.2 and 815.3, ~~and shall pay the fees and expenses allowed under sections 815.5 and 815.6 with respect to witnesses for the prosecution.~~

Sec. 13. Section 602.4104, subsection 3, Code 1985, is amended to read as follows:

3. The supreme court shall prescribe rules to provide for the submission of cases to the entire bench or to the separate divisions. ~~These rules are subject to section 602.4202.~~

Sec. 14. Section 602.4202, Code 1985, is amended by striking the section and inserting in lieu thereof the following:

602.4202 RULE-MAKING PROCEDURE.

1. The supreme court shall submit a rule or form prescribed by the supreme court under section 602.4201 or pursuant to any other rule-making authority specifically made subject to this section to the legislative council and shall at the same time report the rule or form to the chairpersons and ranking members of the senate and house committees on judiciary. The legislative service bureau shall make recommendations to the supreme court on the proper style and format of rules and forms required to be submitted to the legislative council under this subsection.

2. A rule or form submitted as required under subsection 1 takes effect sixty days after submission to the legislative council, or at a later date specified by the supreme court, unless the legislative council, within sixty days after submission and by a majority vote of its members, delays the effective date of the rule or form to a date as provided in subsection 3.

3. The effective date of a rule or form submitted during the period of time beginning February 15 and ending February 14 of the next calendar year may be delayed by the legislative council until May 1 of that next calendar year.

4. A rule or form submitted as required under subsection 1 and effective on or before July 1 shall be bound with the Acts of the general assembly meeting in regular session in the calendar year in which the July 1 falls.

5. If the general assembly enacts a bill changing a rule or form, the general assembly's enactment supersedes a conflicting provision in the rule or form as submitted by the supreme court.

Sec. 15. Section 602.6603, subsection 4, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

4. If a regularly appointed court reporter becomes disabled, or if a vacancy occurs in a regularly appointed court reporter position, the judge may appoint a competent uncertified shorthand reporter for a period of time of up to six months, upon verification by the chief judge that a diligent but unsuccessful search has been conducted to appoint a certified shorthand reporter to the position and, in a disability case, that the regularly appointed court reporter is disabled. An uncertified shorthand reporter shall not be reappointed to the position unless the reporter becomes a certified shorthand reporter within the period of appointment under this subsection.

Sec. 16. Section 602.6603, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 8. If a judge dies, resigns, retires, is removed from office, becomes disabled, or fails to be retained in office and the judicial vacancy is eligible to be filled, a court reporter appointed by the judge is entitled to serve as a court reporter, as directed by the chief judge or the chief judge's designee, until the successor judge appoints a successor court reporter. The court reporter shall be paid the reporter's regular salary during the period of time until a successor court reporter is appointed or until the currently appointed court reporter is reappointed.

Sec. 17. Section 602.8102, subsection 45, Code 1985, is amended by striking the subsection and inserting in lieu thereof the following:

45. Report monthly to the office for planning and programming the following information related to each district court conviction for, acquittal of, or dismissal of a felony, an aggravated misdemeanor, or a serious misdemeanor:

a. The name of the convicted offender or defendant.

b. The statutory citation and character of the offense of which the offender was convicted or the defendant charged.

c. The sentence imposed on the convicted offender.

Sec. 18. Section 602.8102, Code 1985, is amended by adding the following new subsection after subsection 50:

NEW SUBSECTION. 50A. Assist the department of transportation in suspending, pursuant to section 321.210A, the motor vehicle licenses of persons who fail to timely pay criminal fines or penalties, surcharges, or court costs related to the violation of a law regulating the operation of a motor vehicle.

Sec. 19. Section 602.8102, Code 1985, is amended by adding the following new subsection after subsection 58:

NEW SUBSECTION. 58A. Assist the department of revenue in setting off against debtors' income tax refunds or rebates under section 421.17, subsection 25, debts which are due, owing, and payable to the clerk of the district court as criminal fines, civil penalties, surcharges, or court costs.

Sec. 20. Section 602.8105, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. For filing and docketing a petition other than for modification of a dissolution decree filed within one hundred eighty days of the date of the entering of the dissolution decree, or an appeal, or writ of error and docketing them, thirty-five dollars. Four dollars of the fee shall be deposited in the court revenue distribution account established under section 602.8108, and thirty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Sec. 21. Section 602.8105, subsection 1, paragraph b, Code 1985, is amended to read as follows:

b. For payment in advance of various services and docketing procedures, excluding those for small claims actions and small claims actions on appeal and simple misdemeanor actions and simple misdemeanor actions on appeal, twenty-five dollars.

Sec. 22. Section 602.8105, subsection 1, paragraph j, Code 1985, is amended to read as follows:

j. In criminal cases, the same fees for the same services as in civil cases, to be paid by the county or city initiating, which has the duty to prosecute the criminal action, payable as provided in section 602.8109. When judgment is rendered against the defendant, costs collected from the defendant shall be paid to the county or city initiating which has the duty to prosecute the criminal action to the extent necessary for reimbursement for fees paid. However, the fees which are payable by the county to the clerk of the district court for services rendered in criminal actions prosecuted under state law and the court costs taxed in connection with the trial of those criminal actions or appeals from the judgments in those criminal actions are waived.

Sec. 23. Section 602.8105, subsection 1, Code 1985, is amended by adding the following new lettered paragraphs and relettering the subsequent paragraph:

NEW LETTERED PARAGRAPH. p. For filing and docketing a transcript of judgment from another county, two dollars.

NEW LETTERED PARAGRAPH. q. For entering a judgment by confession, two dollars.

NEW LETTERED PARAGRAPH. r. For the administrative costs of collecting and distributing support payments payable to the clerk of the district court under section 598.22, to be paid annually by the person obligated to pay the support and to be billed and collected by the clerk separately from, in addition to, and after both current and accrued support payments have been collected by the clerk, twenty-five dollars.

Sec. 24. Section 602.8106, subsection 1, Code 1985, is amended to read as follows:

1. Notwithstanding section 602.8105, the fee for the filing and docketing of a complaint or information for a simple misdemeanor ~~shall be eight is twenty dollars, provided that except that the filing and docketing of a complaint or information for a nonscheduled simple misdemeanor under chapter 321 is fifteen dollars.~~ However, a fee for filing and docketing a complaint or information shall not be collected in cases of overtime parking.

Sec. 25. Section 602.8106, subsection 4, Code 1985, is amended to read as follows:

4. All fees and costs for the filing of a complaint or information or upon forfeiture of bail received from a magistrate shall be distributed by the clerk as follows:

a. ~~One-half~~ Two fifths shall be remitted monthly by the clerk to the treasurer of state to be credited to the general fund of the state.

b. ~~One-fourth~~ Three tenths shall be deposited in the court revenue distribution account established under section 602.8108.

c. ~~One-fourth~~ Three tenths shall be remitted monthly by the clerk to the treasurer of state to be credited to the judicial retirement fund established under section 602.9104.

Sec. 26. Section 602.9103, Code 1985, is amended to read as follows:

602.9103 NOTICE BY JUDGE IN WRITING APPLICATION.

~~This Except as provided in section 602.11115, this article shall not apply applies to any judge of the municipal, superior, or district court, including a district associate judge, or a judge of the court of appeals or of the supreme court, until the judge gives notice in writing, while serving as a judge, to the state comptroller and treasurer of state, of the judge's purpose to come within its purview. Judges of the municipal and superior courts shall at the same time give a copy of such notice to the city treasurer and county auditor within the district of such court. Such notice shall be given within one year after the effective date hereof or within one year after any date on which the judge takes oath of office as such judge.~~

*Sec. 27. Section 602.9104, subsection 1, Code 1985, is amended to read as follows:

1. Each judge coming within the purview of this article shall, on or before retirement, pay to the court administrator for deposit with the treasurer of state to the credit of a fund to be known as the "judicial retirement fund", hereinafter called the "fund", a sum equal to four percent of the judge's basic salary for services as such judge for the total period of service as a judge of a municipal, superior, district or supreme court, or the court of appeals, including district associate judges, before the date of said notice July 1, 1985, and on and after the date of the notice July 1, 1985 there shall be deducted and withheld from the basic salary of each judge coming within the purview of this article a sum equal to ~~four percent~~ the following percentages of such basic salary. Provided that, to vary according to the years of service as a judge of the municipal, superior, or district court, including a district associate judge, or a judge of the court of appeals or of the supreme court, or as a judge of any combination of the courts: for less than seven years of service, seven percent; for seven through twelve years of service, six percent; for thirteen through eighteen years of service, five percent; and for more than eighteen years of service, four percent.

PARAGRAPH DIVIDED. However, the maximum amount which any judge shall be required to contribute for past service shall not exceed for municipal or superior or district associate judges thirty-five hundred dollars, for district judges four thousand dollars, for court of appeals judges four thousand five hundred dollars, and for supreme court judges five thousand dollars.*

Sec. 28. Section 602.9109, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Annuities granted under this article are exempt from taxation either as income or as personal property.

Sec. 29. Section 602.11101, subsection 4, Code 1985, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. Until July 1, 1985 the county shall remain responsible for the compensation of juvenile court referees. Effective July 1, 1985 the state shall assume the responsibility for the compensation of juvenile court referees.

Sec. 30. Section 602.11101, subsection 5, Code 1985, is amended by adding the following new unnumbered paragraphs:

NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county shall remain responsible for the compensation of and operating costs for court employees not presently designated for state financing and for miscellaneous costs of the judicial department related to furnishings, supplies, and equipment purchased, leased, or maintained for the use of judicial officers, referees, and their staff. Effective July 1, 1986 the state shall assume the responsibility for the compensation of and operating costs for court employees presently designated for state financing and for miscellaneous costs of the judicial department related to furnishings, supplies, and equipment purchased, leased, or maintained for the use of judicial officers, referees, and their staff. However, the county shall at all times remain responsible for the provision of suitable courtrooms, offices, and other physical facilities pursuant to section 602.1303, subsection 1, including paint, wall covering, and fixtures in the facilities.

NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county shall remain responsible for the compensation of and operating costs for probate referees and judicial hospitalization referees and their staffs. Effective July 1, 1986 the state shall assume the responsibility for the compensation of and operating costs for probate referees and judicial hospitalization referees and their staffs.

NEW UNNUMBERED PARAGRAPH. Until July 1, 1986 the county shall remain responsible for necessary fees and costs related to certain court reporters. Effective July 1, 1986 the state shall assume the responsibility for necessary fees and costs related to certain court reporters.

Sec. 31. Section 602.11101, Code 1985, is amended by adding the following new subsection:

NEW SUBSECTION. 7. The county shall remain responsible for the court-ordered costs of conciliation procedures under section 598.16.

Sec. 32. Section 602.11102, Code 1985, is amended to read as follows:

602.11102 ACCRUED EMPLOYEE RIGHTS.

1. Persons who were paid salaries by the counties or judicial districts immediately prior to becoming state employees as a result of this Act chapter shall not forfeit accrued vacation, accrued sick leave, or longevity, except as provided in this section.

2. As a part of its rule-making authority under section 602.11101, the supreme court, after consulting with the state comptroller, shall prescribe rules to provide for the following:

*Item veto; see message at end of this Act

a. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued vacation days that was credited to the person as a county employee as of the end of the day prior to becoming a state employee.

b. Each person referred to in subsection 1 shall have to the person's credit as a state employee commencing on the date of becoming a state employee the number of accrued days of sick leave that was credited to the person as a county employee as of the end of the day prior to becoming a state employee. However, the number of days of sick leave credited to a person under this subsection and eligible to be taken when sick or eligible to be received upon retirement shall not respectively exceed the maximum number of days, if any, or the maximum dollar amount as provided in section 79.23 that state employees generally are entitled to accrue or receive according to laws and rules in effect as of the date the person becomes a state employee.

c. Commencing on the date of becoming a state employee, each person referred to in subsection 1 is entitled to claim the person's most recent continuous period of service in full-time county employment as full-time state employment for purposes of determining the number of days of vacation which the person is entitled to earn each year. The actual vacation benefit, including the limitation on the maximum accumulated vacation leave, shall be determined as provided in section 79.1 according to laws and rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county employee.

d. Notwithstanding paragraphs "b" and "c", for the period beginning July 1, 1984, and ending June 30, 1986, court reporters who become state employees as a result of this Aet chapter are not subject to the sick leave and vacation accrual limitations generally applied to state employees. However, court reporters are subject to the maximum dollar limitation upon retirement as provided in section 79.23.

Sec. 33. Section 602.11103, Code 1985, is amended to read as follows:

602.11103 LIFE, AND HEALTH, AND DISABILITY INSURANCE.

Persons who were covered by county employee life insurance and accident and health insurance plans prior to becoming state employees as a result of this Aet chapter shall be permitted to apply prior to becoming state employees for life insurance and health and accident insurance plans that are available to state employees so that those persons do not suffer a lapse of insurance coverage as a result of this Aet chapter. The supreme court, after consulting with the state comptroller, shall prescribe rules and distribute application forms and take other actions as necessary to enable those persons to elect to have insurance coverage that is in effect on the date of becoming state employees. The actual insurance coverage available to a person shall be determined by the plans that are available to state employees, irrespective of any greater or lesser benefits as a county or judicial district employee.

Commencing on the date of becoming a state employee, each person referred to in this section is entitled to claim the person's most recent continuous period of service in full-time county or judicial district employment as full-time state employment for purposes of determining disability benefits as provided in section 79.20 according to rules in effect for state employees of comparable longevity, irrespective of any greater or lesser benefit as a county or judicial district employee.

Sec. 34. Section 602.11108, Code 1985, is amended to read as follows:

602.11108 COLLECTIVE BARGAINING.

A person who becomes a state employee as a result of this Aet chapter is a public employee, as defined in section 20.3, subsection 3, for purposes of chapter 20. The person may bargain

collectively on and after July 1, 1983 as provided by law for a court employee. However, if the person is subject to a collective bargaining agreement negotiated prior to July 1, 1983, the person is entitled to the rights and benefits obtained by the person pursuant to that contract after July 1, 1983, until that contract expires. If the person is subject to a collective bargaining agreement negotiated by a public employer other than the state court administrator on or after July 1, 1983, the person is not entitled to any rights or benefits obtained by the person pursuant to that contract after becoming a state employee.

Commencing one year prior to each category of employees becoming state employees as a result of this chapter, the state court administrator shall assume the position of public employer of those employees of that category for the sole purpose of negotiating a collective bargaining agreement with those employees to be effective upon the date those employees became state employees as a result of this chapter.

Sec. 35. Section 602.11110, Code 1985, is amended to read as follows:

602.11110 JUDGESHIPS FOR ELECTION DISTRICTS 5A AND 5C.

As soon as practicable after January 1, 1985, the supreme court administrator shall recompute the number of judgeships to which judicial election districts 5A and 5C are entitled. Notwithstanding section 602.6201, subsection 2, the seventeen incumbent district judges in judicial election district 5A on December 31, 1984 may reside in either judicial election district 5A or 5C beginning January 1, 1985. The supreme court administrator shall apportion to judicial election district 5C those incumbent district judges who were appointed to replace district judges residing in Polk county or who were appointed to fill newly created judgeships while residing in Polk county. The incumbent district judges residing in Polk county on January 1, 1985 who are not so apportioned to judicial election district 5C shall be apportioned to judicial election district 5A but shall be reapportioned to judicial election district 5C, in the order of their seniority as district judges, as soon as the first vacancies occur in judicial election district 5C due to death, resignation, retirement, removal, or failure of retention. Such a reapportionment constitutes a vacancy in judicial election district 5A for purposes of section 602.6201. Notwithstanding section 602.6201, subsection 2, the seventeen incumbent district judges in judicial election district 5A on December 31, 1984 shall stand for retention in the judicial election district to which the district judges are apportioned or reapportioned under this section. Commencing on January 1, 1985, vacancies within judicial election districts 5A and 5C shall be determined and filled under section 602.6201, subsections 4 through 8. For purposes of the recomputations, the supreme court administrator shall determine the average case filings for the latest available three-year period by reallocating the actual case filings during the three-year period to judicial election districts 5A and 5C as if they existed throughout the three-year period.

Sec. 36. Section 611.21, Code 1985, is amended to read as follows:

611.21 CIVIL REMEDY NOT MERGED IN CRIME.

The right of civil remedy is not merged in a public offense and is not restricted for other violation of law, but may in all cases be enforced independently of and in addition to the punishment of the latter former.

Sec. 37. Section 631.6, subsection 1, Code 1985, is amended to read as follows:

1. The docket fee for a small claims action is ten eleven dollars. Other fees imposed for small claims shall be the same as those required in regular actions in district court, four Five dollars of the docket fee shall remain be deposited in the county treasury for the use of the county court revenue distribution account established under section 602.8108 and six dollars of the fee shall be paid into the state treasury. Of the amount paid into the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state.

Sec. 38. Section 631.6, unnumbered paragraph 2, Code 1985, is amended to read as follows:

All fees and costs collected in small claims actions, other than the six dollars of the docket fee to be paid into the state treasury, shall be deposited in the court revenue distribution account established under section 602.8108, except that the fee specified in subsection 4 of this section shall be remitted to the secretary of state.

Sec. 39. Section 666.6, Code 1985, is amended to read as follows:

666.6 REPORT OF FORFEITED BONDS.

The clerk of the district court shall make an annual report in writing to the supreme court on the first Monday in treasurer of state and the state court administrator no later than January 15 of all forfeited recognizances in the clerk's office; of all fines, penalties, and forfeitures imposed in the district court; in what cause or proceeding, when and for what purpose, against whom and for what amount, rendered; whether the fines, penalties, forfeitures, and recognizances which have been paid, remitted, canceled, or otherwise satisfied; if so, when, how, and in what manner, and if not been paid, remitted, canceled, or otherwise satisfied, what steps have been taken to enforce the collection of the fines, penalties, forfeitures and recognizances during the previous calendar year.

The report shall be full, true, and complete with reference to the matters contained in the report and all things required by this section to be reported, and the report shall be under oath. A clerk failing to make the report as required by this section is guilty of a simple misdemeanor.

Sec. 40. Section 805.6, subsection 1, paragraph a, Code 1985, is amended to read as follows:

a. The commissioner of public safety and the state conservation director, acting jointly, shall adopt a uniform, combined citation and complaint which shall be used for charging all traffic violations in Iowa under state law or local regulation or ordinance, and which shall be used for charging all other violations which are designated by section 805.8 to be scheduled violations. The court costs in parking violation cases are eight dollars per court appearance. The court costs in scheduled violation cases where a court appearance is not required are ten dollars. The court costs in scheduled violation cases where a court appearance is required are fifteen dollars. This subsection does not prevent the charging of any of those violations by information, by private complaint filed under chapter 804, or by a simple notice of fine where permitted by section 321.236, subsection 1. Each uniform citation and complaint shall be serially numbered and shall be in quintuplicate, and the officer shall deliver the original and a copy to the court where the defendant is to appear, two copies to the defendant, and a copy to the law enforcement agency of the officer. The court shall forward the copy of the uniform citation and complaint in accordance with section 321.207 when applicable.

PARAGRAPH DIVIDED. The uniform citation and complaint shall contain spaces for the parties' names; the address of the alleged offender; the registration number of the offender's vehicle; the information required by section 805.2; a promise to appear as provided in section 805.3 and a place where the cited person may sign the promise to appear; a list of the scheduled fines prescribed by section 805.8, either separately or by group, and a statement ~~that~~ of the court costs payable in scheduled ~~offense~~ violation cases, whether or not a court appearance is required or is demanded, ~~are eight dollars~~; a brief explanation of sections 805.9 and 805.10; and a space where the defendant may sign an admission of the violation when permitted by section 805.9; and the uniform citation and complaint shall require that the defendant appear before a court at a specified time and place. The uniform citation and complaint also may contain a space for the imprint of a credit card, and may contain any other information which the commissioner of public safety and the state conservation director may determine.

Sec. 41. Section 805.6, subsection 1, paragraph c, subparagraphs (1), (2), and (3), Code 1985, are amended to read as follows:

(1) If the offense is one to which a scheduled fine is applicable, an amount equal to one and one-half times the scheduled fine plus ~~eight dollars~~ court costs.

(2) If the violation charged involved or resulted in an accident or injury to property and the total damages are less than two hundred fifty dollars, the amount of fifty dollars ~~and eight dollars~~ plus court costs.

(3) If the violation is for any offense for which a court appearance is mandatory, the amount of one hundred dollars plus ~~eight dollars~~ court costs.

Sec. 42. Section 805.9, Code 1985, is amended to read as follows:

805.9 ADMISSION OF SCHEDULED VIOLATIONS.

1. In cases of scheduled violations, the defendant, before the time specified in the citation and complaint for appearance before the court, may sign the admission of violation on the citation and complaint and deliver or mail a copy of the citation and complaint, together with the minimum fine for the violation, plus ~~eight dollars~~ court costs, to a scheduled violations office in the county. The office shall, if the offense is a moving violation under chapter 321, forward a copy of the citation and complaint and admission to the department of transportation as required by section 321.207. In this case the defendant is not required to appear before the court. The admission constitutes a conviction.

2. A defendant charged with a scheduled violation by information may obtain two copies of the information from the court and, before the time the defendant is required to appear before the court, deliver or mail the copies, together with the defendant's admission, fine, and ~~eight dollars~~ court costs, to the scheduled violations office in the county. The procedure, fine, and costs are the same as when the charge is by citation and complaint, with the admission and the number of the defendant's operator's or chauffeur's license placed upon the information, when the violation involves the use of a motor vehicle.

3. When section 805.8 and this section are applicable but the officer does not deem it advisable to release the defendant and no court in the county is in session:

a. If the defendant wishes to admit the violation, the officer may release the defendant upon observing the person mail the citation and complaint, admission, and minimum fine, together with ~~eight dollars~~ court costs, to a traffic violations office in the county, in an envelope furnished by the officer. The admission constitutes a conviction and judgment in the amount of the scheduled fine plus ~~eight dollars~~ court costs. The officer may allow the defendant to use a credit card pursuant to rules adopted under section 805.14 by the department of public safety or to mail a check in the proper amount in lieu of cash. If the check is not paid by the drawee for any reason, the defendant may be held in contempt of court. The officer shall advise the defendant of the penalty for nonpayment of the check.

b. If the defendant does not comply with paragraph "a" ~~of this subsection~~, the officer may release the defendant upon observing the defendant mail to a court in the county the citation and complaint and one and one-half times the minimum fine together with ~~eight dollars~~ court costs, or in lieu of one and one-half times the fine and the court costs, a guaranteed arrest bond certificate as provided in section 321.1, subsection 70, as bail together with the following statement signed by the defendant:

"I agree that either (1) I will appear pursuant to this citation or (2) if I do not appear in person or by counsel to defend against the offense charged in this citation the court is authorized to enter a conviction and render judgment against me for the amount of one and one-half times the scheduled fine plus eight dollars court costs."

c. If the defendant does not comply with paragraph "a" or "b", or when section 804.7 is applicable, the officer may arrest and confine the defendant if authorized by the latter section, and proceed according to chapter 804.

4. A defendant who admits a scheduled violation may appear before court. The procedure, costs, and fine, without suspension of the fine, after the hearing are the same as in the traffic violations office.

5. A defendant charged with a scheduled violation who does not fully comply with subsection 1, 2, 3, or 4 of this section before the time required to appear before the court must, at that time, appear before the court. If the defendant admits the violation, the procedure, costs, and fine, without suspension of the fine, after the hearing are the same before the court as before the traffic violations office with eight dollars court costs, and are without prejudice, when applicable, to proceedings under section 321.487.

6. The eight dollars in court costs imposed by this section are the total costs collectible from a defendant upon either an admission of a violation without hearing, or upon a hearing pursuant to subsection 4. Fees shall not be imposed upon or collected from a defendant for the purposes specified in section 602.8105, subsection 1, paragraph "i", "j", or "t".

Sec. 43. Section 815.13, Code 1985, is amended to read as follows:

815.13 PAYMENT OF PROSECUTION COSTS.

The county or city which has the duty to prosecute a criminal action shall pay the costs of depositions taken on behalf of the prosecution, the costs of transcripts requested by the prosecution, and in criminal actions prosecuted by the county or city under county or city ordinance the fees that are payable to the clerk of the district court for services rendered, and the court costs taxed in connection with the trial of the action or appeals from the judgment. The county or city shall pay witness fees and mileage in trials of criminal actions prosecuted by the county or city under county or city ordinance. These fees and costs are recoverable by the county or city from the defendant unless the defendant is found not guilty or the action is dismissed, in which case the state shall pay the witness fees and mileage in cases prosecuted under state law.

Sec. 44. Section 907.4, Code 1985, is amended to read as follows:

907.4 DEFERRED JUDGMENT DOCKET.

Any deferment of judgment under section 907.3 shall be reported promptly by the clerk of the district court to the supreme court administrator who shall maintain a permanent record ~~thereof~~ of the deferment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferment. Before granting deferment in any case, the court shall request of the supreme court administrator a search of the deferred judgment docket and shall consider any prior record of a deferment of judgment against the defendant. The permanent record provided for in this section ~~shall constitute~~ is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, and judicial magistrates, and county attorneys requesting information pursuant to this section or the designee of ~~such~~ a justice, judge, magistrate, or county attorney.

Sec. 45. NEW SECTION. 909.7 ABILITY TO PAY FINE PRESUMED.

A defendant is presumed to be able to pay a fine. However, if the defendant proves to the satisfaction of the court that the defendant cannot pay the fine, the defendant shall not be sentenced to confinement for the failure to pay the fine.

Sec. 46. REPEALS.

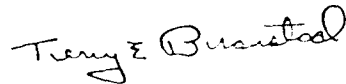
1. Sections 247.29 through 247.31, Code 1985, are repealed.

Sec. 47. JUDICIAL RETIREMENT ACTUARIAL VALUATION. The court administrator shall cause an actuarial valuation to be made of the assets and liabilities of the judicial retirement fund for the fiscal year beginning July 1, 1984 and for subsequent fiscal years. Following the actuarial valuation, the court administrator shall determine the condition of the system and shall report the system's condition and the court administrator's recommendations regarding the system to the general assembly by January 15, 1986. The cost of the actuarial valuation shall be paid from the judicial retirement fund.

Sec. 48. The third new unnumbered paragraph of section 30 of this Act applies retroactively to July 1, 1983.

Sec. 49. Sections 8, 9, and 19 of this Act take effect on July 1, 1986. The state court administrator shall prescribe rules to coordinate and consolidate the offset procedures required to forward necessary offset information to the department of revenue.

Approved May 24, 1985, except the item which I hereby disapprove and which is designated as section 27 which is bracketed in ink and initialed by me. This is delineated with my reasons for vetoing in the item veto message pertaining to this Act to the Secretary of State this same date, a copy of which is attached hereto.



TERRY E. BRANSTAD
Governor

The Honorable Mary Jane Odell
Secretary of State
State Capitol Building
L O C A L

Dear Madam Secretary:

I hereby transmit Senate File 570, an act making corrections and other changes relating to court reorganization, court fees, court-imposed fines and costs and the suspension of motor vehicle licenses and the setoff of income tax refunds and rebates, administrative closures under chapter 601A, the ability to pay a criminal fine, the judicial retirement system, and other court procedures and making certain procedures retroactive.

Senate File 570 is approved May 24, 1985, with the exception of Section 27, which I hereby disapprove.

Senate File 570 makes a number of changes in our court system, including adjusting court fees and modifying the judicial retirement system. Specifically, this bill provides for an increase in certain court fees and fines and applies a portion of those additional revenues to the judicial retirement system.

At the present time, the judicial retirement system has an unfunded liability of over \$700,000. The additional revenues derived from the fee adjustments in Senate File 570 will eliminate that liability and will make the retirement system actuarially sound. I am pleased that the General Assembly has acted to make that fund secure.

However, Senate File 570 also requires certain judges to pay a larger percentage of their salaries to the judicial retirement system. Those judges with less than seven years of experience must pay an additional three percent of their salaries into the fund; those with seven to twelve years are required to contribute two percent more; and judges with thirteen to eighteen years of experience must contribute an additional one percent of their salaries. While there may be a need in the future to increase the pension contribution rate, the increase required in Senate File 570 is unfair, unwise and untimely.

Separate legislation passed by the General Assembly froze all judicial salaries for the next fiscal year. This salary freeze, in combination with the required increase in judicial contributions to the retirement fund, will effectively cut the take-home pay of many of our judges. This is an appropriate time to limit pay increases for those on the state payroll; I recommended a salary freeze for legislators and the Governor for the next two years. But it is unfair to single out judges for a cut in pay.

This reduction would hit hardest those judges who are new to the bench. As a result, it could adversely affect our ability to attract top flight attorneys to judicial positions. I am concerned that justice would be the ultimate loser if Section 27 of Senate File 570 were to become law.

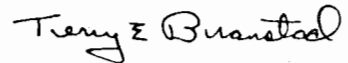
Finally, an actuarial study of the judge's pension system will be conducted this summer. The General Assembly should wait for the results of that study before making major changes in

the retirement system. Moreover, no additional pension contributions from judges are needed at this time to make the system actuarially sound.

In short, Section 27 of Senate File 570 unfairly singles out judges for a cut in pay. Such a reduction could harm the quality of justice in Iowa and is not needed to ensure the actuarial soundness of the judicial retirement system.

For the above reasons, I respectfully disapprove of this section in accordance with Amendment IV of the Amendments of 1968 to the Constitution of the State of Iowa. All other items of Senate File 570 are hereby approved as of this date.

Very truly yours,



Terry E. Branstad
Governor