

A BILL

FOR AN ACT TO PROVIDE FOR HOLDING PERSONS CHARGED WITH CRIME TO ANSWER WITHOUT THE INTERVENTION OF A GRAND JURY.

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

SECTION 1. Grand juries shall not hereafter be drawn, summoned or required to attend
2 at the sittings of any court within this State as provided by law, unless the judge of such
3 court, having jurisdiction to try offenses triable on indictment, shall so direct by writing
4 under his hand and filed with the clerk.

SEC. 2. The several courts of this State having jurisdiction to try and determine cases
2 triable upon indictment, shall possess and may exercise the same power to hear, try and de-
3 termine prosecutions upon information for crimes and misdemeanors, to issue writs and
4 process, and do all other acts therein as they possess or may exercise in cases of like prose-
5 cution upon indictment.

SEC. 3. All information shall be filed during term in the court having jurisdiction of the
2 offenses specified therein by the county attorney of the proper county as informant; he shall
3 subscribe his name thereto and endorse thereon the names of the witnesses known to him
4 at the time of filing the same, and at such time before the trial as court may by rule or oth-
5 erwise prescribe, he shall also endorse thereon the names of such other witnesses as shall
6 then be known to him, and except in rebuttal no witness shall be introduced or used by the
7 State whose name has not been so indorsed on the information.

SEC. 4. If the accused named in the infomation, has had a hearing on preliminary exam-
2 ination, or has waived the same, he shall not be entitled to any written notice of what the
3 State expects to prove by any of the witnesses whose names are endorsed on the informa-
4 tion—except as to such new witnesses as may be added to the list after the information is
5 filed, and in such case the county attorney shall serve the defendant or his attorney of
6 record with a written notice setting forth briefly but clearly the specific facts to which he
7 expects such witness or witnesses will testify.

SEC. 5. Every information shall be verified by the oath or affirmation of the county at-
2 torney, or some other person, and the offense charged therein shall be stated in plain concise
3 language, without prolixity or unnecessary repetition, but with the same clearness and cer-
4 tainty in matters of substance as are required in indictments in like cases. Different offenses
5 and different degrees of the same offense may be joined in one information where the same
6 might be joined by different counts in one indictment.

SEC. 6. All the provisions of law applying to prosecutions upon indictment, to writs and
2 process therein and the issuance and service of such writs and process, to motions, plead-
3 ings, trials, judgments, sentences and punishments, and to all other proceedings in cases of
4 indictment, whether in the court of original or appellate jurisdiction shall, to the same ex-
5 tent and in the same manner as near as may be, apply to informations and proceedings
6 therein.

SEC. 7. Any person who may, according to law, be committed to jail, or become recognize
2 or held to bail for his appearance in court to answer to an indictment, may in like mann
3 be so committed to jail or become recognized, or held to bail for his appearance to answer to
4 any information or indictment as the case may be.

SEC. 8. It shall be the duty of the county attorney to inquire into and make full examina-
2 tion of all facts and circumstances connected with every case of preliminary examination
3 as provided by law touching the commission of any offense wherein the accused person shall
4 have been committed to jail or become recognized or held to bail, and to file an information
5 setting forth the crime committed according to the facts ascertained in said examination
6 and from the minutes of the testimony taken therein, whether it be the offense charged in
7 the preliminary examination or not, but if the county attorney is satisfied in any such case
8 that an information ought not to be filed or would be unavailing, he shall make, subscribe
9 and file with the clerk of the court a statement in writing, stating his reasons in fact and in
10 law for not filing an information in such case; such statement shall be made and filed at
11 the term at which the accused shall be held for appearance and the court shall examine such
12 statement with the evidence in the case and if upon such examination the court is not sat-
13 isfied with said statement, the county attorney may be directed by the court to file the proper
14 information and bring the case to trial.

SEC. 9. It shall be the duty of every examining magistrate or officer to take full and fair
2 minutes of the evidence produced before him upon every preliminary examination, and
3 within five days after the conclusion of such examination, whether the defendant be held to
4 answer or not, shall file such minutes with a transcript of his docket duly certified in the
5 office of the clerk of the district court of his county. The action of the examining magis-
6 trate in discharging an accused person shall not be binding upon the county attorney, but
7 it shall be his duty to examine into the facts and circumstances of the case and if there-
8 from he is satisfied an information ought to be filed it shall be his duty to file the same and
9 bring the accused to trial.

SEC. 10. No information as contemplated in this act shall be filed against any person for
2 any offense until such person shall have had a preliminary examination as provided by law
3 before an examining magistrate or officer, unless such person shall waive his right to such
4 examination; *provided* that informations may be filed against fugitives from justice within

5 the meaning of the constitution and laws of the United States without preliminary exam-
6 ination, but the omission of such preliminary examination shall in no case invalidate an
7 information unless the defendant take advantage thereof by plea of abatement before
8 pleading to the merits.

SEC. 11. The information shall be held sufficient if it can be determined therefrom;

2 *First.* That it is presented by the person authorized by law to prosecute the offense.

3 *Second.* That the defendant is named therein, or described as a person whose name
4 is unknown to the informant.

5 *Third.* That the offense was committed in the jurisdiction of the court or is triable
6 therein.

7 *Fourth.* That the offense charged is set forth with such degree of certainty that the
8 court may pronounce judgment upon conviction according to the right of the case; and
9 no information shall be held invalid by reason of any defect or imperfection in matters
10 of form, which shall not tend to the prejudice of the defendant.

SEC. 12. In an indictment or information for murder or manslaughter, it shall not be
2 necessary to set forth the manner in which or the means by which the death of the deceased
3 was caused, but it shall be sufficient in any indictment or information for murder to charge
4 that the accused did wilfully, feloniously, and of his malice aforethought, kill and murder
5 the deceased; and in any indictment or information for manslaughter it shall be sufficient
6 to charge that the accused did feloniously kill and slay the deceased.

SEC. 13. An indictment or information for larceny may contain also a count for burglary
2 committed at the time or in connection with the larceny charged as aforesaid; and an in-
3 dictment or information for forgery of any paper or instrument, or for counterfeiting any
4 coin or bank note, may contain also a count for uttering or passing the paper or instrument
5 so forged, or for uttering or passing the coin or bank note so counterfeited, as the case
6 may be.

SEC. 14. An indictment or information for larceny may contain also a count for obtain-
2 ing the same property by false tokens or pretenses or a count for the embezzlement thereof,
3 or for receiving and concealing the same property knowing it to have been stolen; and in
4 any case where the indictment or information charges more than one offense as herein au-
5 thorized the jury may convict of either offense.

SEC. 15. It shall be the duty of every court to which an indictment or information may
2 be returned, immediately upon the presentation and filing of such indictment or informa-
3 tion to record the same in full and at length with all the endorsements thereon in a book
5 to be kept for that purpose—which book and the entries therein shall be a part of the
6 records of the court—and such record or certified copies therefrom may be used in evidence
7 and proceedings had thereon in like manner and with same effect as the originals. The

8 loss or destruction of the original indictment or information so recorded shall work no de-
9 lay in the trial of any case, but the court shall order the trial to proceed upon the record
10 made as aforesaid or upon a copy made therefrom.

SEC. 16. The information provided for by this act may be in the following or any equiva-
2 lent form:

3	State of Iowa,	}	In.....Court,
4 County.	 Term, 18 ...
5	The State of Iowa,	}	Information.
6	vs.		
7	(Name of the accused.)		

8 I,, county attorney for the county aforesaid, hereby inform the
9 court that on day of, in the year, at said county of
10, A. B. (name or alias of the accused) did (here state the particular of-
11 fense or offenses charged), contrary to the statute in such case provided.

12, County Attorney.

13 (Verification.)

SEC. 17. All acts and parts of acts inconsistent with the provisions of this act are hereby
2 repealed.