

**CHAPTER 99****COUNTY AND MUNICIPAL INFRACTIONS***H.F. 318*

**AN ACT** relating to the use of county and municipal infractions.

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

Section 1. Section 331.307, subsection 3, Code 1987, is amended to read as follows:

3. A county shall not provide that a violation of an ordinance is a county infraction if the violation is a felony, an aggravated misdemeanor, or a serious misdemeanor by under state law or if the violation is a simple misdemeanor under chapters 687 through 747.

Sec. 2. Section 331.307, subsection 4, paragraph a, Code 1987, is amended to read as follows:

a. The name and address of the ~~violator~~ defendant.

Sec. 3. Section 331.307, subsections 5, 7, and 9 through 11, Code 1987, are amended to read as follows:

5. In proceedings before the court for a county infraction:

a. The county has the burden of proof that the county infraction occurred and that the ~~violator~~ defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.

b. The court shall ensure that the ~~violator~~ defendant has received a copy of the charges and that the ~~violator~~ defendant understands the charges. The ~~violator~~ defendant may question all witnesses who appear for the county and produce evidence or witnesses on the ~~violator's~~ defendant's behalf.

c. The ~~violator~~ defendant may be represented by counsel of the ~~violator's~~ defendant's own selection and at the ~~violator's~~ defendant's own expense.

d. The ~~violator~~ may enter a plea ~~defendant~~ may answer by admitting or denying the infraction.

e. The verdict of If a county infraction is proven, the court for a county infraction shall be "guilty" of the county infraction or "not guilty" of the county infraction enter judgment against the defendant. If the infraction is not proven, the court shall dismiss it.

7. A person found guilty of a county infraction is liable for the against whom judgment is entered, shall pay court costs and fees as in small claims under chapter 631. If a person is found not guilty of a county infraction or the action is dismissed, the county is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the county.

9. When a violator has been found guilty of a county infraction judgment has been entered against a defendant, the court may impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a violator defendant willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.

10. A violator who has been found guilty of a county infraction defendant who has a judgment entered against him or her may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure.

11. This section does not preclude a peace officer of a county from issuing a criminal citation for a violation of a county code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted by the ~~violator~~ defendant to exist, constitutes a separate offense.

Sec. 4. Section 364.22, subsection 3, Code 1987, is amended to read as follows:

3. A city shall not provide that a violation of an ordinance is a municipal infraction if the violation is a felony, an aggravated misdemeanor, or a serious misdemeanor ~~by under state law or if the violation is a simple misdemeanor under chapters 687 through 747.~~

Sec. 5. Section 364.22, subsection 4, paragraph a, Code 1987, is amended to read as follows:  
a. The name and address of the ~~violate~~ defendant.

Sec. 6. Section 364.22, subsections 5, 7, and 9 through 11, Code 1987, are amended to read as follows:

5. In proceedings before the court for a municipal infraction:

a. The city has the burden of proof that the municipal infraction occurred and that the ~~violate~~ defendant committed the infraction. The proof shall be by clear, satisfactory, and convincing evidence.

b. The court shall ensure that the ~~violate~~ defendant has received a copy of the charges and that the ~~violate~~ defendant understands the charges. The ~~violate~~ defendant may question all witnesses who appear for the city and produce evidence or witnesses on the ~~violate~~ defendant's behalf.

c. The ~~violate~~ defendant may be represented by counsel of the ~~violate~~ defendant's own selection and at the ~~violate~~ defendant's own expense.

d. The ~~violate~~ defendant may enter a plea defendant may answer by admitting or denying the infraction.

e. ~~The verdict of If a municipal infraction is proven the court for a municipal infraction shall be "guilty" of the municipal infraction or "not guilty" of the municipal infraction enter a judgment against the defendant. If the infraction is not proven, the court shall dismiss it.~~

7. A person found guilty of a municipal infraction is liable for the against whom judgment is entered, shall pay court costs and fees as in small claims under chapter 631. If a person is found not guilty of a municipal infraction or the action is dismissed, the city is liable for the court costs and court fees. Where the action is disposed of without payment, or provision for assessment, of court costs, the clerk shall at once enter judgment for costs against the city.

9. When a ~~violate~~ defendant has been found guilty of a municipal infraction judgment has been entered against a defendant, the court may impose a civil penalty or may grant appropriate relief to abate or halt the violation, or both, and the court may direct that payment of the civil penalty be suspended or deferred under conditions established by the court. If a ~~violate~~ defendant willfully fails to pay the civil penalty or violates the terms of any other order imposed by the court, the failure is contempt.

10. A ~~violate~~ defendant who has been found guilty of a municipal infraction defendant who has a judgment entered against him or her may file a motion for a new trial or a motion for a reversal of a judgment as provided by law or rule of civil procedure.

11. This section does not preclude a peace officer of a city from issuing a criminal citation for a violation of a city code or regulation if criminal penalties are also provided for the violation. Each day that a violation occurs or is permitted to exist by the ~~violate~~ defendant, constitutes a separate offense.

Sec. 7. Section 602.6405, subsection 1, Code 1987, is amended to read as follows:

1. Magistrates have jurisdiction of simple misdemeanors, including traffic and ordinance violations, and preliminary hearings, search warrant proceedings, county and municipal infractions, and small claims. They also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12, and to hear complaints or preliminary informations, issue warrants, order arrests, make commitments, and take bail. They also have jurisdiction over violations of section 123.47 and section 123.49, subsection 2, paragraph "h".

Approved May 4, 1987