

## CHAPTER 285

## JUDICIAL QUALIFICATIONS ACT

S. F. 199

AN ACT to provide a judicial qualifications Act under the authority of the constitutional amendment adopted at the general election in November, 1972.

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

1     **SECTION 1. NEW SECTION. Commission on judicial qualifications.**  
 2     A "Commission on Judicial Qualifications" is hereby created consist-  
 3     ing of one district court judge and two members who are practicing  
 4     attorneys in Iowa licensed under the provisions of chapter six hundred  
 5     ten (610) of the Code, appointed by the chief justice of the supreme  
 6     court, and four electors of the state who are not attorneys, no more  
 7     than two of whom shall belong to the same political party, to be ap-  
 8     pointed by the governor and subject to confirmation by a vote of  
 9     two-thirds of the membership of the senate. The commission members  
 10    shall serve for six-year terms, shall be ineligible for a second term,  
 11    shall hold no other office of and shall not be employed by the United  
 12    States or the state of Iowa or of its political subdivisions, except for  
 13    the judicial member. The first commission members shall take office  
 14    January 1, 1974. Initially, two members shall serve for two years,  
 15    two for four years, and three for six years, as shall be determined by  
 16    lot among the first commission members. Vacancies shall be filled by  
 17    appointment by the chief justice or governor as the case may be, for  
 18    the unexpired portion of the term of the previous commission member.  
 19    If the judicial member or a judge who is a resident judge of the  
 20    same judicial district as the judicial member is the subject of a charge  
 21    before the commission, the chief justice shall appoint a judge of  
 22    another district court to act in his place on the commission until he  
 23    is exonerated of the charge or for the unexpired portion of his term  
 24    as member of the commission if he is not exonerated of the charge.  
 25    The commission shall elect its own chairman and the supreme court  
 26    administrator of the judicial department or his designee shall be  
 27    executive secretary of the commission, without additional compensa-  
 28    tion. The members of the commission other than the judicial member  
 29    shall receive compensation of forty dollars for each day spent in the  
 30    performance of their duties. The commission members and the execu-  
 31    tive secretary shall be paid their actual and necessary expenses for  
 32    transportation, meals and lodging in the performance of their duties,  
 33    and all other actual and necessary expenses of the operation of the  
 34    commission.

1     **SEC. 2. NEW SECTION. Power of supreme court.** Upon applica-  
 2     tion by the commission on judicial qualifications, the supreme court  
 3     shall have power to do either of the following:  
 4     1. Retire a district judge or district associate judge of the district  
 5     court or a judge of the supreme court for permanent physical or  
 6     mental disability which substantially interferes with the performance  
 7     of his judicial duties.  
 8     2. Discipline or remove any such judge for persistent failure to  
 9     perform his duties, habitual intemperance, willful misconduct in office,  
 10    conduct which brings judicial office into disrepute, or substantial vio-  
 11    lation of the canons of judicial ethics. Discipline may include suspen-

12 sion without pay for a definite period of time not to exceed twelve  
13 months.

1     **SEC. 3. NEW SECTION. Operation of commission.** A quorum of  
2 the commission shall be four members. Only commission members  
3 present at commission meetings or hearings may vote. Any applica-  
4 tion by the commission to the supreme court to retire, discipline, or  
5 remove a judge or any action by the commission which affects the final  
6 disposition of a complaint shall require the affirmative vote of at least  
7 four commission members. Notwithstanding the provisions of chapter  
8 twenty-eight A (28A) of the Code, all records, papers, proceedings,  
9 meetings and hearings of the commission shall be confidential, but if  
10 the commission applies to the supreme court to retire, discipline or  
11 remove a judge, the application and all of the records and papers in  
12 that proceeding shall become public documents.

1     **SEC. 4. NEW SECTION. Procedure before commission.**  
2     1. Charges before the commission shall be in writing but may be  
3 simple and informal. The commission shall investigate each charge  
4 as indicated by its gravity. If the charge is groundless, it shall be  
5 dismissed by the commission. If the charge appears to be substanti-  
6 ated but does not warrant application to the supreme court, the  
7 commission may dispose of it informally by conference with or com-  
8 munication to the judge involved, but if the charge appears to be  
9 substantiated and if proved would warrant application to the supreme  
10 court, notice to the judge shall be given and hearing shall be held  
11 before the commission. The commission may employ such additional  
12 investigative personnel, including but not limited to the executive  
13 secretary, as it deems necessary.  
14     2. In case of hearing before the commission, notice in writing of the  
15 charge and of the time and place of hearing shall be mailed to the  
16 judge at his residence at least twenty days prior to the time set for  
17 hearing. Hearing shall be held in the county where the judge resides  
18 unless the commission and the judge agree to a different location. The  
19 judge shall continue his judicial duties during the pendency of the  
20 charge unless otherwise ordered by the commission. The commission  
21 shall have subpoena power on behalf of the state and the judge, and  
22 disobedience of the commission's subpoena shall be punishable as con-  
23 tempt in the district court in and for the county in which the hearing  
24 is held. The attorney general shall prosecute the charge before the  
25 commission on behalf of the state. The judge may defend and shall  
26 have the right to participate in person and by counsel, to cross-  
27 examine, to be confronted by the witnesses, and to present evidence  
28 in accordance with the rules of civil procedure. A complete record  
29 shall be made of the evidence by a certified shorthand reporter. In  
30 accordance with its findings on the evidence, the commission shall  
31 dismiss the charge or make application to the supreme court to retire,  
32 discipline, or remove the judge.

1     **SEC. 5. NEW SECTION. Procedure before supreme court.**  
2     1. If the commission makes application to the supreme court to  
3 retire, discipline, or remove a judge, it shall promptly file in the  
4 supreme court a transcript of its proceedings at the hearing. The

5 statutes and rules relative to proceedings following the filing of rec-  
6 ords in appeals of equity suits shall apply.

7 2. The attorney general shall prosecute the proceedings in the  
8 supreme court on behalf of the state, and the judge may defend in  
9 person and by counsel. If the supreme court finds the application  
10 should be granted in whole or in part, it shall render such decree as  
11 it deems appropriate and may retire the judge from office, discipline  
12 him or remove him from office.

13 Its decree retiring him from office for permanent physical or mental  
14 disability shall constitute an adjudication within the provisions of  
15 section six hundred five A point thirteen (605A.13) of the Code.

1 SEC. 6. NEW SECTION. **Defamation.** The making of charges be-  
2 fore the commission, the giving of evidence or information before the  
3 commission or to an investigator employed by the commission and the  
4 presentation of transcripts, extensions of evidence, briefs and argu-  
5 ments in the supreme court shall be privileged in actions for defa-  
6 mation.

1 SEC. 7. NEW SECTION. **Rules.** The commission may adopt rules  
2 for its operation and procedure.

1 SEC. 8. Section six hundred five A point thirteen (605A.13), Code  
2 1973, is amended to read as follows:

3 **605A.13 Retirement benefits for disability.** An adjudication as to  
4 permanent physical or mental disability under the provisions of ~~chap-~~  
5 ~~ter 605~~ *this Act* shall entitle the judge to the same retirement benefits  
6 as provided for voluntary retirement for such cause.

1 SEC. 9. Section six hundred five A point fourteen (605A.14), Code  
2 1973, is amended to read as follows:

3 **605A.14 Forfeiture of benefits—refund.** In the event a judge of  
4 the supreme, district or municipal court is removed for cause other  
5 than permanent disability he *and his survivor* shall forfeit the right  
6 to any retirement benefits under the system but the total amount of  
7 his contribution to the fund shall be returned to him or his legal repre-  
8 sentative.

1 SEC. 10. Sections six hundred five point twenty-six (605.26), six  
2 hundred five point twenty-seven (605.27), six hundred five point  
3 twenty-eight (605.28), six hundred five point twenty-nine (605.29),  
4 six hundred five point thirty (605.30), six hundred five point thirty-  
5 one (605.31), and six hundred five point thirty-two (605.32), Code  
6 1973, are repealed.

Approved May 24, 1973.