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CITIZEN'S GUIDE TO IOWA'S COURTS







Supreme Court

STATE CAPITOL
DES MOINES, IOWA 50319

ARTHUR A. MCGIVERIN
CHIEF JUSTICE

To the People of the State of Iowa:

The purpose of this pamphlet is to increase public understanding and awareness of the Iowa court system. The booklet describes the organization and operation of Iowa's third branch -- the Judicial Department. It also highlights several aspects of the Iowa justice system including civil and criminal procedures, jury utilization, and the business of the courts.

Iowans can be very proud of their court system. Iowa's progressive justice system -- merit selection, unified trial court, mandatory judicial education, court reorganization, and state funding -- is a model of judicial reform and innovation, the envy of many states. I hope the **Citizen's Guide to Iowa's Courts** will provide information which will be helpful to the citizens of Iowa in understanding the role and function of the courts in our democratic form of government.

In closing, I want to thank the Supreme Court's Sesquicentennial Committee, chaired by former Chief Justice W. Ward Reynoldson, for directing the preparation of the initial publication of this booklet in commemoration of the 150th anniversary of the Iowa court system in 1988. I am also grateful to the Lawyer Trust Account Commission for funding the initial project and this revision completed in time for the State of Iowa's Sesquicentennial, 1846-1996.

Respectfully,

A handwritten signature in cursive script that reads "Arthur A. McGiverin".

Arthur A. McGiverin
Chief Justice

The Citizen's Guide to Iowa's Courts was written by Robert Dow and Db Productions, Ltd., Des Moines, Iowa. For further information write or call the Supreme Court of Iowa, State Capitol Building, Des Moines, Iowa 50319, (515)281-5174.

The original publication was funded by a grant from the Lawyer Trust Account Commission. In honor of the Iowa Judicial System's 150 year anniversary, the SESQUICENTENNIAL COMMITTEE has compiled this overview of IOWA'S COURTS. Special recognition is extended to the following committee members:

Retired Senior Judge W. Ward Reynoldson, Chief Justice (1978-1987), Chairperson
James Albert, Drake Law School
Patrick Bauer, Iowa Law School
Ann Beneke, Law Clerk, U.S. District Court
Don W. Burington, Attorney/Mason City
Deborah J. Cook, Attorney/Sioux City
Carrol E. Engelkes, Judge (retired)
Craig Gaare, Iowa State Bar Association
Leala F. Slater Mann, Attorney/Des Moines
Mark F. Schlenker, Attorney/Indianola
Sharon Soorholtz Greer, Attorney/Marshalltown
Jerry Beatty, Judicial Department

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The revised edition was prepared by Jerry Beatty, executive director of judicial education and planning, State Court Administrator's Office, and Jane Elben, who typed and formatted the manuscript for publication.

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INTRODUCTION

In an orderly society, government designates a final authority to settle disputes. Here in Iowa, that authority lies with the Supreme Court.

The Iowa Supreme Court **DECIDES** what the law is, **DEFINES** what the law means, and **APPLIES** the law to cases it reviews.

This publication is an overview of the Iowa Judicial System. Iowa's courts have a proud tradition of both justice for all, and individual rights. Thousands of people across Iowa work each day to make that system of fairness continue.

This publication is dedicated to those, present and past, who have by their hard work and foresight, made justice in Iowa a way of life.

This publication is offered to the people of Iowa, who have, by their dedication to the principles of fairness and swift justice, demanded a court system of unequalled integrity.



Robert Lucas

William Conway

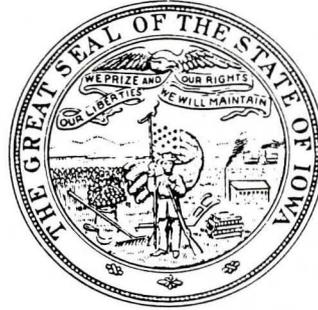
Charles Mason

Thomas Wilson

Joseph Williams



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 THE STATE HISTORICAL SOCIETY OF IOWA
 THE GEOLOGICAL SURVEY OF IOWA
 THE COLLECTOR OF THE NATIONAL GEOGRAPHIC SOCIETY



On June 12, 1838, Congress approved an act which created the TERRITORY OF IOWA. President MARTIN VAN BUREN appointed ROBERT LUCAS as GOVERNOR, and WILLIAM CONWAY as SECRETARY.

Van Buren also appointed a SUPREME COURT for the TERRITORY OF IOWA. JOSEPH WILLIAMS and THOMAS WILSON were named as SUPREME COURT JUSTICES and CHARLES MASON was appointed CHIEF JUSTICE.

In July of 1839, the territorial Supreme Court decided its first case. A Missouri man, William Montgomery, had signed a contract with a former slave, a man named *Ralph*. In the contract, Montgomery agreed to permit Ralph to go free. In return for his freedom, Ralph was to pay \$550 to Montgomery.

Ralph moved to the Dubuque area and worked in the lead mines, but after five years had not repaid Montgomery. Two bounty hunters learned of Ralph's plight and wrote to Montgomery offering to return Ralph to Missouri for \$100. Montgomery agreed and the bounty hunters took Ralph into custody.

Word of the abduction soon reached Justice Thomas Wilson, who ordered this be stopped. Ralph and the bounty hunters were overtaken in Bellevue, returned to Dubuque, and a trial was held.

The Supreme Court held that Ralph "...be permitted to go free while he remains under the protection of our laws..." which did not recognize slavery. The \$550 written contract was ruled unenforceable, bowing to a greater law which "extends equal protection to men of all colors and conditions."

Five years later, the Supreme Court held that a black woman (who was a passenger on a steamboat) had the same rights as white passengers to eat dinner in the cabin. This decision preceded national equal protection in public accommodations laws by over 90 years.

The decision in an 1868 case stated that "the law makes no distinction as to the right of children...to attend the common schools." More than 85 years passed before the U.S. Supreme Court held that segregated schools were inherently unequal.

In 1869, the Iowa District Court ruled that women may not be denied the right to practice law. Subsequently, Arabella A. Mansfield became the first woman admitted to the practice of law in any state.

These landmark decisions and many others exemplify the Iowa court system's dedication to the principles of **INDIVIDUAL RIGHTS** and **LIBERTIES**.

On December 28, 1846, Iowa became a state. Iowa's second constitution, adopted in 1857, states:

The judicial power shall be vested in a supreme court, district courts, and such other courts, inferior to the supreme court, as the general assembly may, from time to time, establish.

Over the years, there have been a number of changes in the Iowa judicial system. Today, Iowa's court system is efficient, expeditious, and fair. For over 150 years, Iowa's judicial system has adhered to its original purpose and structure, yet adapted to meet the needs of Iowans.



APPELLATE COURTS

Appellate courts handle APPEALS. There are two appellate courts in Iowa's judicial system the *Iowa Supreme Court* and the *Iowa Court of Appeals*.

Members of the appellate courts hear oral arguments in appealed cases one week each month in Des Moines. One judge or justice will then draft a proposed opinion which is circulated to the other judges or justices.

Opinions are then discussed by the court or panel and a vote is taken. If approved, the opinion is then filed a week later. If one or more judges or justices disagree, a dissenting opinion is written.

Over 2,000 cases are appealed to the supreme court each year. The appellate courts dispose of approximately 1,100 cases by formal opinion; other cases are voluntarily withdrawn, dismissed, or denied appeal by order of the court.

IOWA SUPREME COURT

The Iowa Supreme Court is the highest court in Iowa's judicial system. The Supreme Court may review both criminal and civil cases decided at the trial court level. The decisions of the Iowa Court of Appeals may also be reviewed by the Supreme Court.

In addition, the Supreme Court has "ORIGINAL JURISDICTION" in cases such as reapportionment, bar discipline, and issuing temporary injunctions.

The Supreme Court is made up of nine members. Usually, the Supreme Court makes decisions while divided into rotating five-member panels. Occasionally, all nine members of the Supreme Court will hear a case. This is called "en banc."

Members of the Supreme Court are appointed by the Governor. The Governor chooses new court members from a list of three persons, submitted by the State Judicial Nominating Commission.

After being appointed by the Governor, new Supreme Court members are confirmed by Iowa's voters in "retention elections" the following year. Once confirmed, all members serve eight-year terms and then stand for retention at the next general election.

The Supreme Court has many administrative duties. Included in those duties is the supervision of lawyers. Through the BOARD OF LAW EXAMINERS, the Supreme Court administers the IOWA BAR EXAMINATION. Would-be lawyers must pass the "BAR EXAM" in order to be licensed as attorneys.

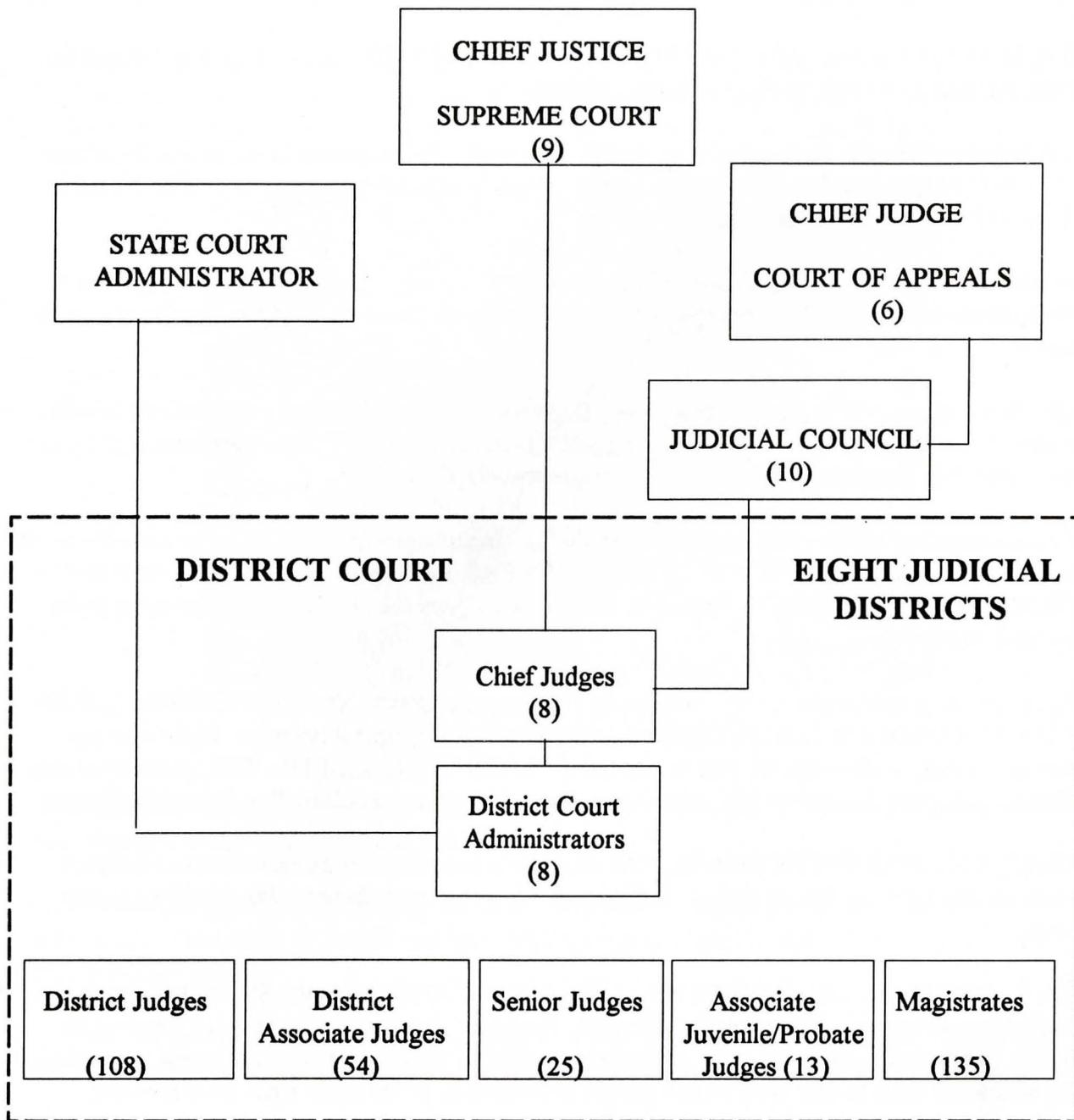
The conduct of Attorneys is also overseen by the Supreme Court. The PROFESSIONAL ETHICS AND CONDUCT COMMITTEE investigates charges against Attorneys. If the charges appear warranted, they are referred to the GRIEVANCE COMMISSION. This commission may recommend to the Supreme Court reprimand, suspension or revocation of an Attorney's license.

The CLIENT SECURITY COMMISSION manages a fund that reimburses clients of lawyers when money has been lost or stolen. Judges and Attorneys contribute to this fund on a yearly basis.

The COMMISSION ON CONTINUING LEGAL EDUCATION aids the Supreme Court in the continuing education of Judges and Attorneys. Each year, lawyers and judges are required to attend 15 hours of legal instruction at "approved" CLE programs. This commitment to continuing education ensures that lawyers and judges keep abreast of the latest legal developments.

IOWA JUDICIAL DEPARTMENT

July 1, 1995



IOWA COURT OF APPEALS

Each year, the Supreme Court assigns hundreds of cases to the Iowa Court of Appeals. Most of the cases deal with well-established law and only the facts of the cases are in dispute.

The Court of Appeals is made up of six judges who serve six-year terms. Members of the Court of Appeals are appointed by the Governor from a list of five nominees submitted by the State Judicial Nominating Commission.

Like the Supreme Court members, judges from the Court of Appeals face "retention elections" the following year and at the end of their terms. In retention elections, voters simply mark "yes" or "no" next to the name of each judge seeking another term.

TRIAL COURTS

The State of Iowa is divided into eight judicial districts. In each district, trials are held. Depending on the seriousness of the charge or the dollar amount involved, the cases are heard by either a DISTRICT JUDGE, a DISTRICT ASSOCIATE JUDGE, or a MAGISTRATE.

In Iowa, the TRIAL COURT is called the DISTRICT COURT. The IOWA DISTRICT COURT is the point of entry for most cases; it also handles appeals of cases tried by Magistrates and Associate Judges.

Every year the Iowa district court handles approximately one million cases: approximately 80,000 indictable criminal cases (serious and aggravated misdemeanors and felonies) 67,000 civil cases, 9,000 juvenile matters (delinquency, child neglect, and abuse), 900 termination of parental rights actions, 7,500 hospitalization hearings, 21,500 probate matters, 72,000 small claims, 290,000 simple misdemeanors and civil infractions, and 450,000 scheduled violations.

DISTRICT JUDGES

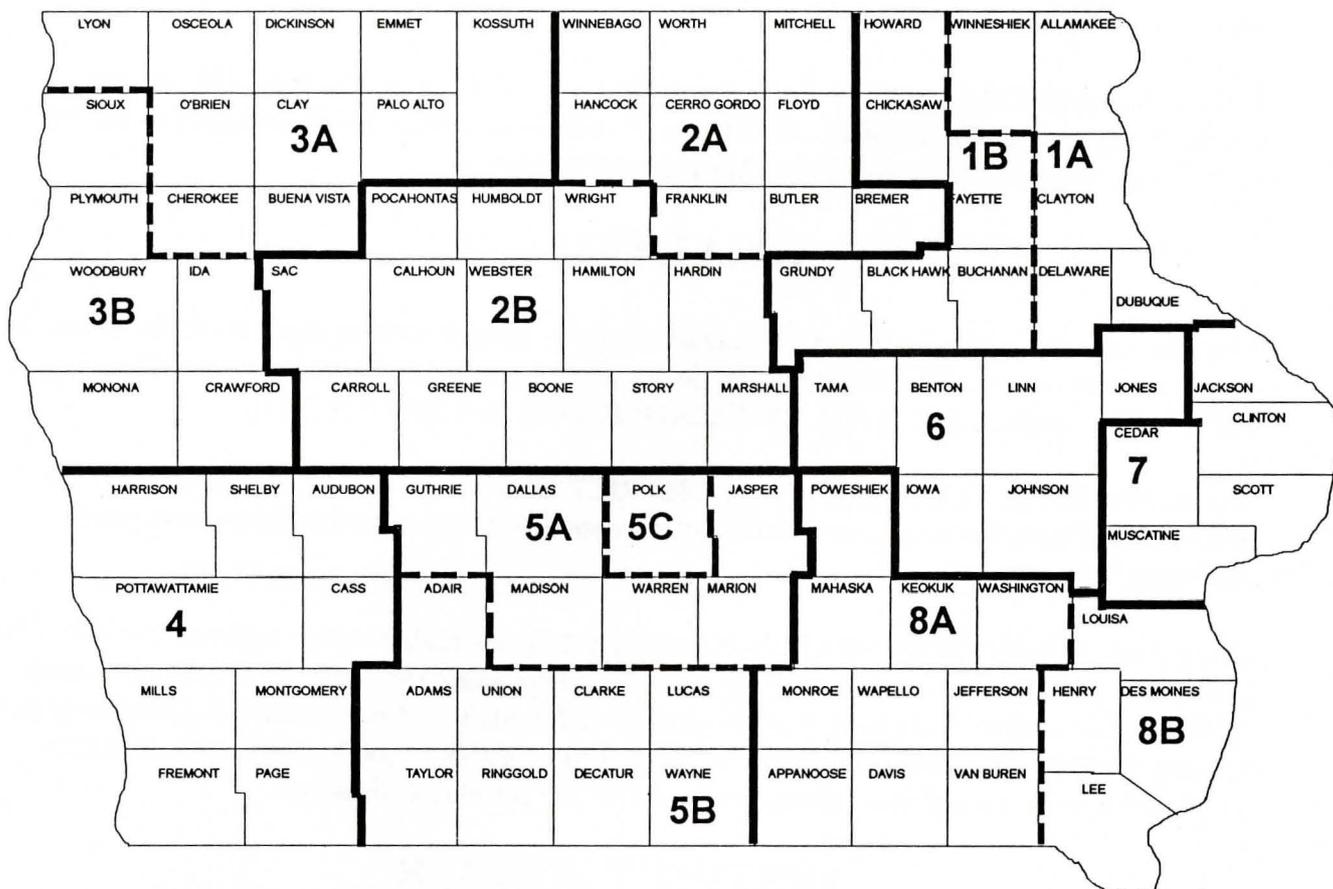
District Judges hear a variety of cases, including criminal matters, multimillion dollar suits, domestic relations, adoptions, estates (probate), cases involving state administrative agencies, and juvenile cases.

District Judges can dissolve a marriage or end a strike. Like the members of the Court of Appeals, District Judges serve six-year terms and face retention elections the year following their appointment, and at the end of each term.

District Judges are appointed by the Governor from a list of two nominees submitted by a District Judicial Nominating Commission.

For the selection and retention of Judges, Iowa's eight JUDICIAL DISTRICTS are subdivided into 14 JUDICIAL ELECTION DISTRICTS. [See map on next page]

IOWA'S 14 JUDICIAL ELECTION DISTRICTS



Iowa Population - 1994

1A	160,340	5A	160,665	
1B	202,301	5B	70,055	
First Judicial District		5C	345,890	
2A	156,159	Fifth Judicial District		576,610
2B	301,306	Sixth Judicial District		353,145
Second Judicial District		Seventh Judicial District		285,939
3A	141,292	8A	163,416	
3B	191,340	8B	113,274	
Third Judicial District		Eighth Judicial District		276,690
Fourth Judicial District		TOTAL		2,829,252
	322,632			
	184,130			

DISTRICT ASSOCIATE JUDGES

District Associate Judges hear serious and aggravated misdemeanor cases and civil suits for judgment of up to \$10,000. District Associate Judges may also hear juvenile cases when they are designated as Juvenile Judges.

District Associate Judges are initially appointed to District Judges. In each county where a vacancy arises a MAGISTRATE APPOINTING COMMISSION submits a list of three nominees. By majority vote, the District Judges within the JUDICIAL ELECTION DISTRICT select the District Associate Judge. Like other judges, District Associate Judges stand for a retention election a year after their appointment and at the end of their four-year-term.

ASSOCIATE JUVENILE JUDGES

Associate Juvenile Judges are appointed, and subject to removal for cause, by the Chief Judge of the judicial district. They must be Iowa attorneys and qualified by training and experience. Full-time judges are not allowed to practice law.

Associate Juvenile Judges issue orders, findings, and decisions in juvenile matters including cases that involve delinquency, children in need of assistance (neglect and abuse), and termination of parental rights.

ASSOCIATE PROBATE JUDGES

Associate Probate Judges are appointed by the Chief Judge of the judicial district. They must be Iowa lawyers and qualified by training and experience.

They have jurisdiction to audit accounts and perform other duties and judicial functions necessary to handle such probate matters as: conservatorships, guardianships, trusts, and estates.

MAGISTRATES

Magistrates hear cases within their county of residence, although that area is sometimes expanded by order of a Chief Judge. Magistrates handle simple misdemeanors, including traffic violations, and civil suits or small claims for money judgments where the amount in controversy is \$4,000 or less, exclusive of interests and costs. Like other judicial officers, Magistrates are authorized to issue search warrants, conduct seized property hearings, and perform marriages.

Magistrates serve four-year terms and are appointed by six-member COUNTY MAGISTRATE APPOINTING COMMISSIONS. These are the same COMMISSIONS that nominate candidates for DISTRICT ASSOCIATE JUDGE.

These Commissions are composed of three members selected by the County Board of Supervisors, two members elected by the resident attorneys of each county, and a District Judge designated by the Chief Judge.

SENIOR JUDGES

Judges appointed after July 1, 1965, must retire at age 72. Retired Supreme Court Justices, Court of Appeals Judges, District Judges, and District Associate Judges may be named as Senior Judges.

Appointed by the Supreme Court, Senior Judges work up to 13 weeks per year until they reach the age of 78. Senior Judges may not practice law.

COMMISSION ON JUDICIAL QUALIFICATIONS

Complaints about the conduct or actions of a JUSTICE, JUDGE, MAGISTRATE, or employee of the Judicial Department can be handled through the Commission on Judicial Qualifications. A complaint to the commission is not a substitute for an appeal of a ruling. The Commission is comprised of seven members. A District Judge and two practicing Attorneys (of different political parties) are appointed by the Chief Justice. Four non-attorneys (no more than two from the same political party) are appointed by the Governor and confirmed by the Iowa Senate. The State Court Administrator serves as Executive Secretary of the Commission.

The Commission's function is to receive, investigate, and evaluate the conduct and actions of Judicial Officers. If warranted, the Commission may recommend to the Supreme Court the retirement, removal or discipline of a Justice, Judge, or Magistrate or the discipline and removal of an employee of the Judicial Department.

CODE OF JUDICIAL CONDUCT

Justices, Judges, and Magistrates are bound ethically to seven basic canons of judicial conduct:

CANON 1

A Judge Should Uphold the Integrity and Independence of the Judiciary.

CANON 2

A Judge Should Avoid Impropriety and the Appearance of Impropriety in All Activities

CANON 3

A Judge Should Perform the Duties of the Office Impartially and Diligently.

CANON 4

A Judge May Engage in Activities to Improve the Law, the Legal System, and the Administration of Justice.

CANON 5

A Judge Should Regulate Extra-Judicial Activities to Minimize the Risk of Conflict with Judicial Duties.

CANON 6

A Judge Should Regularly File Reports of Compensation Received for Quasi-Judicial and Extra-Judicial Activities.

CANON 7

A Judge Should Refrain from Political Activity Inappropriate to the Judicial Office.

Details and explanation of each canon are listed in the Iowa Code of Judicial Conduct. A Judicial Officers' conduct and actions are judged using this Code. If there is a charge or allegation concerning the conduct of a Justice, Judge, or Magistrate, the matter is handled by the COMMISSION ON JUDICIAL QUALIFICATIONS which investigates each accusation.

ATTORNEYS

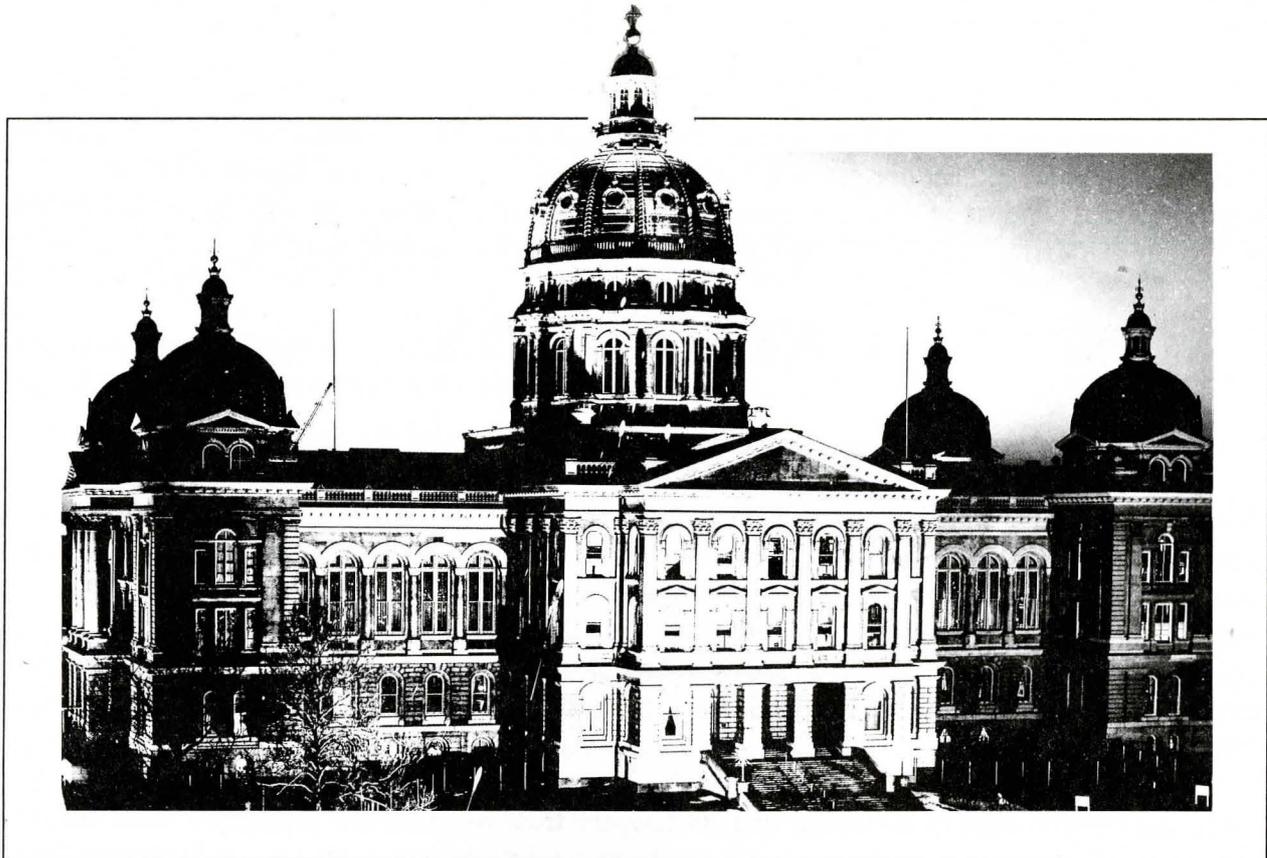
Lawyers have the professional responsibility and role of officers of the courts.

Over the years, judges and attorneys have worked together to improve the Iowa court system and ensure the best legal service to the public. Their joint efforts have been instrumental in the adoption and implementation of several judicial reforms including: 1) the merit selection of judges, 1962; 2) the unified trial court system, 1973; 3) the Client Security Fund, 1974; 4) mandatory continuing legal education, 1976; 5) state funding of the Iowa court system, 1983; 6) mandatory interest on lawyers' trust accounts (IOLTA), 1985; and 7) the mandatory attorney disciplinary fee, 1994.

Iowa was the first state in the nation to audit lawyers' trust accounts and establish a client security fund to pay for losses caused to the public by the dishonest conduct of attorneys. Iowa was the second state to establish a merit selection plan for all appellate judges and trial judges of general jurisdiction, and mandate continuing legal education for all attorneys and law-trained judicial officers. Iowa also was one of the early states to consolidate its trial court system, eliminate separate and independent special courts such as justices-of-the-peace and municipal courts, and centralize in the state budget the funding of all court operations, except office space which is provided by the county government.

The Supreme Court and the Iowa State Bar Association have a number of committees and commissions on which the bench and bar serve together to improve court procedures and the administration of justice. The numerous court rules, the uniform jury instructions, and bench-bar conferences are the work product of many cooperative endeavors between Iowa judges and lawyers.





THE COURT SYSTEM

STATE COURT ADMINISTRATOR

The State Court Administrator is appointed by the Supreme Court and serves at its pleasure. With the help of the Clerk of the Supreme Court, legal assistants, staff, and a variety of commissions and boards, the State Court Administrator manages the JUDICIAL DEPARTMENT.

The State Court Administrator's duties include screening cases for oral argument and case routing, gathering statistical data, training judges and staff, handling fiscal and personnel matters, budgeting, planning, and management of the Judicial Department.

CHIEF JUDGES AND DISTRICT COURT ADMINISTRATORS

In each of Iowa's eight judicial districts, there is a Chief Judge who supervises all judicial officers and court employees within the district. Each judicial district also has a District Court Administrator who assists the Chief Judge in administrative tasks.

The District Court Administrator is appointed by the Chief Judge of the District and is assisted in these tasks by a number of Clerks of District Court.

IOWA JUDICIAL COUNCIL

Each of Iowa's eight Chief Judges serves on the IOWA JUDICIAL COUNCIL. The Chief Judge of the Iowa Court of Appeals and the Chief Justice of the Iowa Supreme Court also serve.

The IOWA JUDICIAL COUNCIL oversees all court administrative rules, directives, and regulations. The Chief Justice of the Iowa Supreme Court chairs this important ten-member panel.

CLERKS OF DISTRICT COURT

In each of Iowa's 99 counties, a Clerk of District Court helps manage the case load of the judicial system. Clerks of District Court keep court records, including pleadings, motions, and orders.

Clerks of District Court maintain a traffic and scheduled violations office where fines and court costs are paid. The Clerks are responsible for many vital statistics and documents, including marriage licenses, birth, and death certificates.

JUVENILE COURT

Juvenile matters are heard by District Judges, Associate Juvenile Judges, and District Associate Judges designated by the Chief Judge of the judicial district to act as judges of the juvenile court. Juvenile Court Officers assist the court in working with young people who find themselves involved with the judicial system. By majority vote of all District Judges, a Chief Juvenile Court Officer is named for each district. The Chief Juvenile Court Officer is the chief administrator for juvenile matters within the district, helps set policy, hires juvenile court officers, and assigns cases within the district.

OTHER JUDICIAL PERSONNEL

Hospitalization Referees preside over most hearings which involve involuntary, emergency, and substance abuse hospitalizations. While District Judges hold jurisdiction in Probate (estates) matters, Probate Referees also hear cases. In many counties, the Clerk of District Court is appointed to act as a referee in probate.

Hospitalization and Probate Referees are named by the Chief Judge of each district and are an important part of the judicial system. By using referees, the judicial system is able to hear more cases without increasing the number of judges.

Court Attendants have a variety of duties including: overseeing the activities of jurors, facilitating courtroom proceedings, and helping the judge. Court Reporters also serve an important function. Court Reporters record everything that is said in the courtroom. Their transcription is a precise and accurate account of court proceedings and is used by judges and attorneys during and after trial.

FUNDING

The Iowa Judicial System is funded by the State of Iowa.

The Iowa Judicial System is a bargain. One-source funding helps keep property taxes lower, while providing the funds for a very efficient and cost-effective system of justice. The entire judicial system budget accounts for **LESS THAN THREE PERCENT** of the total state budget!

Over \$50 million is collected each year through fees, fines, and court costs paid to the Clerks of District Court. Included in these revenues are criminal fines (including traffic), surcharges, court costs, and fees for filing civil petitions or small claims actions or appeals, marriage license applications, and registrations for birth certificates. Most of the fees are remitted to the Treasurer of the State of Iowa and deposited in the General Fund.

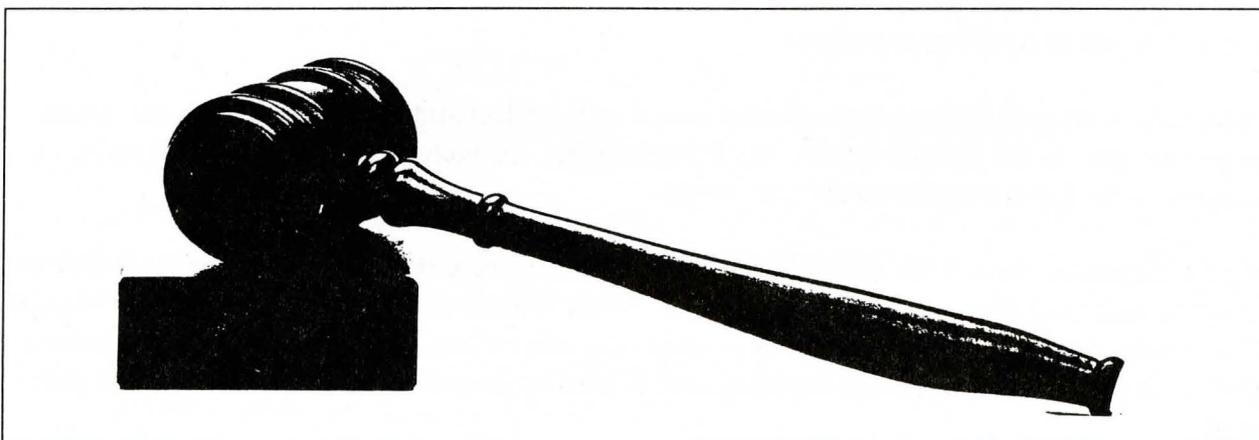
CRIMINAL ACTIONS

Criminal laws are passed to protect the public from conduct that is dangerous or offensive. When a criminal law is broken, the city, county, or state brings criminal charges against an individual.

Criminal law is divided into two classifications, **FELONY** and **MISDEMEANOR**.

A **FELONY** is a major crime (murder, robbery, sexual abuse, etc.) and is punishable in Iowa by imprisonment for five years to life, depending on the class. Felonies are divided into four classes, Type A, B, C, and D.

A **MISDEMEANOR** is a minor offense and is punishable usually by a fine or imprisonment of up to two years or both. Misdemeanors are divided into three types, **SIMPLE**, **SERIOUS**, and **AGGRAVATED**.





Individuals accused of crimes are entitled to a trial jury if they so choose. Juries of six or twelve persons are gathered, depending on the seriousness of the offense. The jury must decide unanimously the defendant is guilty in order to convict.

CRIMINAL ACTIONS PROCEDURE

After a person is arrested for committing a crime, he or she appears before a **MAGISTRATE**, **DISTRICT ASSOCIATE JUDGE**, or a **DISTRICT JUDGE** within 24 hours. At this time, the person under arrest is informed of the **CHARGES** and **BAIL** or **CONDITIONS OF RELEASE** are set. In some serious cases, Iowa law prohibits release on bail.

Within 20 days, the accused person may receive a **PRELIMINARY HEARING** before a **DISTRICT** or **DISTRICT ASSOCIATE JUDGE**. The purpose of this hearing is to determine if there is sufficient evidence to continue the case. Usually, the accused will waive (give up) the right to this hearing or the **PROSECUTING ATTORNEY** (county attorney) will file the appropriate **TRIAL INFORMATION** which is a formal statement of charges. If a **PRELIMINARY HEARING** is held and the court finds **PROBABLE CAUSE** to hold the defendant for further proceedings, the case will be set for trial.

A **GRAND JURY** is a panel of seven citizens who decide whether to **RETURN AN INDICTMENT**. If at least five of the seven feel there is enough evidence to bring the accused to trial, **INDICT** or present the case to the court for **FILING**.

Few criminal cases in Iowa are heard by GRAND JURIES. Most often, the COUNTY ATTORNEY will file a TRIAL INFORMATION which is a statement of the CHARGES AND EVIDENCE. The TRIAL INFORMATION and the INDICTMENT of a GRAND JURY have the same effect, which is the beginning of formal proceedings in the DISTRICT COURT.

After the INDICTMENT or the filing of an INFORMATION, the defendant appears before a JUDGE OR MAGISTRATE for an ARRAIGNMENT. The ARRAIGNMENT takes place within 45 days of the PRELIMINARY HEARING. At the ARRAIGNMENT, the defendant hears the CHARGES and enters a PLEA, which is generally either GUILTY or NOT GUILTY.

The judicial officer will either DISMISS the case, ACCEPT THE NOT GUILTY PLEA, or ACCEPT THE GUILTY PLEA. If the guilty plea is accepted, the judge will announce the SENTENCE, which may be a fine, jail or prison, probation and/or treatment. Sometimes, if a judge is unconvinced of a defendant's guilt, the judge may require a trial.

If the defendant pleads NOT GUILTY, a trial is set. The defendant has the right to a TRIAL BY JURY. If a jury is not requested, a BENCH TRIAL is scheduled. In a BENCH TRIAL, the JUDGE will hear the EVIDENCE and render a VERDICT.

If a jury is requested, the JURY will hear and weigh the EVIDENCE and render a VERDICT. The jurors must be unanimous in their decision concerning the guilt of the defendant if a GUILTY VERDICT IS RETURNED. If the jury is not convinced "BEYOND A REASONABLE DOUBT" of the defendant's guilt, a NOT GUILTY VERDICT must be returned. A NOT GUILTY VERDICT must also be unanimous.

If the jury cannot reach a unanimous verdict, the judge will declare a MISTRIAL. The state will then decide whether to RETRY the case before another jury or to DISMISS the charges.

If the jury returns a GUILTY VERDICT, the judge will order a complete PRESENTENCE INVESTIGATION of the defendant's background and the circumstances of the case. A sentencing date is then set.



After weighing the information from the investigation, the judge, at a SENTENCE HEARING, may sentence the defendant to a fine, jail or prison, probation or treatment, or a combination of punishments. If the sentence is confinement or a fine, the judge may SUSPEND the sentence. If the sentence is SUSPENDED, the fine and confinement do not have to be paid or served and the defendant is placed on PROBATION. If the defendant fails to follow the rules and conditions of the PROBATION, it may be revoked and the original SENTENCE reinstated.

The judge may DEFER JUDGMENT in some cases. After successful completion of PROBATION, the defendant's criminal record is expunged (destroyed). However, a permanent "confidential" record of all deferred judgments is maintained by the State Court Administrator. Only Judicial Officers and County Attorneys have access to these "confidential" records.

TRAFFIC MATTERS

The CLERKS OF DISTRICT COURT maintain offices that process traffic and scheduled violations. In these offices, violations are admitted and disposed of when minimum fines and court costs are paid before a specified date.

Fines and costs are listed on tickets when they are issued for minor violations such as parking and most moving violations. These costs are usually paid by mail, but can be paid at the District Court Clerk's office. For certain truck "weight violations," fines may be paid at weigh stations.

Usually a court appearance is not required for a scheduled violation. If damage from an accident is in excess of \$500 or if there is a threat to the safety of other persons or property, a court appearance may be required.

The more serious nonscheduled violations, such as reckless driving, OWI (Operating While Intoxicated), or driving while your license is under suspension require a court appearance before a Judge or Magistrate.

CIVIL ACTIONS

Actions between individuals or groups are regulated by civil law. A crime does not have to be committed for a civil action to take place.

The three major areas of civil law are DOMESTIC RELATIONS, TORT, and CONTRACT law.

DOMESTIC RELATIONS involve dissolution of marriage (divorce), custody of children and their maintenance (child support), alimony, and property division, and domestic abuse actions. DOMESTIC RELATIONS ACTIONS are tried before a judge rather than a jury. In Iowa a victim of domestic abuse may ask the court to issue a protective order without hiring an attorney or having the alleged abuser arrested on a criminal assault charge.

A TORT action is the result of an injury resulting from the intentional or negligent actions of another. The injured party seeks to recover money from the other party.

A CONTRACT action is the result of one of two parties breaking the provisions of a mutually held agreement.

In most civil trials a jury may be requested. Contract and Tort actions may result in eight-person juries. Only seven of the eight jurors must agree to decide a civil case.

CIVIL ACTIONS PROCEDURE

A civil action begins when one party files a PETITION. The party filing the PETITION is the PLAINTIFF. The PLAINTIFF (or the ATTORNEY for the PLAINTIFF) files the PETITION in the CLERK OF DISTRICT COURT'S office. The PETITION is a CLAIM FOR RELIEF and the purpose is to bring a lawsuit against another party.

The PETITION is then SERVED on (delivered to) the other party, known as the DEFENDANT. Delivery of the PETITION may be by certified mail, the County Sheriff's department, or by "private" process servers. The DEFENDANT (or COUNSEL for same) will exchange INTERROGATORIES and DEPOSITIONS, which are oral and written questions. In this way, both parties exchange information to discover the relevant facts.

Both parties may file a variety of PRETRIAL MOTIONS. These motions seek to limit or narrow the scope of the issues in question. There also may be negotiations between both parties and if they agree on a solution, the lawsuit may be dropped. This is called settling "out of court."

If no settlement is reached, a PRETRIAL CONFERENCE IS HELD. At this time, the parties may agree to narrow the issues in question and STIPULATE or agree that certain facts and documents are acceptable and true.

At trial, a JURY receives the EVIDENCE and TESTIMONY and reaches a VERDICT. Only seven of the eight jurors must agree upon the VERDICT. If there is no jury, a JUDGE will hear the case and issue an OPINION.

To win, the party bringing the action must prove his or her case by presenting evidence that is more convincing to the trier of fact (judge or jury) than the evidence of the opposing party.

After the trial, POST-TRIAL MOTIONS may be filed and the "losing party" may file a NOTICE OF APPEAL with the CLERK OF THE SUPREME COURT.

SMALL CLAIMS PROCESS

Small claims actions, where the amount of controversy is \$4,000 or less, are heard by **MAGISTRATES AND DISTRICT ASSOCIATE JUDGES**.

The **CLERK OF DISTRICT COURT** maintains the Small Claims docket. Often, claims filed will be disposed of by the entry of a confession of judgment, a default judgment, or a voluntary dismissal.

To file a Small Claims action, an **ORIGINAL NOTICE** is filled out and taken to (or sent to) the office of the **CLERK OF DISTRICT COURT**.

PLAINTIFFS and **DEFENDANTS** need not be represented by **ATTORNEYS** in Small Claims Court. This enables the parties to resolve disagreements over small amounts of money without the expense of counsel. In Small Claims Court the **JUDGE** or **MAGISTRATE** hears the **PLAINTIFF** and **DEFENDANT** and receives written documents offered as evidence. After hearing the case, the Judicial Officer renders a **VERDICT**.

JUROR SERVICE

All qualified persons living within the State of Iowa are considered to be prospective jurors. To qualify for "juror service" one must be at least 18 years old, a U.S. Citizen, and understand spoken (or manually signed) and written English. Disqualification may result if a person's ability to receive or evaluate information is impaired.

Jurors may be excused from service for reason of hardship, inconvenience, or public necessity. No one is excluded from service because of race, color, religion, sex, national origin, economic status, or occupation.

Jurors are compensated for their service and reimbursed travel and parking expenses. Jurors are randomly selected from voter registration and drivers license lists and such other lists as the jury commission or jury manager shall request.

Once a juror is assigned to a judge and courtroom, a panel of potential jurors is selected. Both sides then may question and strike (remove) a certain number of jurors. When there is agreement on which of the jurors will hear the case, they are **SWORN** to listen to the evidence introduced and render a verdict.

INFORMATION AND SERVICES

COURT-APPOINTED SPECIAL ADVOCATES (CASA)

COURT-APPOINTED SPECIAL ADVOCATES assist the court in cases involving child abuse or neglect. The Special Advocates are **VOLUNTEERS** with specific training in juvenile justice.

Special Advocates are assigned by Juvenile Judges to particular cases. The Special Advocates investigate cases and report their findings to the Court. They also may be assigned certain monitoring duties once the Court has made a decision in a case.

Persons wanting to volunteer as Special Advocates may contact the following CASA offices:

Sioux City (712)258-7453
Des Moines (515)281-7205
Davenport (319)322-0955
Cedar Rapids (319)364-6147
Warren and Marion Counties (515)961-5179

INDIGENT DEFENSE AND LOW-COST LEGAL ASSISTANCE

In criminal cases when a **DEFENDANT** is unable to afford **COUNSEL**, the **COURT** will appoint an **ATTORNEY** to represent the **DEFENDANT**. There are a number of **PUBLIC DEFENDERS** offices across Iowa. In some larger counties, these offices are divided into **ADULT** and **JUVENILE** divisions. These Court-Appointed Advocates also work with **CHILD IN NEED OF ASSISTANCE** and **FAMILY IN NEED OF ASSISTANCE** cases.

In civil actions, there are a number of organizations that provide **FREE** or **LOW COST LEGAL ASSISTANCE**. Among those groups are the following:

LEGAL SERVICES CORPORATION OF IOWA
TOLL FREE 1-(800)532-1275 or (515)243-2151 (DES MOINES)

CEDAR RAPIDS REGIONAL OFFICE
TOLL FREE 1-(800)332-0419 OR (319)364-6108 (CEDAR RAPIDS)

SOUTHWEST REGIONAL OFFICE
TOLL FREE 1-(800)432-9229 or (712)328-3982 (COUNCIL BLUFFS)

NORTHEAST REGIONAL OFFICE
TOLL FREE 1-(800)942-4619 or (319)588-4653 (DUBUQUE)

IOWA CITY REGIONAL OFFICE
TOLL FREE 1-(800)272-0008 or (319)351-6570 (IOWA CITY)

NORTH CENTRAL REGIONAL OFFICE
TOLL FREE 1(800)392-0021 or (515)423-4651 (MASON CITY)

SOUTHEAST REGIONAL OFFICE
TOLL FREE 1-(800)452-0007 or (515)683-3166 (OTTUMWA)

NORTHWEST REGIONAL OFFICE
TOLL FREE 1-(800)352-0017 or (712)27708686 (SIOUX CITY)

SOUTH CENTRAL REGIONAL OFFICE
TOLL FREE 1-(800)532-1503 or (515)280-3636 (DES MOINES)

WATERLOO REGIONAL OFFICE
TOLL FREE 1-(800)772-0039 or (319)235-7008 (WATERLOO)

HELP LEGAL ASSISTANCE
(319)322-6216 (DAVENPORT)

LEGAL AID SOCIETY OF POLK COUNTY
(515)243-1193 (DES MOINES)

VOLUNTEER LAWYERS PROJECT
(515)243-3904 (DES MOINES)

A lawyer referral service is provided by the IOWA STATE BAR ASSOCIATION, 521 EAST LOCUST STREET, DES MOINES, IOWA, 50309. Their phone number is (515)243-3179.

DOMESTIC ABUSE

Domestic abuse is an assault as defined in Iowa law. Assault means ONE of the following must have happened:

- ◆ Someone physically abused you; OR
- ◆ Someone pointed a gun at you or displayed a dangerous weapon (such as a knife) toward you in a threatening manner; OR
- ◆ Someone threatened you with physical contact which would cause pain or injury;
AND
 - ◆ The threat put you in fear, AND
 - ◆ The threat could be carried out immediately.

A victim of domestic abuse may seek a protective order, i.e., an order of a court to protect a person from certain conduct such as harassment, assaults, or threats. To get a protective order in Iowa you or the abuser must live in the state. The petition for a protective order must be filed in the office of the district court clerk in the county where either you or the abuser is living. (A parent or guardian may file a petition on behalf of an unemancipated minor.) You also must show that you and the abuser meet ONE of the following legal requirements:

- ◆ Presently married, even if you are not living together.
- ◆ Divorced or separated, whether or not living together.
- ◆ Living together in an intimate relationship with the abuser at the time of the abuse. (The legal word is "cohabitation.")
- ◆ Living together and related by blood (such as parents) or by affinity (such as adoption or marriage). If the abuser and victim are siblings under 18 years of age, Chapter 236 does NOT apply.
- ◆ You and the abuser are parents of the same child who is under 18 years of age.
- ◆ You and the abuser lived together at some time during the past year and were related by blood or affinity.

For more information about domestic abuse contact the district court clerk's office in your county courthouse and ask for the booklet entitled: **How to Protect Yourself From Domestic Abuse Without A Lawyer**. The booklet lists the names and phone numbers of several domestic violence projects in Iowa.

If you have questions or need protection and a safe place to stay, call **Iowa Domestic Abuse Hotline** at 1-800-942-0333.

CONCLUSION

Inscribed above the entrance to the Iowa State Law Library are these words:

"Where law ends, tyranny begins."

Without our judicial system, there would be no way to settle disputes. The law makes it possible for us to enjoy an orderly society. In our society the judicial system maintains the authority to settle disputes. The law resolves conflicts and establishes fundamental rights.

This GUIDE TO IOWA'S COURT SYSTEM has been compiled to explain how the judicial system works. In addition, a half hour video, IOWA'S LEGAL HERITAGE, has been produced by the SESQUICENTENNIAL COMMITTEE.

Increased knowledge and understanding of the court system is essential to a healthy democracy. This publication and IOWA'S LEGAL HERITAGE video are offered in pursuit of that end.

LEGAL GLOSSARY

ANSWER: A formal statement, generally written, stating the defense of a legal case. (See PLEADING).

APPELLATE COURT: A court having jurisdiction of appeal and review; not a "trial court".

ATTORNEY: A lawyer; one who is licensed to act as a representative for another in a legal matter or proceeding.

BAIL: To set free a person arrested or imprisoned (pending trial or resolution of an appeal), in exchange for security such as cash. Bail is forfeited if the person fails to appear in court as directed.

BRIEF: A written document presented to the court by a lawyer usually setting forth both facts and law in support of his or her case.

BURDEN OF PROOF: In the law of evidence, the necessity or duty of affirmatively proving a fact or facts in dispute.

CERTIORARI: An original writ or court order commanding judges or officers of lower courts to certify or return records of proceedings in a cause for judicial review.

CHARGES: Formal accusation of having committed a criminal offense.

CODE: A collection of laws arranged into chapters, table of contents, and index, and published by legislative authority.

CONTRACT: A mutual agreement between two or more parties, in which each party gives up something of value and gains another thing of value.

DAMAGES: An amount of money which may be recovered in the courts by any person who has suffered loss, detriment, or injury to his person, property or rights, through the unlawful act or negligence of another.

DECREE: A decision or order of the court. A final decree is one which fully and finally disposes of the litigation; an interlocutory decree is a provisionally or preliminary decree which is not final.

DEFAULT: A "default" in an action at law occurs when a defendant fails to appear at the trial or to plead within the time allowed.

DEFENDANT: A person sued or accused.

DEPOSITION: The testimony of a witness not taken in open court, but in pursuance of authority given by statute or rule of court to take testimony elsewhere.

DISSENT: A term denoting the disagreement of one or more judges of a court with the decision of the majority.

EN BANC: "On the bench;" all judges or justices of the court sitting together to hear a case.

EVIDENCE: A fact presented before a court such as a statement of a witness, an object, etc., that bears on or establishes a point in question.

FELONY: A crime considered to be of a graver nature than a misdemeanor. Examples of felonies include murder, kidnapping, manslaughter, burglary, robbery, and certain types of sexual abuse.

GRAND JURY: A body of persons sworn to inquire into crime and bring an accusation (indictment) against the suspected criminal if warranted.

HABEAS CORPUS: "You have the body." The name given a variety of writs whose object is to bring a person before a court or judge. In most common usage, it is directed to the official or person detaining another, commanding that person to produce the body of the prisoner or person detained so the court may determine if such person had been denied his or her liberty without due process of law.

INDICTMENT: An accusation in writing found and issued by a grand jury, charging that a person named has done some act, or is guilty of some omission, which by law is a crime.

INTERROGATORIES: Written questions propounded by one party and served on an adversary, who must provide written answers under oath; discovery procedure in preparation for a trial.

JURISDICTION: The right and power to interpret and imply the law. The extent of authority or control.

JURY: A certain number of people, selected according to law, and sworn to inquire of certain matters of fact and declare the truth upon evidence laid before them.

LIEN: An encumbrance upon property, usually as security for a debt or obligation.

MANDAMUS: The name of a writ which issues from a court of superior jurisdiction, directed to a lower court or a public officer, commanding the performance of a particular act.

MISDEMEANOR: Offenses considered less serious than felonies. There are three classes of misdemeanors -- simple, serious, and aggravated. Examples of misdemeanors include minor traffic violations, theft of property not exceeding \$500 in value, trespass, assault, and disorderly conduct.

NEGLIGENCE: The omission or neglect of reasonable precaution, care, or action.

NOTICE OF APPEAL: A filing made with the Iowa Supreme Court to appeal a ruling made by a trial court.

OPINION: A formal statement by a judge or justice of the law bearing on a case.

ORIGINAL JURISDICTION: The power of a court to hear a case for the first time instead of waiting for the case to be tried in a lower court.

ORIGINAL NOTICE: The document filed in Small Claims Court to begin a lawsuit. The notice of the filing of a lawsuit served on a defendant, stating the time in which a response must be filed.

PARTIES: The persons who are actively concerned in the prosecution or defense of a legal proceeding.

PETITION: Written application to a court requesting a remedy available under law.

PLAINTIFF: A person who brings an action; the party who complains or sues in a personal action and is so named on the record.

PLEADING: The process by which the parties in a suit or action alternately present written statements of their contentions, each responsive to that which proceeds in each serving to narrow the field of controversy. A

formal statement, generally written, propounding the case of action or the defense of a legal case.

PRELIMINARY HEARING: Synonymous with preliminary examination; the hearing given a person charged with crime by a magistrate or judge to determine whether that person should be held for trial.

PRIMA FACIE: So far as can be judged from the disclosure; presumably; a fact presumed to be true unless disproved by some evidence to the contrary.

PROBABLE CAUSE: A constitutionally prescribed standard of proof; a reasonable ground for belief in the existence of certain facts. The burden of proof necessary for an indictment or trial information.

PROBATE: Proceedings in which the court has jurisdiction over the personal representative and assets of the deceased to determine heirs and settle the business affairs of the deceased; protects heirs from fraud and embezzlement; protects federal and state governments so all taxes are paid by the estate; protects creditors of the deceased.

PROSECUTE: To initiate legal or criminal court action against an accused.

PROSECUTOR: One who instigates the prosecution upon which an accused is arrested or who initiates an accusation against the party whom he or she suspects to be guilty; also, one who takes charge of a case and performs the function of trial lawyer for the people.

RESTITUTION: Act of giving the equivalent for any loss, damage, or injury.

RETAINER: Act of the client in employing an attorney or counsel; denotes the fee which the client pays when retaining an attorney to act for him or her.

SENTENCE: Judgment formally pronounced by a judge upon a defendant after his or her conviction in a criminal or civil prosecution.

STIPULATION: An agreement by attorneys on opposite sides of a case as to any matter pertaining to the proceedings or trial; not binding unless assented to by the parties; most stipulations must be in writing.

TESTIMONY: Spoken evidence given by a competent witness, under oath, as distinguished from evidence derived from writings and other sources.

TORT: An injury or wrong committed, either with or without force, to the person or property of another.

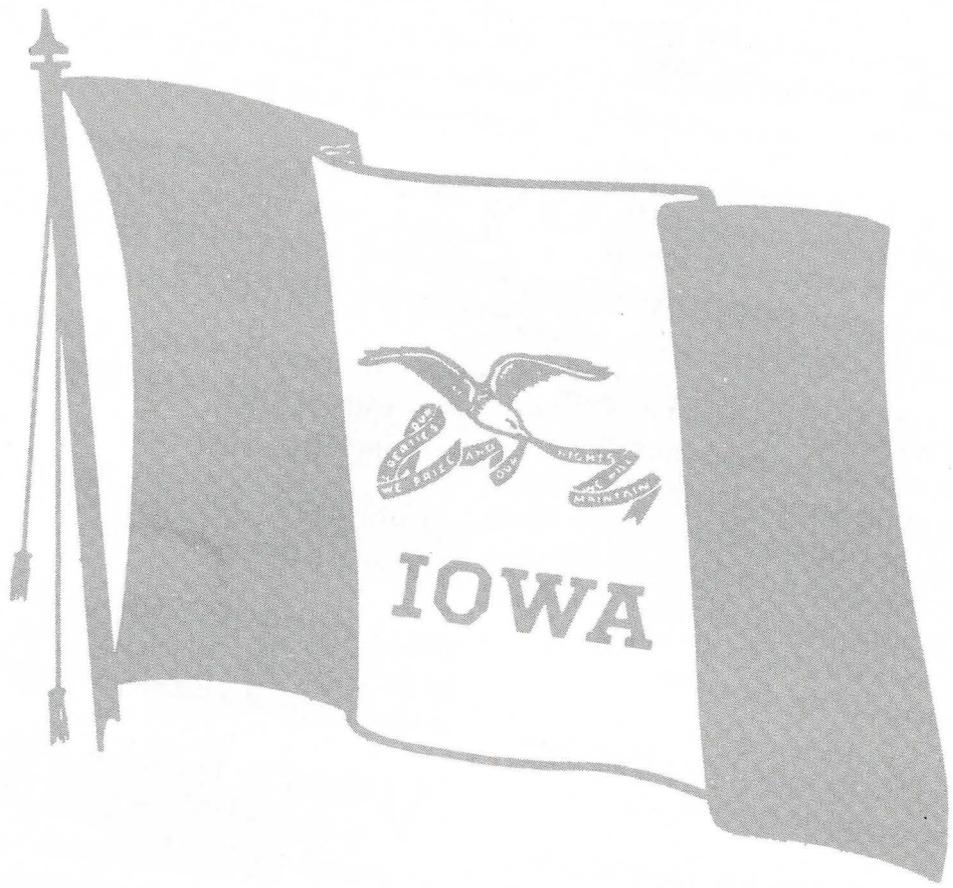
TRANSCRIPT: The official record of proceedings in a trial or hearing.

TRIAL INFORMATION: A document filed by the prosecutor, which states the charges and evidence against a defendant in a criminal case.

VERDICT: In practice, the formal decision or finding made by a jury, reported to the court, and accepted by it.

WITNESS: One who testifies to what he or she has seen, heard, or otherwise observed; or to his or her opinion based upon a hypothetical statement.

WRIT: An order issuing from a court requiring the performance of a specified act, or giving authority and commission to have it done.





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