

Reported Recommending
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Passed Senate
Failed to Pass Senate
Passed House
Failed to Pass House

Senate File 276

February 18, 1947.
Passed on File.

By BARKLEY.

A BILL FOR

An Act to provide for county courts for certain counties and the adoption thereof by general state or county election or by special election; providing for jurisdiction thereof, mode and manner of procedure therein; providing for the election of the judges of such county courts and defining their powers and duties; providing for the abolition of the office of justice of the peace, constable and police judge; providing for the manner of preparing and who shall constitute the jury list, manner of drawing jury panels and jurors; also defining certain duties of other officials and providing penalties for the violation thereof.

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

1 Section 1. Any county in the state not containing over
2 thirty thousand inhabitants, may establish a county court as
3 hereinafter provided, which when established shall take the
4 place of the justice of the peace court in said county.

1 Sec. 2. Upon petition of one hundred citizens who shall
2 be qualified electors of such county at any time not less than
3 sixty days before any general election, with the governor of
4 the state, the governor shall issue a proclamation submitting
5 to the qualified voters the proposition of establishing said
6 court. Should a majority of the voters in said county vote in
7 favor of said proposition the same shall be deemed established.

1 Sec. 3. Whenever such court has been established, the
2 governor shall appoint a judge and a clerk of court who shall
3 hold office until the next general election or until their
4 successors are elected and qualified. After the first appoint-
5 ment, nominations for judge and clerk shall be at the general
6 primary to be voted upon and submitted to the voters, as in
7 other nominations, for a term of four years.

1 Sec. 4. Said judge shall be a qualified elector of the
2 county and a practicing attorney at law, and shall subscribe
3 in writing the same oath required of judges of the district
4 court.

1 Sec. 5. The clerk shall give bond to the state in the
2 sum of two thousand dollars for the faithful discharge of his
3 duties.

1 Sec. 6. In case of vacancy in said office the governor
2 shall appoint a judge who shall hold office until the next
3 general election, and in the case of inability of the judge to act
4 through sickness or any other cause, a judge shall be appointed
5 by the governor to hold office during such inability.

1 Sec. 7. There shall be held not less than eight nor more
2 than eleven terms of court in each year, the times being
3 arranged by the judge in such manner as shall least conflict
4 with the terms of the district court of said county, to be
5 fixed by general order made of record, at least ten days before
6 the first term in each year, but as a police court, it shall
7 always be open for the dispatch of business.

1 Sec. 8. Said court shall have jurisdiction concurrent with
2 the district court in all civil matters except in probate matters
3 and actions for divorce, alimony, and separate maintenance.

1 Sec. 9. For the trial of criminal actions on information
2 and complaint, the court shall be open at such times and under
3 such rules as it shall prescribe for action heretofore tried in
4 justice of the peace court.

1 Sec. 10. In actions by attachment, where real property is
2 levied on by writ of attachment, the officer levying the writ
3 shall make entry thereof in the encumbrance book in the office
4 of the clerk of the district court, in like manner and with like
5 effect as levies made in the district court.

1 Sec. 11. Parties may be committed for confinement to the
2 county jail.

1 Sec. 12. Change of venue may be taken from said court in
2 all civil actions to the district court of the same or another
3 county, in the same manner, for like causes and with the same
4 effect as the venue is changed from the district court.

1 Sec. 13. In all civil cases where any party defendant
2 shall, before any pleading is filed by him, file in said cause
3 a motion for a change of venue to the district court of the
4 county, supported by affidavit showing that such party defendant
5 was not a resident of the county where such court is held, at the
6 time of the commencement of the action, the cause, upon such
7 motion, shall be transferred to the district court of the county,
8 except that the court will have jurisdiction over former residents

9 of the county upon fifteen (15) days notice, who contracted a debt
10 within the county and removed therefrom to some other county in the
11 state without paying the same.

1 Sec. 14. All criminal actions, including those for the
2 violation of the city ordinances, shall be tried summarily and
3 without a jury, saving to the defendant the right of appeal to the
4 district court, which appeal shall be taken in the same time
5 and manner as appeals are taken from justice courts in criminal
6 actions.

1 Sec. 15. In case of vacancy in said office for sixty (60)
2 days or more, a district judge of the county may, on application
3 of any party to any proceeding pending in the county court, enter
4 an order directed to the clerk of that court, or his deputy, or
5 the acting clerk, directing such clerk to forthwith transmit to
6 said district court the files and exhibits in said cause, together
7 with a certified copy of the record in said cause, and thereupon
8 said cause shall be disposed of in the district court as though
9 originally brought therein.

1 Sec. 16. The judge shall have the same power in regard to
2 injunctions, writs, orders and other proceedings, out of court,
3 as are possessed by the judges of the district court.

1 Sec. 17. The county court shall be a court of record. All
2 statutes governing the district court as to venue, commencement
3 of action, jurisdiction, process, pleadings, practice, modes of
4 trial, judgment, execution, and costs shall apply to and govern
5 the county courts, except when the same may be inconsistent with

6 the provisions of this chapter.

1 Sec. 18. Each such court shall have its own seal, with the
2 words "County Court" and the name of the county and state thereon.

1 Sec. 19. The sheriff and his deputies shall act in the same
2 capacity as in the district court. The sheriff shall receive for
3 his services the same pro rata fees as in the district court.

1 Sec. 20. The costs and fees of said courts in civil actions
2 shall be the same as in the district court, except as herein
3 otherwise provided.

1 Sec. 21. The clerk of the county court shall account for
2 the pay over to the county of all fees that may be paid into the
3 said court. Of all other fines he shall render the same account
4 as is provided for justices of the peace.

1 Sec. 22. The fees in criminal actions shall be the same as
2 in justices' courts, and shall be paid and accounted for as
3 hereinbefore stated, and as otherwise provided by law for justices
4 of the peace and their courts.

1 Sec. 23. When causes are assigned for trial, any party
2 desiring a jury shall then make his demand therefore, or the same
3 shall be deemed to have been waived. Causes in which a jury has
4 been demanded shall be tried first in their order, and when
5 disposition shall have been made of such causes the jury shall be
6 discharged from further attendance at that term.

1 Sec. 24. In order to provide jurors for the county courts
2 the county auditor, clerk of the district court and recorder of
3 the county in which any county having a county court is located,

4 shall meet at the courthouse on the third Monday of February, each
5 year, and proceed in the manner provided by Chapter 609, to draw
6 the names of the thirty (30) persons to act as jurors in said
7 county court.

1 Sec. 25. The persons whose names are drawn at any drawing
2 under the provisions hereof shall be subject to jury duty and
3 constitute the regular panel of jurors in said county court, for
4 the two (2) calendar months commencing with the first day of the
5 month next succeeding the drawing.

1 Sec. 26. A list of the names of the persons drawn at each
2 drawing provided by this chapter shall be immediately made out and
3 certified by the clerk of such certified list transmitted by mail
4 to the recorder or clerk of the county in which said county court
5 is located.

1 Sec. 27. A precept of said county court shall issue five
2 (5) days before the first day of each term of court for the jurors
3 constituting the panel for such term under the provisions hereof,
4 which precept shall be issued and served as provided by law in
5 like cases in the district court.

1 Sec. 28. The provisions of Chapter 609 in relation to the
2 selection and drawing of petit jurors and talesmen for the district
3 courts shall also apply to the selection and drawing of petit
4 jurors and talesmen for the county courts in such counties.

1 Sec. 29. The jury shall consist of six (6) qualified jurors
2 unless, when a jury is demanded as provided in this chapter, the
3 party at that time shall demand a jury of twelve (12).

1 Sec. 30. In all civil cases the party requesting a jury of
2 twelve (12) shall at the time of making such demand deposit with
3 the clerk the entire additional expense of the additional jurors,
4 which sum shall be fixed by the court and paid to the clerk at the
5 time of making such demand.

1 Sec. 31. Talesmen may be summoned on the order of the court
2 by the sheriff from the body of the county.

1 Sec. 32. All such deposits of additional expense for jurors
2 shall be paid into the county treasury at the close of each term
3 of such county court and the county treasurer shall give duplicate
4 receipts therefor, one presented by him to the county auditor, who
5 shall charge the treasurer with the amount thereof in the proper
6 account.

1 Sec. 33. In all civil cases, where the jury shall consist of
2 six (6) jurors, the challenges allowed to either party shall be
3 limited to three (3) each but where the jury shall consist of
4 twelve (12) jurors, the same number of challenges shall be allowed
5 to either party as is or may be allowed in the district court.

1 Sec. 34. All appeals from judgments of orders of said court
2 or the judge thereof, in civil actions shall be taken to the supreme
3 court in the same manner, under the same restrictions, within the
4 same time and with the same effect as appeals are taken from the
5 district court to the supreme court.

1 Sec. 35. Judgments in said court may be made liens upon real
2 estate in the county in which the court is situated by filing
3 transcripts of the same in the district court as provided in this

4 code in relation to judgments of justices of the peace and with
5 equal effect and from the time of such filing they shall be treated
6 in all respects as to their effect and mode of enforcement as
7 judgments rendered in the district court as of that date and no
8 execution can thereafter be issued from the said county court on
9 such judgments and no real property shall be levied on or sold on
10 process issued out of the county court. Judgments of said court
11 may be made liens upon real estate in other counties in the same
12 manner as judgments in the district courts.

1 Sec. 36. The judge of each county court may appoint a
2 shorthand reporter. All provisions relating to shorthand reporters
3 and their duties in the district court, insofar as applicable in
4 every respect shall govern, except the compensation shall not exceed
5 eight dollars (\$8.00) a day for the time actually employed.

1 Sec. 37. The salary of each county court judge shall be
2 thirty-five hundred dollars (\$3500.00) per annum, payable quarterly.

1 Sec. 38. The salary of the clerk shall be twenty-four hundred
2 dollars (\$2400.00) per annum, payable quarterly.