



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM



Iowa Judicial Branch

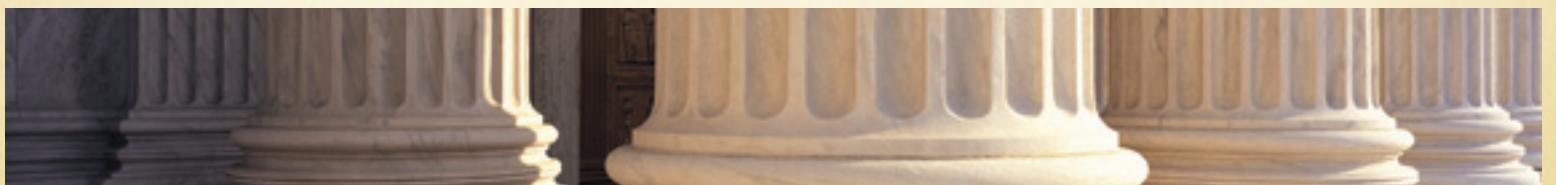


TABLE OF CONTENTS



Where to Find Iowa Law 4

Media Access to Court Proceedings 5

Restrictions on Cameras and Recorders 6

Access to Court Records 9

Media Contacts with Court Personnel 12

Iowa's Courts: Organization,  
Administration and People 13

Court Procedures in a Nutshell 16

Iowa's Judiciary 27

Legal Glossary 30

ABOUT THIS GUIDE

This guide is not intended to serve as a substitute for legal advice. The information in this guide is general in nature and descriptions of laws and court rules are abridged.

When in doubt as to the precise requirements or content of a law or court rule, you should check the official source (see official sources listed below) or consult with your organization's attorney.



# REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

## WHERE TO FIND IOWA LAW

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### **Iowa Code (statutes and constitution)**

- [www.legis.state.ia.us/IowaLaw.html](http://www.legis.state.ia.us/IowaLaw.html)
- State Law Library
- Some local libraries

### **Iowa Court Rules (court procedures)**

- <https://www.legis.iowa.gov/IowaLaw/courtRulesListing.aspx>
- State Law Library
- Some local libraries

### **Local Court Rules (court procedures for some, but not all, judicial districts)**

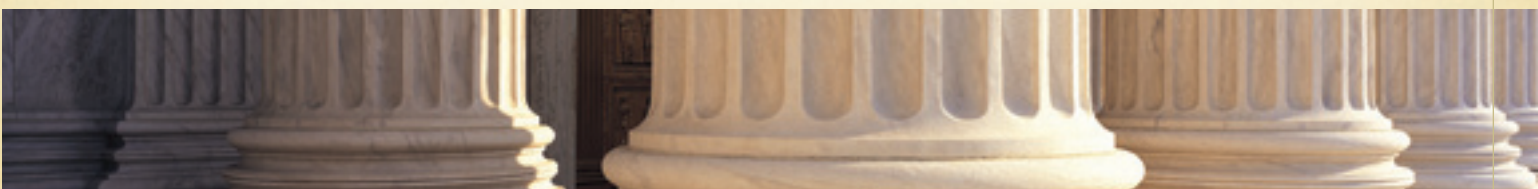
- [http://www.iowacourts.gov/About\\_the\\_Courts/District\\_Courts/](http://www.iowacourts.gov/About_the_Courts/District_Courts/)

### **Iowa Case Law**

- You might need to research decisions by the Iowa Supreme Court or Iowa Court of Appeals to determine if and how the courts have previously interpreted particular laws and rules, or ruled on legal issues similar to the issues involved in your case. The official published opinions of both courts can be found in the North Western Reporter and North Western Reporter 2d, West Publishing, at the State Law Library and other libraries.

- The quickest method of finding a decision is searching by the case's citation, if you know it. The citation, which appears after the case name, indicates the volume number of the reporter in which the case appears in print, the case reporter in which the case appears, the page number on which the case appears, and the year in which the case was decided. For example, *Feller v. Scott County Civil Service Commission*, 435 N.W.2d 387 (Iowa 1988) shows that the case was decided by the Iowa Supreme Court in 1988, and can be found in the Northwest Reporter Second, volume 435 on page 387.

- Opinions entered after 1998 can be found on [www.iowacourts.gov](http://www.iowacourts.gov) under "About the Court/ Supreme\_Court/ Supreme Court Opinions" Published opinions rendered before 1998 can be found in the North West Reporter series at law libraries or through a legal research service such as WestLaw or Lexis.



## MEDIA ACCESS TO COURT PROCEEDINGS

### Attending Hearings and Trials

As a general rule, court hearings and trials are open to everyone unless required by law or court order to be confidential. The following court proceedings are confidential:

- Civil commitment for substance abuse or mental illness
- Child in need of assistance and termination of parental rights upon order of the court
- Grand jury proceedings
- Jury deliberations
- Hearings for dissolution of marriage or child custody upon order of the court
- Juvenile delinquency hearings upon order of the court
- Adoption hearings except persons admitted by the court
- Other proceedings upon order of the court

### Decorum

We expect media personnel to wear appropriate attire, to turn off cell phones and pagers, and to maintain proper decorum at all times while attending a court proceeding. Please refrain from any behavior that might draw attention to yourself, or distract jurors, attorneys, court personnel, witnesses and others, or otherwise disrupt a court proceeding.

### Court Security

All Iowa courthouses have some measure of security. We understand that sometimes security precautions may be inconvenient and cause delays, but we must do our utmost to ensure the safety of every person who comes to the courthouse. We appreciate your patience and full cooperation.



### RESTRICTIONS ON CAMERAS, RECORDERS, AND ELECTRONIC DEVICES

#### Expanded News Media Coverage

Broadcasting, recording, photographing, texting, blogging, or Tweeting real-time electronic coverage of judicial proceedings in a courtroom and adjacent areas is prohibited unless the presiding judicial officer expressly permits coverage in advance of the proceeding. The judge shall allow expanded news media coverage unless the judge concludes that the coverage would materially interfere with the rights of the parties to a fair trial. If coverage is permitted, the manner of coverage and the equipment used is limited by court rule. The complete rules for expanded media coverage can be found in Chapter 25 of the Iowa Court Rules available online at <https://www.legis.iowa.gov/docs/ACO/CR/LINC/04-30-2014.chapter.25.pdf>

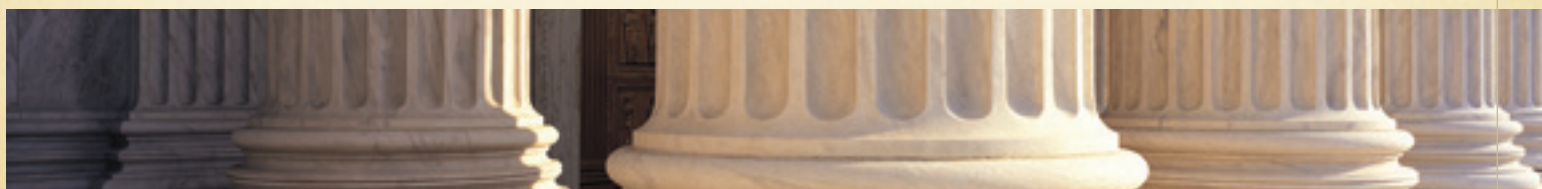
#### Expanded Media Coverage Prohibited

Expanded news media coverage of any proceeding required by law to be private is strictly prohibited. Those proceedings include, but are not limited to, civil commitment for substance abuse or mental illness, child in need of assistance and termination of parental rights upon order of the court, and grand jury proceedings. In addition, expanded news media coverage of the following cases or proceedings is prohibited:

- Victim witness testimony in sexual abuse cases (unless victim witness consents);
- Juvenile, dissolution of marriage, adoption, child custody, or trade secret cases (unless consent on the record is obtained from all parties, including a parent or guardian of a minor child);
- Jury selection or coverage of jurors generally, except coverage of the return of the jury's verdict or to the extent it is unavoidable in the coverage of other trial participants or courtroom proceedings; and
- Conferences between attorneys and their clients, between attorneys, between attorneys and the judicial officer (at the bench or in chambers), and between judicial officers in an appellate proceeding.

#### How to Request Permission for Expanded News Media Coverage for a Trial

Requests for permission to use cameras, recording equipment, and electronic devices for texting, blogging, or Tweeting real-time electronic coverage in court proceedings must be submitted to the appropriate regional expanded news media coordinator. The news media coordinator must then file a Notice of Request for Expanded News Media Coverage (Notice of Request) with the clerk of court at least seven days in advance of the time the proceeding is scheduled to occur. The news media coordinator must also send the notice to all counsel of record, parties appearing without counsel, the district court administrator, and the presiding judge. If the proceeding is not scheduled at least seven days in advance, the Notice of Request must be made as soon as practicable.





## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

A party to the trial or proceeding, or a witness called to testify in the trial or proceeding, may object to expanded news media coverage. The presiding judge will rule on the objection and may hold a hearing on the objection.

For a current list of regional news media coordinators, check: <http://www.iowacourts.gov/wfdata/files/NewsService/mediacoordinators.pdf>

### Procedure for Requesting Expanded Media Coverage for an Initial Appearance in a Criminal Trial

- A news media member must make a written or oral request for expanded news media coverage to the judicial officer presiding over an initial appearance in a criminal case in advance of the proceeding.
- The news media member must be in place at least fifteen minutes prior to the scheduled time of the proceeding.
- The prosecutor, defendant, or defendant's attorney may object to expanded news media coverage.
- Authorization for expanded news media coverage of subsequent proceedings involving the same matter must be requested separately.

### Procedure for Requesting Expanded Media Coverage for Supreme Court and Court of Appeals Oral Arguments

- A news media member submits a request to the appellate court news media coordinator.
- The appellate court news media coordinator files a written notice with the clerk of the supreme court and sends notice to all counsel of record, parties appearing without counsel, the state court administrator, and the presiding justice or judge no later than the Friday immediately preceding the week in which the oral argument is to be held.
- Members of the news media must be in place at least fifteen minutes prior to the scheduled time of the oral argument.

### Equipment

Court rules limit the amount and type of equipment allowed in the courtroom and the movement of news media personnel using the equipment.

- All equipment must be unobtrusive and shall not produce distracting sounds.
- No more than five members of the news media using still cameras, television cameras, audio recorders, and electronic devices are permitted in the courtroom during a proceeding for recording, live streaming, or both. Pooling may be required where there is limited space.
- All news media personnel must wear identification stating the person's name and media affiliation (contact the regional news media coordinator for information about how the process



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

is handled in the region).

- No flashbulbs or artificial light sources are permitted.
- Where possible, related equipment must be located outside the courtroom.
- Where possible and if suitable, existing courtroom audio equipment must be used.
- Pooling of equipment is required when necessary to accommodate news media.
- Pooling arrangements are the responsibility of the regional news media coordinator.

### Equipment Setup and Removal:

- All equipment must be in place at least fifteen minutes prior to the scheduled start of the proceeding.
- Equipment must be operated from a fixed position only; news media personnel may not move about the courtroom or move in a way that distracts from the proceeding.
- Equipment may be removed only when the court is not in session

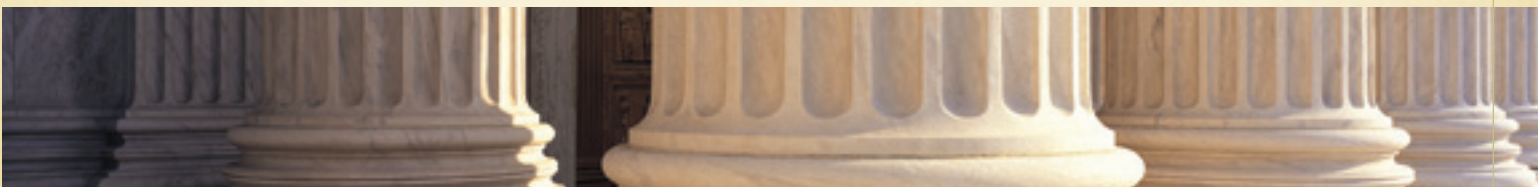
### Decorum:

- News media personnel must be properly attired and maintain proper decorum at all times while covering the proceeding.
- News media personnel must not move about the courtroom or move in a way that distracts from the proceeding.
- Cell phones and pagers must be turned off when in court.

### Tips for Media



- Read the rules.
- Make sure the expanded news media coverage request is timely; do not wait until the last minute.
- If possible, work with the appropriate court staff, and in some instances, the presiding judge, in advance of the day of the hearing or trial to discuss equipment placement, ground rules, and decorum
- Check the courtroom well in advance of the trial or hearing for electrical outlets, lighting, and need for extension cords or other equipment
- On the day of the trial or hearing, arrive at the courtroom early and set up equipment well in advance of the proceeding.





## ACCESS TO COURT RECORDS AND INFORMATION

### Public and Confidential Records

The Iowa Judicial Branch strives to provide public access to court records consistent with the requirements of Iowa law.

As a general rule most court records are public, and therefore, available to examine, copy for a fee, and publish. However, the following records are confidential, and, therefore, are not available to the public:

- Search and arrest warrants that have not been executed
- Civil commitment cases involving substance abuse or mental illness
- Child in need of assistance and termination of parental rights cases
- Juvenile delinquency cases ordered sealed by the court
- Dissolution cases until after entry of a decree of dissolution. Any information that is part of a dissolution record, other than orders, judgments, and decrees, that has been ordered sealed by the court
- Civil domestic abuse records ordered sealed by the court
- Pre-sentence investigation reports
- Deferred judgment docket

This list is not a complete catalogue of all confidential records. For information about the availability of a specific type of record, please check the Iowa Code or consult with your attorney.

### Copy Fees

The fee for copying records is \$.50 per page. There is an additional charge for supervising a records examination and for other special services.

### Records Format and Retrieval

The clerk of court is the custodian of the official court record. Court records exist in several formats. The clerk keeps paper copies of documents filed in pending or recently completed cases, microfiche or digital copies of old or inactive cases, and a database of the court docket information.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

### Clerk of Court Files

To access a complete district court document a person must contact the clerk of district court in the county where the document is filed; or contact the clerk of the supreme court for an appellate record. Clerk of court offices are open for business Monday through Friday except state holidays, from 8 AM to 4:30 PM, unless otherwise ordered.

You may examine the court record or file on site. If you want a copy, you must pay a copy fee of \$.50 per page to cover the state's direct costs. If the court file is with the judge, you must arrange with the clerk to examine the file at another time or make arrangements to retrieve a copy of a particular record.

### Online Docket and Public Terminals

Since 1998, the Iowa Judicial Branch has maintained a statewide electronic docket. The docket is a summary of basic case information such as case types, case numbers, an index of filings and orders for each case, names of litigants and attorneys, criminal charges, payments of fines, fees, and child support, judgments and liens. The judicial branch does not have complete documents in electronic format.

Docket information that is public is available at [http://www.iowacourts.gov/For\\_the\\_Public/Court\\_Services/Docket\\_Records\\_Search/index.asp](http://www.iowacourts.gov/For_the_Public/Court_Services/Docket_Records_Search/index.asp). For those of you who do not have access to the Internet or who need to search the docket while at the courthouse, there is a public access terminal for public use in every clerk of court office.

Online access to basic docket information such as case numbers, litigants, case types, filings and financial is free. Online access to more detailed information such as liens, judgments, and schedules requires a payment of \$25 a month. To subscribe, you must register online and pay with a credit card.

Information on the docket is current, up-to-the-minute. The search index is updated every evening.

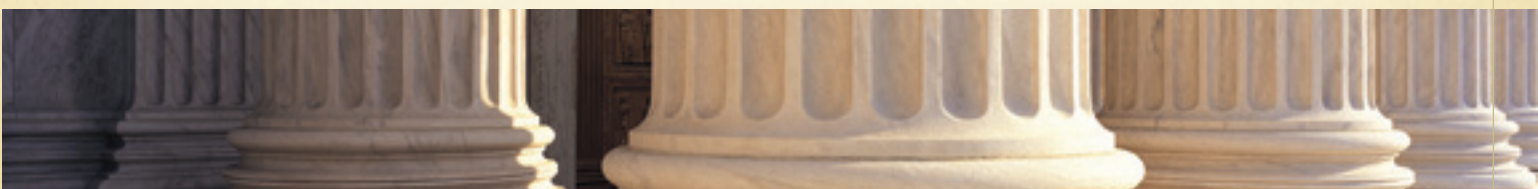
### Tips for Media



- Clerks do not conduct broad-based record searches so you must have specific information that identifies the case and the record you seek (e.g., indictment, order suppressing evidence, order granting summary judgment, motion in limine, etc.).

- If you do not have this information, you can find it easily online (see online docket).

- Sometimes a reporter will hear news of court action before the document has been filed by the clerk's office. If court staff has time they may offer to look for the record, but often times they're too busy to drop what they're doing and rifle through stacks of papers. Please be patient.





## Customized Data Reports

Data reports composed of aggregate or compiled case data extracted from the judicial branch data base are available upon request. There is an hourly charge for this service. Because there is a high demand for this service and court resources are limited, there may be a long waiting period for processing these requests.

For a customized report, you must submit your request to the director of the Iowa Court Information System, call 515-281-9768.

## Online News Releases

News releases issued by the judicial districts and state court offices are posted on the judicial branch website. Releases of local interest issued by judicial districts are published in the district sections within this website. Releases of statewide interest are posted in the "News" section and "For the Media" section of the site. In addition, you may subscribe to a service available through the website that automatically notifies you by email of newly posted statewide news releases and appellate opinions.

## Online Appellate Opinions and Schedules

Both the Iowa Supreme Court and the Iowa Court of Appeals post opinions online. Here's a tip:

The day before an opinion filing date, each court issues a list of cases for which decisions are expected to be rendered. Check the "News" section of the website for the list of expected opinions. Also, you may subscribe to receive email automatic notification of newly posted opinions of the Iowa Supreme Court and the Iowa Court of Appeals.

In addition, each appellate court posts its oral argument calendar, oral argument schedules, and opinion filing schedules online within their respective sections of the website.

## Tips for Media



Here's an important tip to remember when requesting a customized report:

- To minimize your costs, prevent unnecessary delays, and avoid frustration, precisely define and narrow the parameters of your research. For instance, if you want a report containing statistical information on a particular crime, be sure to know the section of the Iowa Code that establishes the crime (e.g., operating while intoxicated—321J.2(1)).
- Be sure to provide the names of the county or counties for which you want data or if you want statewide for all counties.





## MEDIA CONTACTS WITH COURT PERSONNEL

### Designated Media Contacts

Each judicial district has at least one person designated to serve as a media contact for that district. In addition, there is a media contact for the Iowa Judicial Branch. Media contacts can explain court procedures, help you determine case schedules, provide you with basic case statistics and administrative information, and point you in the right direction. If you're uncertain about how to proceed, please talk with the appropriate media contact first.

An up-to-date list of state and local court contacts for the media is available online at <http://www.iowacourts.gov/wfdata/files/NewsService/mediacoordinators.pdf>

### Statements by Judges and Court Staff

Judges and court staff endeavor to facilitate media coverage of the courts by providing useful, accurate, and timely information about the work of the court system. However, ethic rules limit what judges and staff may say about cases and issues.

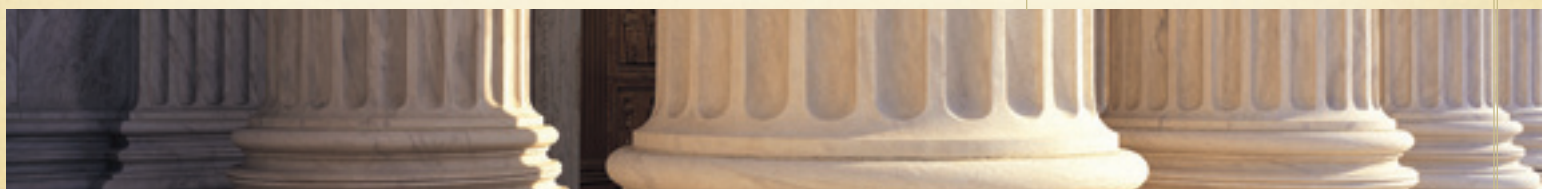
Judges and staff may explain court procedures in general terms and provide copies of written rulings and orders, but they must abstain from commenting on pending and future cases. The purpose of this restriction is to avoid the possibility that the comments of a judge or the judge's staff would affect the outcome of a case.

Iowa Supreme Court justices, Iowa Court of Appeals judges, and their staff do not explain appellate opinions or speculate about the impact of an opinion on the law. This is to preserve the authority of the court's written opinion as law and to avoid interpretations or statements that might conflict with or confuse the precise legal meaning of the court's opinion.

Finally, judges may speak about policy issues regarding the legal system or the administration of justice. However, they typically refrain from announcing views on other public policy issues to preserve the integrity and impartiality of the judicial system.

### Tip for Media

• When in doubt, contact the media contact. This will save you time and help avoid misunderstandings.



## IOWA'S COURTS: ORGANIZATION, ADMINISTRATION AND PEOPLE

### District Courts

Most news coverage of the courts takes place at the district court level, where nearly all cases begin and end. The Iowa District Court has general jurisdiction of all civil, criminal, juvenile, and probate matters in the state.

The Iowa district court is composed of different kinds of judicial officers with varying amounts of jurisdiction:

- **Judicial magistrates**—Every county is assigned at least one magistrate position although the magistrate may reside in a contiguous county. Judicial magistrates may hear cases in other counties upon order of the chief judge of the district. Magistrates serve four-year terms and are appointed by county magistrate appointing commissions. Magistrates are required to be attorneys and have jurisdiction over simple misdemeanors, including scheduled violations, county and municipal infractions, and small claims. Magistrates have authority to issue search warrants, conduct preliminary hearings, and hear certain involuntary hospitalization matters.
- **Associate juvenile judges**—hear only juvenile court matters: juvenile delinquency, child in need of assistance, and termination of parental rights, and adoptions; serve six-year terms; are appointed by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission.
- **Associate probate judges**—have jurisdiction limited to probate cases and have authority to audit accounts and perform judicial duties in probate as prescribed by the chief judge; serve six-year terms; are appointed by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission.
- **District associate judges**:—have the jurisdiction of judicial magistrates plus authority to hear serious and aggravated misdemeanor cases, civil suits in which the amount in controversy is \$10,000 or less, and juvenile cases when the judge is sitting as a juvenile judge; are appointed by the district judges of the judicial district from a slate of nominees screened and selected by the county magistrate appointing commission; serve six-year term.
- **District judges**—have the authority to hear any type of case within the district court, from probate to felony criminal cases to dissolution of marriage to torts; are appointed by the governor from a slate of two nominees chosen by the judicial election district nominating commission; serve six-year terms.
- **Senior judges**—retired judges can apply to the Iowa Supreme Court for assignment as a senior judge in the district or appellate courts. A senior judge receives an enhanced retirement benefit and annual





## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

stipend in exchange for working at least thirteen weeks a year. Senior judges assist at every level of the court system. A senior judge may serve until the age of 78.

- **Chief judges**—each district has a chief judge who is responsible for overseeing the administration of the district. The supreme court appoints the chief judges. They serve two-year terms.

### District Court Support Personnel

- District court administrators assist the chief judge of the district with the day-to-day administration of the district, including budgeting, personnel matters, case scheduling and planning. They also serve as the district's primary media contact.

- Clerk of district court offices (one per county except Lee County, which has two offices) manage and maintain all trial court records. In addition, clerks have hundreds of administrative duties some of which include: accepting and processing fines, fees and court costs owed to the state, child support checks, and civil judgments owed to litigants; disposing of uncontested scheduled violations; and notifying state and local government agencies, including law enforcement agencies, of court orders.

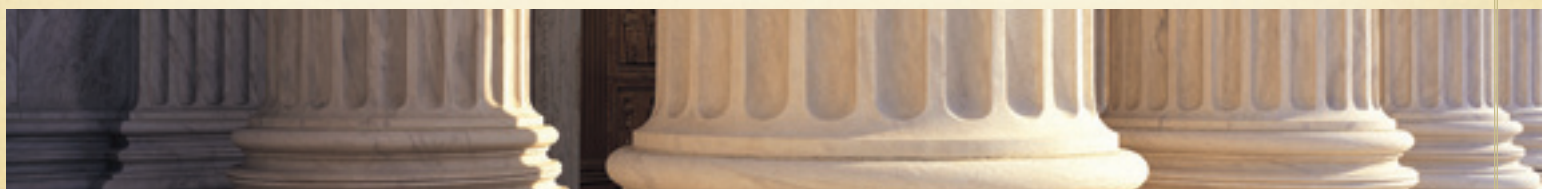
- Court attendants have a variety of duties, such as overseeing the activities of jurors, facilitating courtroom proceedings, and helping judges with clerical work.

- Court reporters serve an important court function. Court reporters record everything that is said in the courtroom. Their transcription, which is a precise and accurate account of the court proceedings, becomes part of the official court record.

- Juvenile court officers work directly with young people who are accused of committing a delinquent act. The function of a juvenile court officer is somewhat analogous to a probation officer. Juvenile court officers and their staff keep track of children who are under the jurisdiction of the juvenile court. They check on a young person's progress with treatment and restitution. Juvenile court officers also administer "informal adjustment programs" for youths who are not formally charged with delinquency but who still require some form of supervision to ensure accountability.

### Iowa's Appellate Courts

There are two appellate courts in Iowa's judicial system—the Iowa Supreme Court and the Iowa Court of Appeals. All appeals are to the Iowa Supreme Court. The supreme court transfers cases to the Iowa Court of Appeals for disposition.







## COURT PROCEDURES IN A NUTSHELL

### Civil Cases and Procedures

Civil cases typically fall into three major categories:

- Family law (e.g., divorce and child support and custody)
- Tort law (e.g., personal injury, property damage, or product liability)
- Contract law (e.g., written and oral agreements).

The following information provides a summary of court procedures for civil cases other than small claims cases (civil cases involving amounts of \$5000 or less). Procedures for small claims cases are analogous, but much less complicated. Small claims hearings are somewhat informal compared to hearings in other types of cases.

#### **First Steps: Petition and Answer**

A civil action is commenced by one party filing a petition. In most cases, this party is referred to as the plaintiff. In domestic relation cases, the person filing the petition is the petitioner. In the petition, the plaintiff sets forth the parties involved, the theories of recovery, and the relief sought. The petition is filed in district court and served or delivered to the opposing party.

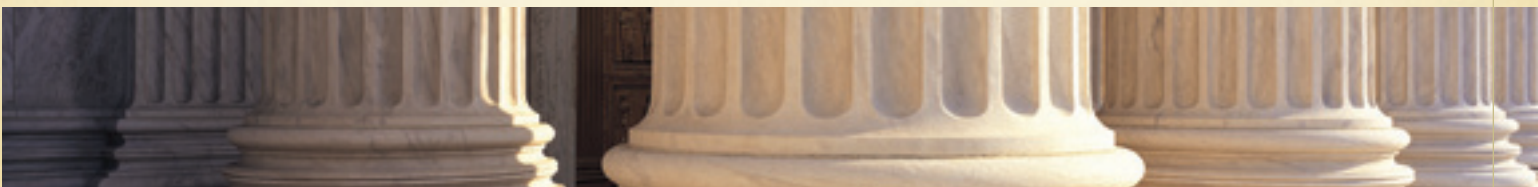
An opposing party, referred to as the defendant or in domestic relations cases, the respondent, has an opportunity to either file pre-answer motions or an answer. An answer is a document denying or admitting liability.

#### **Pretrial Motions and Discovery**

After the initial petition, the parties may file pretrial motions. These motions may request the court to dismiss the entire lawsuit, dismiss a claim or party, or limit the evidence to be presented at trial. The parties may also engage in discovery—a process to obtain information from the opposing party. A party may file interrogatories, which are written questions to be answered by the other party. A party may also take depositions, or ask oral questions, of a witness after the witness has taken an oath to tell the truth. Parties often reach a settlement or an agreement to resolve the lawsuit during this process.

#### **The Civil Trial**

Many civil actions may be tried to either a judge (often referred to as a bench trial) or a jury. Generally, the plaintiff must make a jury demand or a request for a jury trial. If such a request is not made, the case will proceed to a bench trial, in which the judge, rather than a jury, acts as the fact finder and enters the verdict. Certain types of civil actions such as domestic relations cases, probate matters, and administrative law cases are always tried to a judge.





### **Jury Selection**

If the plaintiff requests a jury, the court will proceed with the jury selection process. A jury panel consisting of sixteen jurors will be drawn randomly from a jury pool. The judge and the parties then have the opportunity to ask the prospective jurors questions. This process is referred to as voir dire. From that panel, each party will strike or remove four jurors, leaving an eight-person jury.

### **Opening Statements**

Each party has the opportunity to give an opening statement, which is an overview of the evidence that is expected to be presented. The opening statements are followed by the presentation of evidence.

### **Presentation of Evidence**

Parties generally present evidence by calling witnesses and asking questions. Each party must abide by the Iowa Rules of Evidence in doing so. These rules govern what evidence is admissible at trial, and how it is presented. If a party believes the other party is not following the rules, that party may raise an objection. The judge will then either sustain or overrule the objection. During a bench trial, the judge may reserve ruling on the objection.

The plaintiff must present evidence first. The defendant has the opportunity to cross-examine—question the plaintiff's witnesses. After the plaintiff is done presenting evidence, the defendant may present evidence. After the completion of the defendant's case, the plaintiff may present further evidence to rebut the evidence presented by the defendant.

### **Closing Arguments**

Once the parties are through presenting their evidence, they each have an opportunity to make closing arguments to the jury. Closing arguments are an opportunity to persuade the judge or jury to decide the case in favor of a party. Closing arguments must be based upon the evidence produced in trial.

### **Jury Deliberation**

Prior to, or after closing arguments, the court will give jury instructions, which describe the law and procedure that the jury must use in making its decision. After the conclusion of the closing arguments, the jury will pick a foreperson and discuss the evidence in private. To reach a decision, seven of the eight jurors must agree. If the jury cannot agree, the court may declare a hung jury and the case may be tried again to another jury at a later date.





## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

### **Posttrial Procedure**

Following the jury's verdict, the parties may file posttrial motions seeking certain relief from the court, such as a motion for new trial or a motion for judgment notwithstanding the verdict. The parties may also file a notice of appeal to have the case reviewed by an appellate court.

## Criminal Cases, Procedures and Sentencing

Criminal law is divided into two major classifications: misdemeanors and felonies. Misdemeanors are divided into three categories: simple, serious, and aggravated. Felonies are more serious crimes, and are classified from the most to the least serious as follows: class A, B, C, and D. For both misdemeanor and felony offenses, the penalty for conviction generally increases in severity with the level of offense.

### **Initial Appearance**

Generally speaking, a person arrested for allegedly breaking a criminal law appears before a judge within twenty-four hours. The judge will inform the person of the charges and bail or conditions of release. For some minor offenses, the judge may allow the person to enter a plea of guilty or not guilty at the initial appearance.

### **Preliminary Hearing**

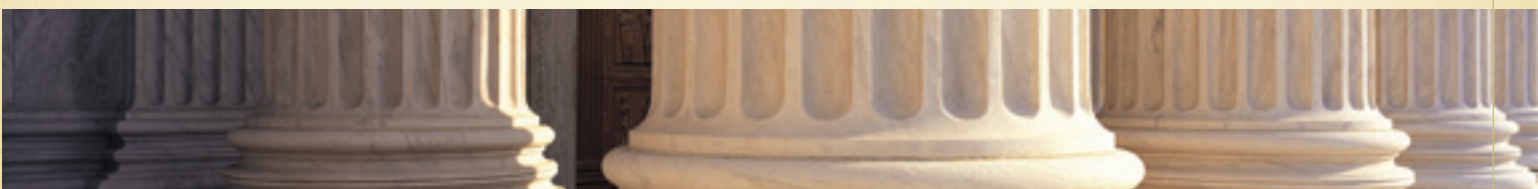
After the initial appearance, the defendant is entitled to a preliminary hearing to determine if there is sufficient evidence to continue the case. Generally, the defendant will waive that right, and the prosecutor will file a trial information, which is a formal statement of the charges.

### **Indictment**

On occasion, the county attorney will call a grand jury, a panel of seven citizens, to decide whether criminal charges should be brought. If five of the seven jurors determine there is enough evidence to support the charge, they will return an indictment. An indictment and the trial information have the same effect of formally charging the defendant with a crime and beginning the criminal trial process.

### **Arraignment**

Following the filing of a trial information or indictment, the defendant will appear for an arraignment. At the arraignment, the court may read the formal charges and the defendant must enter a plea, generally guilty or not guilty. If the defendant cannot afford to hire an attorney, the court will appoint an attorney to represent the defendant.



If the defendant enters a not guilty plea, there must be a trial within ninety days from the date of the filing of the trial information or indictment. However, the defendant may waive this right. The defendant may also waive the right to a jury trial, and have the judge decide the case.

### **Discovery and Motions**

The defendant may engage in discovery, including requesting evidence from the state and taking depositions of witnesses. The defendant may also file various pretrial motions, including motions to exclude evidence believed to be illegally obtained. The defendant and the state may engage in plea bargaining—discussions to resolve the charges short of a trial. If the defendant and the state do not reach an agreement, the court may schedule a pretrial conference and thereafter a trial date.

### **The Criminal Trial**

A criminal defendant has the right to a jury trial, but may choose to have a bench trial in which case the judge serves as the fact-finder.

### **Jury Selection**

If the case proceeds to a jury trial, the parties will have the opportunity to question the prospective jurors—a process called voir dire. In a criminal case, the jury is comprised of twelve jurors and each party may exercise strikes, which means objecting to a certain person serving on the jury. The number of strikes is determined by the level of the offense charged, ranging from four to ten. Additionally, the court may determine that alternate jurors are necessary.

### **Opening Statements**

The trial begins with a reading of the charge followed by opening statements by counsel. The defense may reserve opening statement until immediately prior to the presentation of the defense's evidence.

### **Presentation of Evidence**

Each party must abide by the Iowa Rules of Evidence in doing so. These rules govern what evidence is admissible at trial, and how it is presented. If a party believes the other party is not following the rules, that party may raise an objection. The judge will then either sustain or overrule the objection. During a bench trial, the judge may reserve ruling on the objection.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

The state will present its evidence first. The defendant is not required to present any evidence because the state bears the burden of proving the defendant is guilty beyond a reasonable doubt, and the defendant is presumed innocent until the state proves otherwise. If the defendant does present evidence, the state has the opportunity to present rebuttal evidence. The parties have the right to cross-examine each other's witnesses. Following the presentation of all of the evidence, the parties may give closing arguments and the jury will receive its instructions, similar to a civil jury trial.

### **Closing Arguments**

Once the parties are through presenting their evidence, they each have an opportunity to make closing arguments to the jury. Closing arguments are an opportunity to persuade the judge or jury to decide the case in favor of a party. Closing arguments must be based upon the evidence produced in trial.

### **The Verdict**

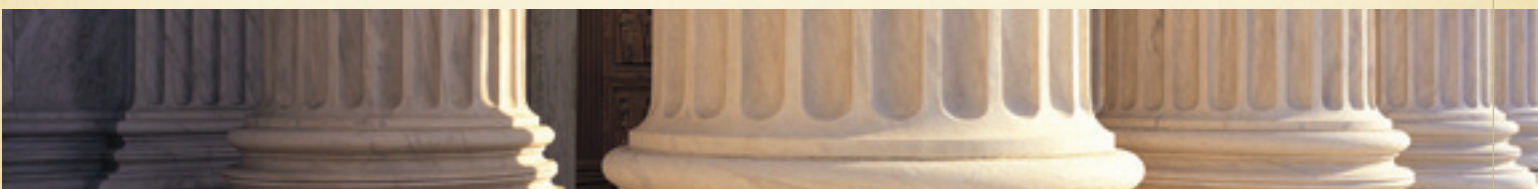
Unlike a civil jury trial, the jury in a criminal case must return a unanimous verdict. In most cases, the verdict is either guilty or not guilty. The jury may also find the defendant guilty of a lesser charge, if that lesser charge was submitted in the jury instructions. If the jury cannot reach a unanimous verdict, the court will declare a mistrial and the case may be tried again to another jury at a later date. Following the verdict, the defendant may file posttrial motions.

### **Sentencing**

After the return of a guilty verdict, the jury's duty is complete. The jury is not involved in determining the defendant's punishment; sentencing is left solely to the judge. The court will schedule a sentencing hearing, and the parties will have the opportunity to make sentencing recommendations.

### **Presentence Investigation (PSI)**

Before any defendant is sentenced (except in traffic and less serious criminal matters) the judge is given a pre-sentence investigation report usually prepared by a probation officer. This report contains information about the defendant such as any previous criminal record, family and financial circumstances, harm to the victim, circumstances of the offense, and sentencing recommendations from the probation officer and others. Under Iowa law, this report is confidential and available only to the court, the county attorney, the defense attorney, and the defendant.





### **Deferred Judgment**

In some cases, the court may grant the defendant a deferred judgment, which means that if the defendant successfully completes certain conditions during a fixed period of probation, the crime will be removed from the defendant's criminal record.

### **Sentencing Laws**

In determining the sentence, Iowa law requires the court to consider which sentence or combination of sentences authorized by the legislature, in the discretion of the court, will provide for the maximum opportunity for rehabilitation of the defendant and the protection of the community from further offenses by the defendant.

After careful consideration, the court will impose a sentence within the parameters established by the legislature. A sentence may include a fine, incarceration, probation, community service, and victim restitution. The amount of a fine, the term of imprisonment, and the option of probation must be within parameters established by the legislature for each type of offense.

### **Probation**

Probation is another sentencing option. A defendant who is placed on probation is placed under the supervision of a community-based correctional program. In Iowa, community-based correctional programs are public agencies that are supervised by appointed boards of directors. Typically, probation comes with court ordered conditions attached. A defendant must comply with these conditions to successfully complete probation. A defendant who violates a probation order may be sent to a correctional facility or a county jail.

### **Incarceration**

A defendant who is sentenced to a term of imprisonment greater than one year is turned over to the custody of the Iowa Department of Corrections, an executive branch agency. The department decides in which prison facility the defendant will serve the sentence. A defendant who receives a sentence of less than one year serves that time in a county jail.

### **Parole**

Defendants who are sent to a state correctional facility may be released prior to the expiration of their sentence. This early release is known as parole. Parole is granted by the parole board, which is also an executive branch agency. Certain conditions are attached to parole. If a defendant violates these conditions, parole may be revoked and the defendant may be returned to the correctional facility.



### Juvenile Court and Procedure

The juvenile court is a specialized court that has authority over certain cases involving the lives of children. The most common of these cases are:

- Child in Need of Assistance (CINA) cases most typically involve abused, abandoned, or neglected children, and sometimes lead to termination of parental rights.
- Delinquency cases involve acts that would be considered criminal acts if committed by an adult.

Please note that it is not uncommon for judges to close these proceedings.

#### **Child in Need of Assistance Proceedings**

**Removal**—A judge may remove a child from the child's home with or without a hearing if the state demonstrates that the child is in imminent danger. If a child is removed without a hearing, there must be a hearing within 10 days after removal.

**Adjudication**—An adjudication hearing is to determine if a child is in fact a child in need of assistance within the meaning of the law.

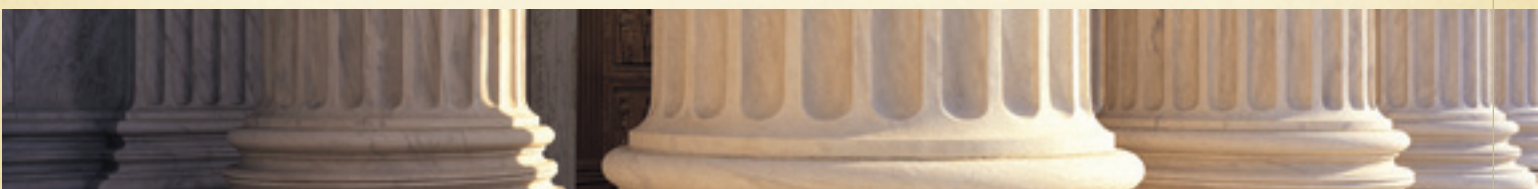
**Disposition Hearing**—The disposition hearing is to determine the type of services necessary to help the child and the parents improve the situation.

**Review Hearings**—The court will hold a review hearing every six months to review the progress of the parents, the condition of the child, and the placement of the child if the child was removed from her parents.

**Termination of Parental Rights**—A juvenile judge may enter an order to terminate parental rights if uniting the child and parents is not a safe option. Termination of parental rights makes a child eligible for adoption by others.

#### **Juvenile Delinquency Proceedings**

**Intake**—This process is the preliminary screening of a complaint by a juvenile court officer to determine whether the court should take action in the case. From intake the case may proceed in one of two directions—either to informal adjustment or to the filing of a delinquency petition. If a child has been apprehended or detained by law enforcement, the matter may go straight to the filing of a petition without the intake procedure.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

**Informal Adjustment**—Disposition by informal adjustment means the child has admitted the charge and agreed to the terms of behavior set out in a written informal adjustment agreement. If and when the child complies with the conditions of the informal adjustment, the child is released from the oversight of the juvenile court.

**Delinquency Petition**—The delinquency petition describes the nature of the delinquent act allegedly committed by the child. This petition is usually filed by the county attorney and it triggers formal court proceedings.

**Adjudicatory Hearing**—An adjudicatory hearing is to determine if the allegations in the petition are supported by evidence. If the judge finds that the child did not commit the alleged delinquent acts, the petition is dismissed and the child is no longer under the jurisdiction of the court. If the child is found to have committed the acts, the child is adjudicated a delinquent.

**Disposition Hearing**—At the disposition hearing the court determines the appropriate course of action for a child who has been adjudicated a delinquent. The court may place the child on probation or place the child in foster care, residential treatment or a state institution.

**Waiver Hearing**—Under certain circumstances a child may be tried as an adult. A juvenile judge may “waive” a child to adult court if the child is over 14 years of age, and there are no reasonable prospects to rehabilitate the child in juvenile court. If a child is sixteen or over and allegedly commits a “forcible felony”, that child is automatically waived to adult court. Once waived to adult court, the child is no longer under the jurisdiction of the juvenile court and is subject to the same criminal procedures and penalties as adults.





### Appeals and Appellate Procedure

A party dissatisfied with the final outcome of a case at the trial level may appeal. A party does not always have the right to appeal. In some cases, for example, those involving a simple misdemeanor crime or a small claims action, the party must seek permission from the supreme court to file an appeal. Additionally, in limited circumstances, a party may seek an early appeal, or an appeal in advance of final judgment, by obtaining permission from the supreme court.

At the appellate level, the court does not conduct trials or hear new evidence, but rather it determines whether legal errors were committed in the rendering of the lower court's judgment or order. The appellate court can affirm—uphold the decision or order of the lower court, reverse—set aside the decision or order, or remand—send the case back to the lower court with instructions, including instructions to hold a new trial.

#### **Notice of Appeal**

Generally, a party must file a notice of appeal within thirty days of the filing of the challenged judgment or order. The notice is filed with the clerk of court in the county where the district court order was entered.

#### **Preparation of the Appeal**

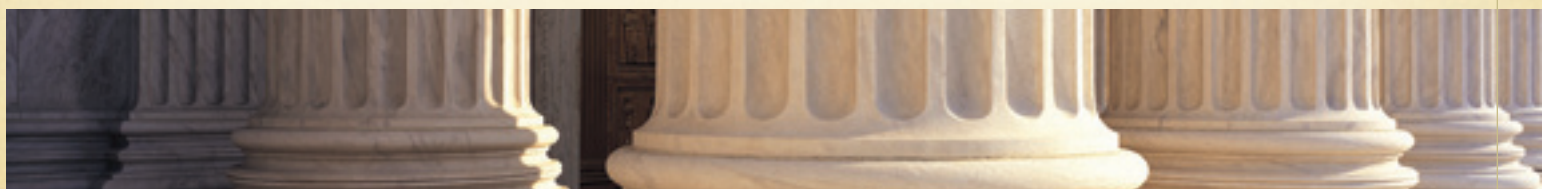
Following the filing of the notice of appeal, the parties must follow with a variety of steps contained in the Iowa Rules of Appellate Procedure to prepare the case for submission to the court. The party filing the notice of appeal is generally called the appellant. The opposing party in the case is usually called the appellee.

#### **Order Transcripts and Docket Appeal**

In a typical case, the appellant orders the relevant and necessary transcripts of the prior proceedings from the court reporter, and files a certificate with the supreme court clerk stating that the transcripts have been ordered. The appellant will then have a certain number of days, depending on the type of case, to pay a docketing fee.

#### **Appellate Briefs and Appendix**

The parties are required to file briefs, which are written documents setting forth the facts, a party's legal arguments, and the relief sought from the appellate court. The filing deadlines for briefs vary depending upon the type of case. In their briefs, the parties may request to make an oral argument before the court.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

The parties must also include the portions of the district court record that are referred to in their briefs in an appendix. The appendix is a mini record of the trial court proceedings containing those parts of the transcript, trial court papers, and exhibits most relevant to the issues raised on appeal. The appellant generally prepares and files the appendix on behalf of the parties.

### **Case Preparation Time**

The time required for the preparation of a typical case, from the filing of the notice of appeal to the filing of final briefs, appendix, and the request for the transmission of the record, is about five or six months. Some cases may take longer. Also, court rules allow for an expedited process for certain types of cases, such as child in need of assistance and termination of parental rights.

### **Case Screening**

Once a case file is ready, a panel of three supreme court justices will decide whether or not to transfer the case to the court of appeals or to retain the case for disposition by the supreme court. This decision is based upon the types of issues raised in the case.

### **Submission of the Case**

Each court sets its own case submission schedule and decides whether to grant the parties an opportunity to address the court, a process known as oral argument. During oral arguments lawyers have a brief period of time to summarize their legal arguments before the court and to answer questions asked by justices or judges. Many cases are submitted without oral argument.

### **The Opinion**

After a case is submitted or after oral arguments, the justices or judges will discuss in private conference, the legal issues presented in the case. Later, the justice or judge who has been given the assignment of writing the court's opinion will prepare a draft. The opinion writer circulates copies of the draft opinion to the other members of the court who may comment on the draft. A justice or judge who disagrees with the opinion may write a dissent. A justice or judge who agrees with the result, but not necessarily for the same reasons, may draft a special concurrence.

### **Rehearing and Further Review**

A party dissatisfied with a decision may file a petition for rehearing asking the court which heard the case to reconsider its decision. Rehearing is rarely granted.

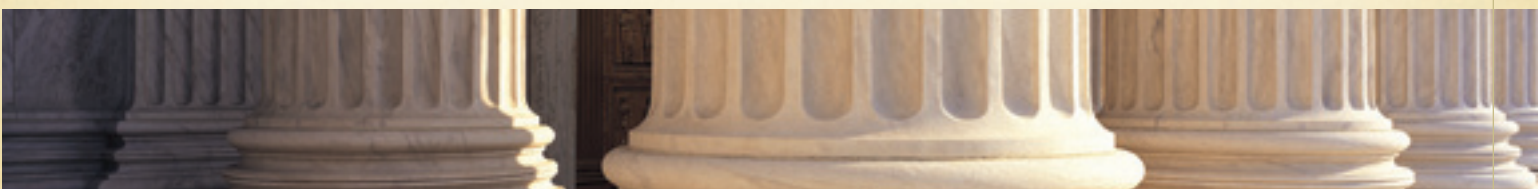


## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

After an opinion is filed by the court of appeals, the parties may seek further review by the supreme court. This procedure is commenced by filing an application for further review by following the applicable rules of appellate procedure. The supreme court as a whole decides whether to grant or deny the application.

### **Appeals to the U. S. Supreme Court**

The Iowa Supreme Court is the court of last resort in the Iowa court system, and for the most part, its decisions are final. However, if a case involves a federal question, a party may appeal to the United States Supreme Court. The United States Supreme Court has discretion to decide whether or not it will hear an appeal.





## IOWA'S JUDICIARY

### Eligibility for Judicial Office

All judges except judicial magistrates must be lawyers admitted to practice law in Iowa. They must be a resident of the state, district, or county to which they are appointed. Nominees must be of an age such that they can serve a full term of office before reaching age 72.

### Judicial Selection

In 1962, Iowa voters approved a constitutional reform that replaced the process of selecting judges by popular vote with a merit selection and retention election process. This reform, referred to as the "Missouri Plan," promotes selection of the best qualified applicants and ensures that Iowa has fair and impartial judges who are accountable to the public.

The merit selection system involves a nonpartisan commission that reviews the qualifications of applicants for judicial office. Applicants provide the commission with extensive information about their education, professional career, and qualifications. In addition, the commission conducts interviews of all candidates. Once the commission screens and interviews applicants, it forwards a slate of nominees to the appointing authority.

The appointing authority varies according to the type of judgeship. The governor appoints supreme court justices, court of appeals judges and district judges. The district judges appoint associate judges for a judicial district. And the magistrate appointing commission in each county appoints magistrates.

### State Nominating Commission

The State Judicial Nominating Commission interviews applicants and selects nominees for appointment to the Iowa Supreme Court as well as the Iowa Court of Appeals. This commission is composed of:

- A chair, who is the senior justice of the supreme court, other than the chief justice
- Eight lawyer commissioners elected by lawyers
- Eight nonlawyer commissioners appointed by the governor and confirmed by the Iowa Senate.
- All commissioners, but the chair, serve for a term of six years.

The state court administrator serves as the secretary for the state judicial nominating commission and in this capacity receives all applications and issues news releases.

Within sixty days of receiving the notice from the secretary of state, the commission must submit the names of nominees to the governor. The commission selects three nominees for appointment to the Supreme Court, and three nominees for appointment to the Court of Appeals.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

### District Nominating Commissions

District judicial nominating commissions are responsible for screening applicants and selecting nominees for district court judgeships. There is a nominating commission for each of Iowa's thirteen judicial election subdistricts.

Each district commission has eleven members, including:

- A chair, who is the most senior district court judge in the district,
- Five lawyer members elected by their peers, and
- Five nonlawyer members appointed by the governor.
- Each commissioner, except the chair, serves a six-year term.

The district nominating provides the governor with a slate of two nominees from which to make an appointment to the district court.

### County Magistrate Appointing Commissions

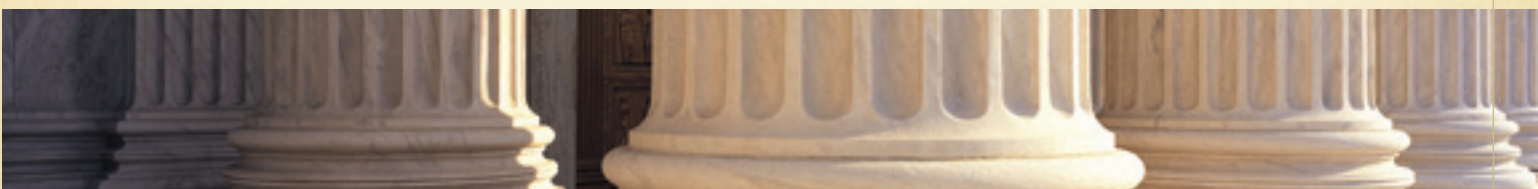
Each county has a magistrate appointing commission to assist with the selection of district associate judges, associate juvenile or probate judges, and to appoint magistrates. Each magistrate nominating commission is composed of the following members:

- A district court judge who serves as chair and who is designated by the chief judge of the judicial district,
- Up to three non-lawyer members appointed by the board of supervisors, and
- Up to two attorneys elected by the attorneys in the county.
- Commissioners, except for the district court judge, serve six-year terms.

The board of supervisors may not appoint an active law enforcement officer as a commissioner. A county attorney may not serve on the commission.

### Judicial Retention Elections

All judicial officers, except magistrates, must stand for retention election at the first general election following the judge's appointment, and then near the end of each regular term. In a retention election, judges do not have opponents. Instead, voters decide whether or not to retain a judge in office. If a judge receives a simple majority of "yes" votes, the judge may serve another full term.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

An initial term shall be for one year after appointment and until January 1 following the next judicial election after expiration of such term. The length of a regular term varies according to type of judgeship:

- Eight years for a supreme court justice
- Six years for a court of appeals judge, district court judge, and district associate judge
- Four years for an associate juvenile or associate probate judge.

### Investigation and Discipline of Judicial Officers: Judicial Qualifications Commission

The judicial qualifications commission receives, investigates, and evaluates allegations of judicial misconduct and incapacity. The commission reviews only questions of ethical conduct and disability. It does not have authority to review the merits of a judicial decision and thus, it is not a substitute for appeal.

The commission is an independent entity, separate from the Iowa Judicial Branch. The commission is composed of four persons appointed by the governor and confirmed by the senate, and a district court judge and two lawyers appointed by the chief justice of the Iowa Supreme Court. Commission members serve staggered six-year terms. The state court administrator serves as secretary for the commission. The attorney general's office assists with investigations.

The commission's records, investigations, and proceedings are confidential but an inquiry becomes public if and when the commission files an application with the supreme court recommending disciplinary action or forced retirement for disability. The report filed with the court is a public record.

The supreme court has authority to discipline or remove a judge for: persistent failure to perform the judge's duties; intemperance; willful misconduct in office; conduct which brings the judicial office into disrepute; or violations of the Code of Judicial Conduct.

In addition, the court can retire a judge for a permanent physical or mental disability that substantially interferes with the performance of the judge's duties, or discipline or remove a judge for good cause.

For more information on the Judicial Qualifications Commission and the process for the investigation and discipline of judicial officers, go to the Judicial Qualifications Commission website at <http://www.iowajqc.gov/>





## LEGAL GLOSSARY

### A

**Acquittal:** A legal finding by a judge or jury that a person accused of a crime is not guilty.

**Affidavit:** A voluntary written statement of facts made under oath before a notary public.

**Affirm:** A ruling of an appellate court confirming a decision or order of a lower court.

**Amicus Curiae:** Latin for “friend of the court.” This term means a person who is not a party to a lawsuit, but who petitions the court to file a brief in an action because the person has a strong interest in the subject matter. A person must have permission of the appellate court or consent of all of the parties to file an amicus brief.

**Answer:** A pleading or formal written statement setting out a defendant's case in response to a petition. An answer usually denies a plaintiff's allegations.

**Appeal:** To seek a higher court review of a decision of a lower court.

**Appeal Bond:** Security that an appellate court may require from an appellant in a civil case as a condition of staying an execution of judgment. A supersedeas bond is an appellant's bond required to stay execution of a judgment pending an appeal.

**Appellant:** A party appealing a lower court decision, usually seeking reversal of the decision.

**Appellee:** A party against whom an appeal is filed.

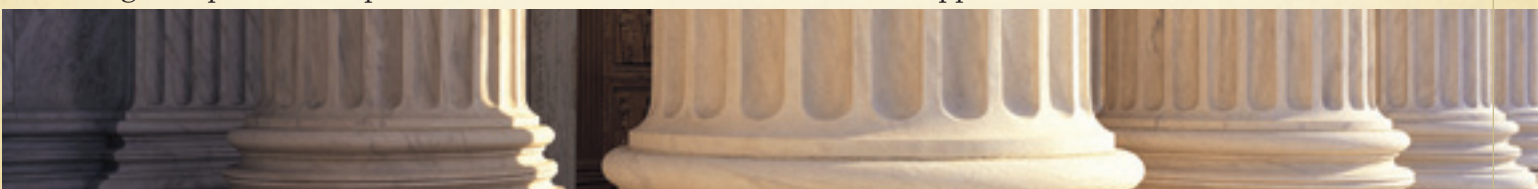
**Appellate court:** A court having authority to hear an appeal.

**Appendix:** A compilation of supplementary materials such as copies of court records and portions of a transcript filed in a case that is required to be filed on appeal along with the briefs.

**Arraignment:** A proceeding held in the early stages of a criminal case after the filing of an indictment or information. The purpose of an arraignment is to allow a person accused of a crime to hear the charges in court and to enter a plea. In Iowa, a defendant may file a written arraignment in lieu of a court proceeding.

### B

**Bail:** Security, such as cash or a bond, required to release a person being held in jail on criminal charges. The purpose of bail is to secure the presence of the individual in court at a future time to answer to the charges. A person who posts bail forfeits it if the defendant fails to appear in court as directed.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

**Bond:** In a criminal action, an obligation, sometimes referred to as a bail bond, assumed by a surety on behalf of a criminal defendant to ensure the appearance of the defendant in court at a future date.

**Brief:** A written document that sets out the legal contentions of a party, including a recitation of important facts, a statement of the issues presented for review, and legal authority supporting a party's legal contentions. A brief is required on appeal.

**Burden of Proof:** A party's burden to establish a disputed assertion or charge. The term can mean either the burden of producing certain evidence (the most common usage) or the burden of persuading a judge or jury of a certain proposition.

### C

**Certiorari:** A discretionary appeal used to ascertain whether a lower court had jurisdiction or whether its proceedings were authorized. If granted, a writ of certiorari proceeds in the manner of a regular appeal.

**Civil Case:** A matter or case pertaining to the private rights of an individual.

**Class Action:** A lawsuit in which a court authorizes a person or small group of people to represent the interests of a large group of people with common characteristics or interests. Iowa court rules allow commencement of a class action only if the class is so numerous or so constituted that joinder of all members, whether or not otherwise required or permitted, is impracticable, and there is a question of law or fact common to the class.

**Code:** A systematic compilation of laws. For example, the Iowa Code is a compilation of all laws approved by the Iowa Legislature and the governor.

**Common Law:** A body of law derived from legal concepts and principles established in judicial decisions as opposed to statutes. American common law is rooted in the English common law in existence during colonial times, but it has developed over the years into a system of its own. In the United States, the general law is a combination of statutory and common law, and the common law supplements statutory law.

**Concurrence:** A vote of an appellate judge that indicates the judge's agreement with the result or judgment of the majority opinion, but for different reasons. A judge who concurs may write a separate opinion known as a concurring opinion.

**Concurrent Sentences:** Multiple sentences imposed on a single defendant to be served over the same time.





## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

**Contempt of Court:** An act that shows disrespect for the court's authority. Contempt usually involves willful disobedience of a court order. A finding of willful disobedience requires evidence of conduct that is intentional and deliberate. Contempt is punishable by a fine, imprisonment, or other sanctions. Often, sanctions are used to compel someone into obeying a court order.

**Contract:** An agreement between two or more parties, in which each party gives up something of value in return for another thing of value and that creates by its terms enforceable obligations.

**Continuance:** To continue a matter, hearing, or trial to another time.

**Conviction:** A legal finding or determination that a person is guilty of a crime.

**Cross Examination:** Questioning of a witness by opposing counsel.

## D

**Damages:** A sum of money which a wronged or injured person is entitled to receive for compensation for a loss, detriment, or injury caused by a wrongful or negligent act of another.

Actual damages means an amount to compensate for an actual loss. Liquidated damages means an amount contractually stipulated as a reasonable estimation for damages fixed for breach of the contract. Punitive damages means damages assessed in addition to actual damages as a form of punishment when a defendant has acted with actual or legal malice rather than mere negligence, which is established by showing wrongful conduct committed with the willful or reckless disregard for the rights of another; also exemplary damages.

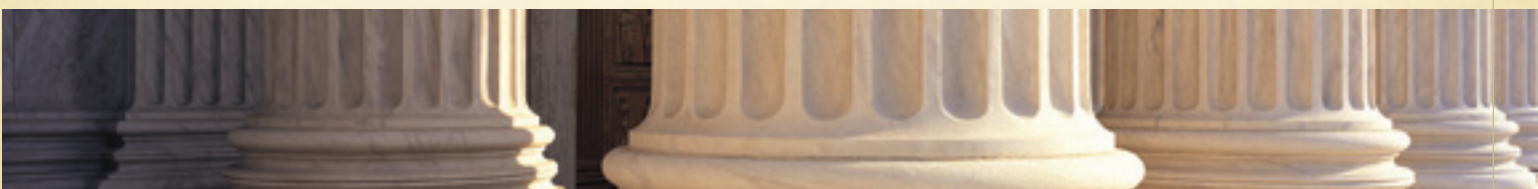
**Declaratory Judgment:** An action in which a court, at the request of a party, declares the rights, duties, status, or other legal relationships of parties. A court may refuse to grant a declaratory judgment where it would not, if rendered, terminate the uncertainty or controversy giving rise to the proceeding.

**Decree:** A judicial decision or order. The word is typically used in reference to decisions and orders issued in dissolution, probate, and other types of cases heard in courts of equity.

**Default Judgment:** A judgment entered when a party who fails to take a step required in progress of an action. The typical default judgment occurs when a defendant fails to file and answer within the time allowed or fails to appear at trial or otherwise provide a defense.

**Defendant:** A person sued in a civil lawsuit or accused in a criminal proceeding.

**De Novo:** Meaning "of new." Used most often to describe a standard of review in which a higher court reviews anew the evidence and record of a case from a lower court or tribunal, as opposed to a review limited to the correction of errors.





## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

**Deposition:** The testimony of a witness not taken in open court, but pursuant to authority given by statute or court rule to take testimony elsewhere. Deposition testimony may be introduced as evidence in a court proceeding.

**Dissent:** A term denoting the disagreement of one or more judges of a court with the decision of the majority. A judge who dissents may write a separate opinion known as a dissenting opinion.

**Double Jeopardy:** When a person is prosecuted or sentenced twice for the same crime. The Fifth Amendment prohibits double jeopardy.

**Due Process:** A term that means the conduct of legal proceedings in a manner that protects and enforces the rights of individuals, including notice to all parties and the right to a fair hearing before an impartial decision maker.

### E

**En banc:** This term means “on the bench” and usually refers to all judges or justices of an appellate court sitting together to hear a case. For example, the Iowa Supreme Court hears all cases en banc.

**Equity:** A word meaning fairness or even handedness. Equity began as an English system of justice in which a judge of the High Court of Chancery turned to principles of natural justice to supplement the law. Today, equity denotes rights, remedies and common law principles recognized by a court in equity. The Iowa Code designates a number of civil actions as equitable, including, but not limited to dissolutions, probate matters, and foreclosures.

**Ex parte:** On or for one party only, for the benefit of that party, without notice to or argument from the opposing party. An ex parte communication is an exchange of information, orally or in writing, between the court and an attorney or party without the opposing attorney or party present. To maintain the court's impartiality, judicial ethics prohibit a judge from considering ex parte communications concerning a pending proceeding.

**Extradition:** When one state or country surrenders to another jurisdiction a person accused of a crime or convicted of an offense.

**Evidence:** Any demonstration of a fact that tends to prove or disprove the existence of an alleged fact. Evidence can take many forms such as a statement of a witness, an object, etc., that bears on or establishes a point in question. Admissible evidence refers to evidence that is relevant to a case and is of the character of evidence eligible to be received into the record. Rules of evidence designed to ensure reliability and fairness govern the admissibility of evidence in court.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

### F

**Felony:** A crime considered to be of a grave nature and subject to severe penalties. For example, in most jurisdictions felonies include murder, kidnapping, manslaughter, burglary, robbery, and other grievous crimes. Iowa law provides for four classes of felonies, ranging from class "D," the least serious, to class "A," the most serious.

### G

**Grand Jury:** A group of citizens whose duty it is to inquire into a crime to determine if a criminal indictment against a person is warranted. In Iowa, a grand jury shall meet at the direction of the court, upon the request of a majority of grand jurors, or at the request of the county attorney. Typically, the county attorney is allowed to appear before a grand jury for the purpose of presenting information and examining witnesses. Grand jury proceedings are closed to the public.

**Guardian:** One who has legal authority and the duty to care for another person because of the person's age, incapacity, or disability.

**Guardian Ad Litem:** A person, usually an attorney, appointed by the court to represent the interests of another person, usually a child, in court. For instance, a guardian ad litem is often appointed for a child who is the subject of a child in need of assistance case. Sometimes the court will appoint a guardian ad litem to represent the best interests of a child when the child's parents are dissolving their marriage. Note: At least in Iowa, the appointment of a guardian ad litem does not necessarily mean the government will cover the expense.

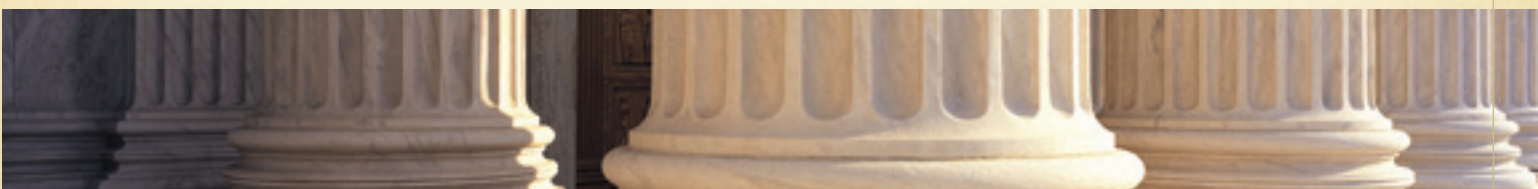
### H

**Habeas corpus:** Latin for "you have the body." A petition to bring a person before a court or a judge, most frequently used to ensure that a person's imprisonment, detention, or commitment is legal.

**Hearsay:** Testimony of a witness relating an out-of-court statement of someone else. Such evidence is generally inadmissible under the rules of evidence because the person who actually made the statement is not under oath and not subject to cross examination.

### I

**Indictable offense:** A crime prosecuted by indictment or information. In Iowa, indictable offenses include serious misdemeanors, aggravated misdemeanors, and felonies, all of which are punishable by a fine of more than \$500 and more than 30 days in jail.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

**Indictment:** A formal accusation of a crime issued by a grand jury, charging that a person has committed an indictable offense. An indictment is a plain, concise and definite statement of the offense charged.

**Information:** A formal accusation of crime filed by the prosecuting attorney.

**Injunction:** A court order requiring a party to do or to refrain from doing a certain act. An injunction may be granted as part of a final judgment; or at any prior stage of the proceedings, in which case it is a preliminary, or temporary, injunction. A preliminary injunction is to be issued only with extreme caution where it is likely a petitioner would suffer irreparable injury if the injunction is not granted, or in any case specially authorized by statute.

**Interlocutory:** Preliminary, not constituting a final resolution of the whole controversy. An interlocutory appeal involves an appeal of a matter before a final decision is rendered by the lower court. An appeal of an interlocutory ruling is discretionary and may only be granted if the appellate court finds the ruling involves substantial rights and will materially affect the final decision and that a determination of its correctness before trial on the merits will better serve the interests of justice.

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

### J

**Jurisdiction:** The extent of the authority and power of a court to preside over a case and interpret and apply the law.

**Jury Instructions:** The judge's written directions to a jury concerning the laws pertinent to the case under consideration. A set of jury instructions is given to the jury just prior to its deliberations.

### L

**Lien:** A legal right or interest a creditor has in a debtor's property for the purpose of securing the payment of a debt. The Iowa Code authorizes a number of liens for specific obligations as well as for judgments.

**Limine:** To exclude evidence. For example, the defense filed a motion in limine to exclude the plaintiff's medical records from being admitted into evidence.





## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

### M

**Mandamus:** The name of a writ which is issued from a court, directed to a public officer, commanding the performance of a particular legal duty. Mandamus will not lie to control the discretion of an official unless it appears the act official acted arbitrarily or capriciously.

**Misdemeanor:** Offenses considered less grievous than felonies. There are three classes of misdemeanors—simple, serious, and aggravated. In Iowa, a simple misdemeanor is punishable by a fine not to exceed \$500 and imprisonment not to exceed 30 days. The penalty for a serious misdemeanor is a fine in an amount between \$250 and \$1500 and imprisonment up to one year. An aggravated misdemeanor is punishable by a fine between \$500 and \$5000 and imprisonment not to exceed two years with some exceptions.

**Motion:** An application to the court requesting a specific ruling in a pending case. Usually, a motion concerns an issue with the court's discretion.

### N

**Negligence:** Generally defined as conduct that falls below a standard established by law for the protection of others against unreasonable risk of harm. Comparative negligence or comparative fault means a plaintiff's own negligence that proportionately reduces the damages recoverable from a defendant. Concurrent or joint negligence involves the negligence of two or more parties causing the same damage. Negligence per se is negligence established as a matter of law that renders a person absolutely liable for resulting damages.

### O

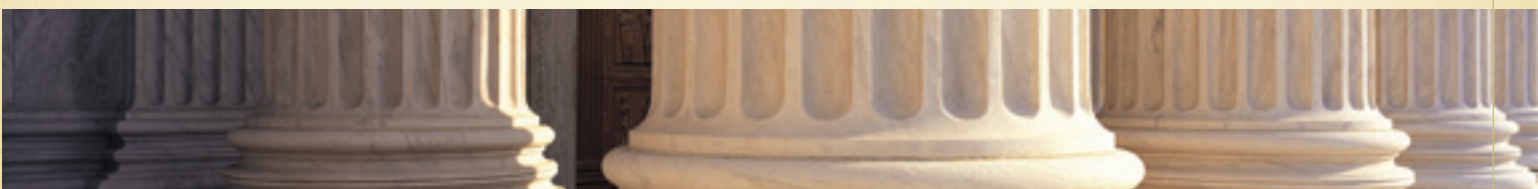
**Objection:** A statement by an attorney opposing specific testimony or admission of evidence.

**Opinion:** A formal written statement or decision by a judge or justice of the law bearing on a case, usually as a resolution of an appeal.

**Ordinance:** A law passed by a city, town or county legislative body, usually matters that the state government allows to be regulated by local government.

**Original Notice:** A document filed in court to begin a law suit. The notice of the filing of a lawsuit served on a defendant, stating a time in which a response must be filed.

**Overrule:** The court's denial of a motion or objection.



### P

**Perjury:** The act of lying while under oath.

**Petition:** A written application to a court, usually the first pleading in a lawsuit, requesting a remedy available under law; also, called a complaint. For example, a petition for dissolution of marriage is the first pleading filed in a divorce.

**Plaintiff:** A person who initiates a civil lawsuit; the party who complains or sues in a personal action and is so named on the record.

**Pleading:** A written statement setting out a cause of action or a defense of a legal case.

**Preliminary Hearing:** A court hearing that occurs in the initial stages of a criminal prosecution. In Iowa, the preliminary hearing takes place soon after an arrest and initial appearance. A defendant is entitled to a preliminary hearing unless the defendant has been indicted by a grand jury or a trial information, or has waived the hearing. The purpose of the preliminary hearing is to determine if there is probable cause to believe the defendant committed a crime.

**Prima Facie:** A term meaning sufficient to establish a fact or raise a rebuttable presumption. Prima facie evidence means a fact presumed to be true unless disproved by some evidence to the contrary.

**Probable Cause:** In criminal law, probable cause is a constitutionally prescribed standard of proof—a requirement of a reasonable ground to suspect that a person is committing or has committed a crime, or there is a fair probability that evidence of a crime would be found in a certain location that is the subject of a search warrant. In torts, probable cause means a reasonable belief in the existence of certain facts on which a claim is based.

### Q

**Quash:** To vacate, annul, or terminate.

### R

**Restitution:** An equitable remedy under which a person is restored to his or her original position prior to loss or injury. Restitution is commonly used to describe full or partial compensation owed by a criminal to a victim of a crime as part of a criminal sentence. In Iowa, this word may also include the entire amount of a defendant's monetary obligation, including victim restitution, fines, court costs, surcharges, and fees.



## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

### S

**Scheduled Violation:** A criminal offense that is usually charged by citation and for which the exact amount of fine is fixed by statute. In Iowa, the majority of scheduled violations are traffic offenses.

**Service:** The formal delivery of notice of a legal document, such as a pleading, to assure that the opposing party is aware of the action and is given an opportunity to appear. Personal service means the actual delivery of the notice to the person to whom it is directed and is usually required for the initiation of most law suits. Personal service is typically performed by a sheriff or process server. Service by publication, which is accomplished by publishing notice in a newspaper or other public medium, is allowed under certain circumstances, usually when a defendant's whereabouts are unknown.

**Statute of Limitations:** A law that sets a time limit for bringing a lawsuit in a case.

**Stipulation:** A written agreement by opposing parties in a case as to any manner pertaining to court proceedings or trial. Stipulations serve to simplify and expedite proceedings when parties agree on certain facts or procedures.

**Subpoena:** A written legal notice compelling a person to appear in court to testify as a witness. Subpoena duces tecum is a notice to compel a person to appear and bring specified documents, records, or items.

**Suppress:** To prevent something from being seen, heard, or said. To suppress evidence is to keep evidence being offered by a party from being used in a trial. Typically, a court will suppress evidence if it is irrelevant or was obtained illegally.

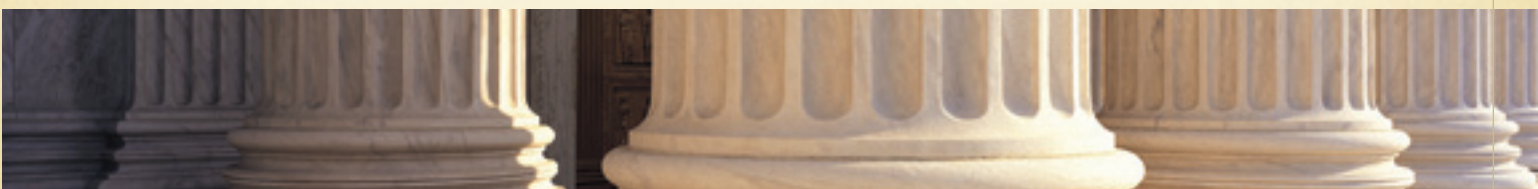
**Sustain:** The court's acceptance of a motion or objection.

### T

**Testimony:** Spoken evidence given by a witness, under oath, as distinguished by evidence derived by writings and other sources.

**Tort:** A civil wrong, other than a breach of contract, committed against a person or their property, for which the law provides a remedy.

**Transcripts:** A copy of the record of a trial, hearing or other proceeding as prepared by a court reporter.





## REPORTER'S GUIDE TO IOWA'S COURT SYSTEM

### U

**Uniform Citation:** A statutory procedure that allows a peace officer to issue a citation in lieu of arrest.

Typically, uniform citations are authorized for offenses that are scheduled violations.

### V

**Venue:** The proper place for a lawsuit or place where a court has jurisdiction. A court may change venue under certain circumstances.

**Verdict:** The formal decision or finding made by a jury on the factual issues of a case and accepted by the court.

**Voir Dire:** An inquiry of prospective jurors, by the attorneys and by the judge, to determine if such jurors are fit for jury duty in a given case.

### W

**Warrant:** A writ or order authorizing an officer to make an arrest, conduct a search, or to perform some other designated act.

**Witness:** One who testifies to what he or she has seen, heard, or otherwise observed or testifies to his or her opinion based on a hypothetical statement.

**Writ:** An order issued from a court requiring the performance of a specified act, or giving authority and commission to having it done.



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