

CHAPTER 151

JUDICIAL ADMINISTRATION AND PROCEDURES

H.F. 694

AN ACT relating to the judicial branch including by establishing a judicial district and judicial election district redistricting process, making changes to the nomination, appointment, and retention of judges, expanding magistrate courts, eliminating the position of alternate district associate judge, permitting district judgeships to be apportioned or transferred to another judicial district, requiring the county sheriff to serve a summons in certain delinquency proceedings, eliminating the participation of the foster care review board in voluntary foster care placements, waiving the filing fee and court costs in certain contempt actions, changing the duties of and the procedures related to the clerk of the district court, providing that interest on a judgment be calculated upon the one year treasury constant maturity plus two percent, expanding the access of the deferred judgment docket, prohibiting regional litigation centers, modifying the schedule of the probate court, providing for a fee, and providing for a study.

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

Section 1. Section 46.12, unnumbered paragraph 1, Code 2003, is amended to read as follows:

When a vacancy occurs or will occur within one hundred twenty days in the supreme court, the court of appeals, or district court, the state commissioner of elections shall forthwith so notify the chairperson of the proper judicial nominating commission, unless the chief justice has ordered the state commissioner of elections to delay sending the notification. The chief justice may order the delay for up to one hundred eighty days for budgetary reasons. The chairperson shall call a meeting of the commission within ten days after such notice; if the chairperson fails to do so, the chief justice shall call such meeting.

Sec. 2. Section 46.14, Code 2003, is amended to read as follows:
46.14 NOMINATION.

1. Each judicial nominating commission shall carefully consider the individuals available for judge, and within sixty days after receiving notice of a vacancy shall certify to the governor and the chief justice the proper number of nominees, in alphabetical order. Such nominees shall be chosen by the affirmative vote of a majority of the full statutory number of commissioners upon the basis of their qualifications and without regard to political affiliation. Nominees shall be members of the bar of Iowa, shall be residents of the state or district of the court to which they are nominated, and shall be of such age that they will be able to serve an initial and one regular term of office to which they are nominated before reaching the age of seventy-two years. Nominees for district judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the district judicial nominating commission. ~~No person shall be eligible for nomination by a commission as judge during the term for which the person was elected or appointed to that commission.~~ Absence of a commissioner or vacancy upon the commission shall not invalidate a nomination. The chairperson of the commission shall promptly certify the names of the nominees, in alphabetical order, to the governor and the chief justice.

2. ~~A commissioner shall not be eligible for nomination by the commission during the term for which the commissioner was elected or appointed to that commission. A commissioner shall not be eligible to vote for the nomination of a family member, current law partner, or current business partner.~~ For purposes of this subsection, "family member" means a spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Sec. 3. Section 46.16, subsections 2 and 3, Code 2003, are amended to read as follows:

2. Subject to removal for cause, the initial term of office of a district associate judge shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year, and the regular term of office of a district associate judge retained at a judicial election shall be ~~four~~ six years from the expiration of the initial or previous regular term, as the case may be.

3. Subject to removal for cause, the initial term of office of a full-time associate juvenile judge or a full-time associate probate judge shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year, and the regular term of office of a full-time associate juvenile judge or a full-time associate probate judge retained at a judicial election shall be ~~four~~ six years from the expiration of the initial or previous regular term, as the case may be.

Sec. 4. Section 232.35, subsection 1, Code 2003, is amended to read as follows:

1. A formal judicial proceeding to determine whether a child has committed a delinquent act shall be initiated by the filing by the county attorney of a petition alleging that a child has committed a delinquent act. After a petition has been filed, service of a summons requiring the child to appear before the court or service of a notice shall be made as provided in section 232.37.

Sec. 5. Section 232.37, subsection 4, Code 2003, is amended to read as follows:

4. Service of summons or notice shall be made personally by the sheriff ~~by the delivery of delivering~~ a copy of the summons or notice to the person being served. If the court determines that personal service of a summons or notice is impracticable, the court may order service by certified mail addressed to the last known address. Service of summons or notice shall be made not less than five days before the time fixed for hearing. Service of summons, notice, subpoenas or other process, after an initial valid summons or notice, shall be made in accordance with the rules of the court governing such service in civil actions.

Sec. 6. Section 232.183, subsection 7, Code 2003, is amended by striking the subsection.

Sec. 7. Section 236.3, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The filing fee and court costs for an order for protection and in a contempt action under this chapter shall be waived for the plaintiff. The clerk of court, the sheriff of any county in this state, and other law enforcement and corrections officers shall perform their duties relating to service of process without charge to the plaintiff. When an order for protection is entered by the court, the court may direct the defendant to pay to the clerk of court the fees for the filing of the petition and reasonable costs of service of process if the court determines the defendant has the ability to pay the plaintiff's fees and costs.

Sec. 8. Section 237.20, unnumbered paragraph 1, Code 2003, is amended to read as follows:

A local board shall, except in delinquency cases, do the following:

Sec. 9. Section 255.1, unnumbered paragraph 1, Code 2003, is amended to read as follows:

Any adult resident of the state may file a complaint in the office of the ~~clerk of any juvenile court, county general assistance director~~ charging that any legal resident of Iowa residing in the county where the complaint is filed is pregnant or is suffering from some malady or deformity that can probably be improved or cured or advantageously treated by medical or surgical treatment or hospital care, and that neither such person nor persons legally chargeable with the person's support are able to pay therefor.

Sec. 10. Section 255.4, Code 2003, is amended to read as follows:

255.4 EXAMINATION BY PHYSICIAN.

Upon the filing of such complaint, the ~~clerk shall number and index the same and~~ county

general assistance director shall appoint a competent physician and surgeon, living in the vicinity of the patient, who shall personally examine the patient with respect to ~~said the~~ pregnancy, malady, or deformity. The ~~clerk~~ director may, after the expiration of five years from the filing of a complaint, destroy ~~it the~~ complaint and all papers or records in connection ~~therewith with the~~ complaint.

Sec. 11. Section 255.5, Code 2003, is amended to read as follows:

255.5 REPORT BY PHYSICIAN.

Such physician shall make a report in duplicate on blanks furnished as hereinafter provided ~~in this chapter, answering the questions contained therein in the blanks and setting forth the~~ information required ~~thereby, giving such history of the case as will be likely to aid the medical or surgical treatment or hospital care of such patient, describing the pregnancy, deformity, or malady in detail, and stating whether or not in the physician's opinion the same pregnancy, deformity, or malady can probably be improved or cured or advantageously treated, which report shall be filed in the office of the clerk within such time as the clerk may fix~~ county general assistance director.

Sec. 12. Section 255.6, Code 2003, is amended to read as follows:

255.6 INVESTIGATION AND REPORT.

When a complaint is filed, ~~the clerk of juvenile court in the office of the county general assistance director, the director~~ shall furnish the county attorney and board of supervisors with a copy and the board shall, by the general assistance director or other agent it selects, make a thorough investigation of facts as to the legal residence of the patient, and the ability of the patient or others chargeable with the patient's support to pay the expense of treatment and care; and shall file a report of the investigation ~~in the office of the clerk, with the board~~ at or before the time of hearing.

Sec. 13. Section 255.7, Code 2003, is amended to read as follows:

255.7 NOTICE OF HEARING — DUTY OF COUNTY ATTORNEY.

When the physician's report has been filed, the ~~clerk~~ county general assistance director shall, ~~with the consent of the court or judge, fix set~~ a time and place for hearing of ~~on~~ the matter ~~by the court, and the county attorney shall cause such patient and the parent or parents, guardian, or person having the legal custody of said patient, if under legal disability, to be served with such notice of the time and place of the hearing as the judge or clerk~~ director may prescribe.

Sec. 14. Section 255.8, Code 2003, is amended to read as follows:

255.8 HEARING — ORDER — EMERGENCY CASES — CANCELLATION OF COMMITMENTS DETERMINATION BY BOARD OF SUPERVISORS.

~~The county attorney and the general assistance director, or other agent of the board of supervisors of the county, shall appear at the hearing. The complainant, the county attorney, the general assistance director or other agent of the board of supervisors, and the patient, or any person representing the patient, may introduce evidence and be heard. If the court board of supervisors finds that the patient is a legal resident of Iowa and is pregnant or is suffering from a malady or deformity which can probably be improved or cured or advantageously treated by medical or surgical treatment or hospital care, and that neither the patient nor any person legally chargeable with the patient's support is able to pay the expenses, then the clerk of court~~ county general assistance director, except in obstetrical cases and orthopedic cases, shall immediately ascertain from the admitting physician at the university hospital whether the person can be received as a patient within a period of thirty days, and if the patient can be received, ~~the court, or in the event of no actual contest, the clerk of the court, board~~ shall enter an order ~~directing direct~~ that the patient be sent to the university hospital for proper medical and surgical treatment and hospital care. ~~If the court ascertain~~ board ascertains, except in obstetrical cases and orthopedic cases, that a person of the age or sex of the patient, or afflicted by the

complaint, disease, or deformity with which the person is afflicted, cannot be received as a patient at the university hospital within the period of thirty days, ~~then the court or the clerk shall enter an order directing~~ the board of supervisors of ~~shall direct~~ the county to provide adequate treatment at county expense for the patient at home or in a hospital. Obstetrical cases and orthopedic cases may be committed to the university hospital without regard to the limiting period of thirty days.

In any case of emergency the ~~court or the clerk~~ board of supervisors without previous inquiry may at its discretion order the patient to be immediately taken to and accepted by the university hospital for the necessary care as provided in section 255.11, but if such a patient cannot be immediately accepted at the university hospital as ascertained by telephone if necessary, ~~the court or the clerk may enter an order as in certain cases above set forth directing~~ the board of supervisors shall direct the county to provide adequate treatment at county expense for the ~~said~~ patient at home or in a hospital.

Sec. 15. Section 255.10, Code 2003, is amended to read as follows:

255.10 RELIGIOUS BELIEF — DENIAL OF ORDER.

The ~~court~~ board of supervisors in its discretion may refuse to make such order in any case where the ~~court~~ board finds the patient or the patient's parent, parents, or guardian are members of a religious denomination whose tenets preclude dependence on the practice of medicine or surgery and desire in good faith to rely upon the practice of their religion for relief from disease or disorder.

Sec. 16. Section 255.11, Code 2003, is amended to read as follows:

255.11 ORDER IN CASE OF EMERGENCY.

In cases of great emergency, when the ~~court or judge~~ board of supervisors is satisfied that delay would be seriously injurious to the patient, the ~~court or judge~~ board of supervisors may make such order with the consent of the patient, if an adult, or of the parent or parents, guardian, or person having the legal custody of ~~said the~~ patient, if a minor or incompetent, without examination, report, notice, or hearing.

Sec. 17. Section 255.12, Code 2003, is amended to read as follows:

255.12 CERTIFIED COPY OF ORDER.

The ~~clerk~~ county general assistance director shall prepare a certified copy of ~~said such~~ order, which, together with a copy of the physician's report, shall be delivered to the admitting physician of ~~said such~~ hospital at or before the time of the reception of the patient into the hospital.

Sec. 18. Section 255.13, Code 2003, is amended to read as follows:

255.13 ATTENDANT — PHYSICIAN — COMPENSATION.

If the physician appointed to examine the patient ~~shall certify~~ certifies that an attendant to accompany the patient to the ~~said~~ hospital is necessary, and the university hospital attendant and ambulance service is not available, ~~then the court or judge or clerk of the court~~ the county general assistance director may appoint an attendant who shall receive not exceeding two dollars per day for the time thus necessarily employed and actual necessary traveling expenses by the most feasible route to ~~said the~~ hospital whether by ambulance, train, or automobile; but if such appointee is a relative of the patient or a member of the patient's immediate family, or receives a salary or other compensation from the public for the appointee's services, no such per diem compensation shall be paid. The physician appointed ~~by the court or clerk~~ to make the examination and report shall receive ~~therefor~~ three dollars for each examination and report so made and the physician's actual necessary expenses incurred in making such examination, but if ~~said the~~ physician receives a salary or other compensation from the public for the physician's full-time services, ~~then~~ no such examination fee shall be paid. The actual, necessary expenses of transporting and caring for the patient shall be paid as ~~hereinafter~~ provided in this chapter.

Sec. 19. Section 255.14, Code 2003, is amended to read as follows:

255.14 PAYMENT OF EXPENSES — HOW PAID.

An itemized, verified statement of all charges provided for in sections 255.8 and 255.13, in cases where the patient is admitted or accepted for treatment at the university hospital shall be filed with the superintendent of the university hospital, and upon the superintendent's recommendation when approved by the ~~judge or clerk of the court under whose order the same were incurred~~ board of supervisors, ~~they the charges shall be charged~~ included on the regular bill for the maintenance, transportation and treatment of the patient, and be audited and paid in the manner as ~~hereinafter provided~~ in this chapter.

Sec. 20. Section 255.21, Code 2003, is amended to read as follows:

255.21 TREATMENT OUTSIDE HOSPITAL — ATTENDANT.

If, in the judgment of the physician or surgeon to whom the patient has been assigned for treatment, continuous residence of the patient in the hospital is unnecessary, such patient may, by the hospital authorities, be sent to the patient's home or other appropriate place, and be required to return to the hospital when and for such length of time as may be for the patient's benefit. The hospital authorities may, if necessary, appoint an attendant to accompany such patient and discharged patients, and the compensation of such attendant shall be fixed by the state board of regents and charged by the hospital as part of the costs of transporting patients. The compensation paid to and the expenses of the attendant shall be audited and paid in the same manner as is provided by law for the compensation of an attendant appointed by the ~~court~~ board of supervisors.

Sec. 21. Section 255.22, Code 2003, is amended to read as follows:

255.22 TREATMENT AUTHORIZED.

~~No~~ A minor or incompetent person shall ~~not~~ be treated for any malady or deformity except such as is reasonably well described in the order ~~of court~~ or the report of the examining physician, unless permission for such treatment is provided for in the order ~~of court~~, or is granted by the person's parents or guardian; but the physician in charge may administer such treatment or perform such surgical operations as are usually required in cases of emergency.

Sec. 22. Section 255.27, Code 2003, is amended to read as follows:

255.27 FACULTY TO PREPARE BLANKS — PRINTING.

The medical faculty of the state university hospital shall from time to time prepare blanks containing questions and requiring information that it finds necessary and proper to be obtained by the physician who examines a patient under order of ~~court~~ the board of supervisors. The blanks shall be printed by the state, and a sufficient supply shall be furnished by the state printing administrator to the ~~clerk of each juvenile court in the state~~ county general assistance director. The cost of printing the blanks shall be audited, allowed, and paid in the same manner as other bills for public printing.

Sec. 23. Section 321.20B, subsection 4, paragraph b, subparagraph (1), unnumbered paragraph 1, Code 2003, is amended to read as follows:

An owner or driver who produces to the clerk of court, ~~within thirty days of the issuance of the citation under paragraph "a", or prior to the date of the individual's court appearance as indicated on the citation, whichever is earlier,~~ proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, or, if the driver is not the owner of the motor vehicle, proof that liability coverage was in effect for the driver with respect to the motor vehicle being driven at the time the driver was stopped and cited, in the same manner as if the motor vehicle were owned by the driver, shall be given a receipt indicating that such proof was provided and be subject to one of the following:

Sec. 24. Section 321.20B, subsection 4, paragraph c, Code 2003, is amended to read as follows:

c. An owner or driver cited for a violation of subsection 1, who produces to the clerk of court

~~within thirty days of the issuance of the citation prior to the date of the individual's court appearance as indicated on the citation~~ proof that financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, shall not be convicted of such violation and the citation issued shall be dismissed.

Sec. 25. Section 321.20B, subsection 5, paragraph b, Code 2003, is amended to read as follows:

b. Issue a citation. An owner or driver who produces to the clerk of court ~~within thirty days of the issuance of the citation,~~ or prior to the date of the individual's court appearance as indicated on the citation, ~~whichever is earlier,~~ proof that the financial liability coverage was in effect for the motor vehicle at the time the person was stopped and cited, or if the driver is not the owner of the motor vehicle, proof that liability coverage was in effect for the driver with respect to the motor vehicle being driven at the time the driver was stopped and cited in the same manner as if the motor vehicle were owned by the driver, shall be given a receipt indicating that proof was provided, and the citation issued shall be dismissed.

Sec. 26. Section 321.484, unnumbered paragraph 2, Code 2003, is amended to read as follows:

The owner of a vehicle shall not be held responsible for a violation of a provision regulating the stopping, standing, or parking of a vehicle, whether the provision is contained in this chapter, or chapter 321L, or an ordinance or other regulation or rule, if the owner establishes that at the time of the violation the vehicle was in the custody of an identified person other than the owner pursuant to a lease as defined in chapter 321F or pursuant to a rental agreement as defined in section 516D.3. The furnishing to the ~~clerk of the district court~~ county attorney where the charge is pending of a copy of the lease prescribed by section 321F.6 or rental agreement that was in effect for the vehicle at the time of the alleged violation shall be prima facie evidence that the vehicle was in the custody of an identified person other than the owner within the meaning of this paragraph, ~~and the charge against the owner shall be dismissed. The clerk of the district court then shall cause a uniform citation and complaint to be issued against the lessee or renter of the vehicle, and the citation shall be served upon the defendant by ordinary mail directed to the defendant at the address shown in the lease or rental agreement.~~

Sec. 27. Section 331.653, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 23A. Carry out duties related to service of a summons, notice, or subpoena pursuant to sections 232.35, 232.37, and 232.88.

Sec. 28. Section 598.21, Code 2003, is amended by adding the following new subsection:
NEW SUBSECTION. 10A. If the court modifies an order, and the original decree was entered in another county in Iowa, the clerk of court shall send a copy of the modification by regular mail, electronic transmission, or facsimile to the clerk of court for the county where the original decree was entered.

Sec. 29. Section 602.1215, subsection 1, Code 2003, is amended to read as follows:

1. ~~The Subject to the provisions of section 602.1209, subsection 3, the~~ district judges of each judicial election district shall by majority vote appoint persons to serve as clerks of the district court, ~~one for each county~~ within the judicial election district. The district judges of a judicial election district may appoint a person to serve as clerk of the district court for more than one but not more than four contiguous counties in the same judicial district. A person does not qualify for appointment to the office of clerk of the district court unless the person is at the time of application a resident of the state. ~~Within three months of appointment the clerk of the district court must establish residence and physically reside in the county.~~ A clerk of the district court may be removed from office for cause by a majority vote of the district judges of the judicial election district. Before removal, the clerk of the district court shall be notified of the cause for removal.

Sec. 30. Section 602.1501, subsection 4, Code 2003, is amended to read as follows:

4. District associate judges shall receive the salary set by the general assembly. ~~However, an alternate district associate judge whose appointment is authorized under section 602.6303 shall receive a salary for each day of actual duty equal to a district associate judge's daily salary.~~

Sec. 31. Section 602.1604, Code 2003, is amended to read as follows:
602.1604 JUDGES SHALL NOT PRACTICE LAW.

While holding office, a supreme court justice, court of appeals judge, district judge, or district associate judge shall not practice as an attorney or counselor or give advice in relation to any action pending or about to be brought in any of the courts of the state. ~~A person whose appointment as an alternate district associate judge is authorized under section 602.6303 may practice law except when actually serving as a district associate judge.~~

Sec. 32. Section 602.1611, subsection 2, Code 2003, is amended by striking the subsection.

Sec. 33. Section 602.6105, subsection 3, Code 2003, is amended to read as follows:

3. a. The chief judge of a judicial district shall designate times and places for magistrates to hold court to ensure accessibility of magistrates at all times throughout the district. The schedule of times and places of availability of magistrates and any schedule changes shall be disseminated by the chief judge to the peace officers within the district.

b. The chief judge of a judicial district shall schedule a magistrate to hold court in a city other than the county seat if all of the following apply:

(1) Magistrate court was regularly scheduled in the city on or after July 1, 2001.

(2) The population of the city is at least two times greater than the population of the county seat or the population of the city is at least thirty thousand.

(3) The city requests the chief judge to schedule magistrate court.

In addition to paying the costs in section 602.1303, subsection 1, the city requesting the magistrate court shall pay any other costs for holding magistrate court in the city which would not otherwise have been incurred by the judicial branch.

Sec. 34. Section 602.6107, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

602.6107 REORGANIZATION OF JUDICIAL DISTRICTS AND JUDICIAL ELECTION DISTRICTS.

1. The supreme court shall, beginning January 1, 2012, and at least every ten years thereafter, review the division of the state into judicial districts and judicial election districts in order to determine whether the composition or the total number of the judicial districts and judicial election districts is the most efficient and effective administration of the district court and the judicial branch.

2. If the supreme court determines that the administration of the district court and the judicial branch would be made more efficient and effective by reorganizing the judicial districts and judicial election districts, which may include expanding or contracting the total number of judicial districts and judicial election districts, the supreme court shall develop and submit to the general assembly by November 15 a plan that reorganizes the judicial districts and judicial election districts. The legislative service bureau shall draft a bill embodying the plan for submission by the supreme court to the general assembly. The general assembly shall bring the bill to a vote in either the senate or the house of representatives within thirty days of the bill's submission by the supreme court to the general assembly, under a procedure or rule permitting no amendments by either house except those of a purely corrective nature. If both houses pass the bill, the bill shall be presented as any other bill to the governor for approval. The bill shall take effect upon the general assembly passing legislation, which is approved by the governor including an effective date for the reorganization of the judicial districts and judicial election districts.

3. The composition of the judicial districts in section 602.6107, Code 2003, and judicial elec-

tion districts in section 602.6109, Code 2003, shall remain in effect until a new division of the state into judicial districts and judicial election districts is enacted.

4. It is the intent of the general assembly that the supreme court prior to developing a plan pursuant to this section consult with and receive input from members of the general public, court employees, judges, members of the general assembly, the judicial departments of correctional services, county officers, officials from other interested political subdivisions, and attorneys. In submitting a plan pursuant to this section, the supreme court shall also submit to the general assembly a report stating the reasons for developing the plan and describing in detail the process used in developing the plan.

5. Nothing in this section or other provision of the Code shall be construed to preclude the general assembly or the judicial branch from proposing or considering a plan reorganizing the judicial districts and judicial election districts at any time.

Sec. 35. Section 602.6109, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

602.6109 JUDICIAL ELECTION DISTRICTS AND JUDGESHIPS.

1. The reorganized judicial election districts established pursuant to section 602.6107 shall be used solely for purposes of nomination, appointment, and retention of judges of the district court.

2. If the judicial election districts are reorganized under section 602.6107, the state court administrator shall reapportion the number of judgeships to which each judicial election district is entitled. The reapportionment shall be determined according to section 602.6201, subsection 3.

Sec. 36. Section 602.6111, Code 2003, is amended by striking the section and inserting in lieu thereof the following:

602.6111 IDENTIFICATION ON DOCUMENTS FILED WITH THE CLERK.

1. Any party, other than the state or a political subdivision of the state, filing a petition or complaint, answer, appearance, first motion, or any document filed with the clerk of the district court which brings a new party into a proceeding shall provide the clerk of the district court with the following information when applicable:

- a. An employer identification number if a number has been assigned.
- b. The birth date of the party.
- c. The social security number of the party.

2. Any party, except the child support recovery unit, filing a petition, complaint, answer, appearance, first motion, or any document with the clerk of the district court to establish or modify an order for child support under chapter 236, 252A, 252K, 598, or 600B shall provide the clerk of the district court with the date of birth and social security number of the child.

3. A party shall provide the information pursuant to this section in the manner required by rules or directives prescribed by the supreme court. The clerk of the district court shall keep a social security number provided pursuant to this section confidential in accordance with the rules and directives prescribed by the supreme court.

Sec. 37. NEW SECTION. 602.6112 REGIONAL LITIGATION CENTERS — PROHIBITION.

The judicial branch shall not establish regional litigation centers.

Sec. 38. Section 602.6201, subsection 8, Code 2003, is amended to read as follows:

8. ~~Vacancies shall not be filled in a judicial election district which becomes entitled to fewer judgeships under subsection 3, but an~~ An incumbent district judge shall not be removed from office because of a reduction in the number of authorized judgeships.

Sec. 39. Section 602.6201, Code 2003, is amended by adding the following new subsections:

NEW SUBSECTION. 11. Notwithstanding any other provision of the Code to the contrary,

if a vacancy in a judgeship occurs, and the chief justice of the supreme court makes a finding that a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts, the chief justice may apportion the judgeship from the judicial election district where the vacancy occurs to another judicial election district based upon the substantial disparity finding. However, a judgeship shall not be apportioned pursuant to this section unless a majority of the judicial council approves the apportionment.

NEW SUBSECTION. 12. Notwithstanding any other provision of the Code to the contrary, if the chief justice of the supreme court determines a substantial disparity exists in the allocation of judgeships and judicial workload between judicial election districts, the chief justice may authorize a voluntary permanent transfer of a district judge from one judicial election district to another upon approval by a majority of the judicial council. After approval by the judicial council, the chief justice shall notify all eligible district judges of the intent to seek applicants for a voluntary permanent transfer and the terms of such a transfer. A district judge is not eligible for a voluntary transfer unless the judge has served a regular term of office as specified in section 46.16. Upon approval of the judge's application, the chief justice may transfer a district judge who consents to the transfer within six months of the notification. The transfer of a district judge shall take effect within sixty days of the official announcement of the transfer by the chief justice. A district judge transferred pursuant to this subsection shall have six months from the date of the announcement of the transfer to establish residency in the judicial election district where the district judge is transferred. A district judge who has been transferred shall stand for retention in the judicial election district to which the district judge has been transferred as provided in chapter 46. For purposes of subsection 3, the judgeship shall be apportioned to the judicial election district where the judge is transferred. A voluntary transfer pursuant to this subsection shall not cause a vacancy of a judgeship in the judicial election district from which the district judge was transferred.

Sec. 40. Section 602.6301, Code 2003, is amended to read as follows:

602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

There shall be one district associate judge in counties having a population of more than thirty-five thousand and less than eighty thousand; two in counties having a population of eighty thousand or more and less than one hundred twenty-five thousand; three in counties having a population of one hundred twenty-five thousand or more and less than two hundred thousand; four in counties having a population of two hundred thousand or more and less than two hundred thirty-five thousand; five in counties having a population of two hundred thirty-five thousand or more and less than two hundred seventy thousand; six in counties having a population of two hundred seventy thousand or more and less than three hundred five thousand; and seven in counties having a population of three hundred five thousand or more. However, a county shall not lose a district associate judgeship solely because of a reduction in the county's population. If the formula provided in this section results in the allocation of an additional district associate judgeship to a county, implementation of the allocation shall be subject to prior approval of the supreme court and availability of funds to the judicial branch. A district associate judge appointed pursuant to section 602.6302 or ~~602.6303~~ shall not be counted for purposes of this section.

Sec. 41. Section 602.6304, subsections 1, 2, and 3, Code 2003, are amended to read as follows:

1. The district associate judges authorized by sections 602.6301, and 602.6302, ~~and 602.6303~~ shall be appointed by the district judges of the judicial election district from persons nominated by the county magistrate appointing commission. In the case of a district associate judge to be appointed to more than one county, the appointment shall be from persons nominated by the county magistrate appointing commissions acting jointly and in the case of a district associate judge to be appointed to more than one judicial election district of the same judicial district, the appointment shall be by a majority of the district judges in each judicial election district.

2. In November of any year in which an impending vacancy is created because a district associate judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as district associate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. If there are three or fewer applicants the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of district associate judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as district associate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a district associate judge, or by an increase in the number of positions authorized.

Sec. 42. Section 602.6305, subsection 1, Code 2003, is amended to read as follows:

1. District associate judges shall serve initial terms and shall stand for retention in office within the judicial election districts of their residences at the judicial election in 1982 and every ~~four~~ six years thereafter, under sections 46.17 to 46.24.

Sec. 43. Section 602.6403, subsection 3, Code 2003, is amended to read as follows:

3. Within thirty days following receipt of notification of a vacancy in the office of magistrate, the commission shall appoint a person to the office to serve the remainder of the unexpired term, unless the chief justice has ordered the commission to delay the appointment for up to one hundred eighty days for budgetary reasons. For purposes of this section, vacancy means a death, resignation, retirement, or removal of a magistrate, or an increase in the number of positions authorized.

Sec. 44. Section 602.7103B, subsections 2 and 3, Code 2003, are amended to read as follows:

2. In November of any year in which an impending vacancy is created because a full-time associate juvenile judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate juvenile judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy, unless

the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of full-time associate juvenile judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate juvenile judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a full-time associate juvenile judge, or by an increase in the number of positions authorized.

Sec. 45. Section 602.8102, subsection 9, Code 2003, is amended to read as follows:

9. Enter in the appearance docket a memorandum of the date of filing of all petitions, demurrers, answers, motions, or papers of any other description in the cause. A pleading of any description is considered filed when the clerk entered the date the pleading was received on the pleading and the pleading shall not be taken from the clerk's office until the memorandum is made. The memorandum shall be made before the end of the next working day within two business days of a new petition or order being filed, and as soon as practicable for all other pleadings. Thereafter, when a demurrer or motion is sustained or overruled, a pleading is made or amended, or the trial of the cause, rendition of the verdict, entry of judgment, issuance of execution, or any other act is done in the progress of the cause, a similar memorandum shall be made of the action, including the date of action and the number of the book and page of the record where the entry is made. The appearance docket is an index of each suit from its commencement to its conclusion.

Sec. 46. Section 602.8102, subsection 11, Code 2003, is amended to read as follows:

11. Refund amounts less than ~~one dollar~~ three dollars only upon written application.

Sec. 47. Section 602.8106, subsection 1, paragraphs b, c, d, and e, Code 2003, are amended to read as follows:

b. For filing and docketing of a complaint or information for a simple misdemeanor and a complaint or information for a nonscheduled simple misdemeanor under chapter 321, ~~twenty-five~~ seventeen dollars.

c. For filing and docketing a complaint or information or uniform citation and complaint for parking violations under sections 321.236, 321.239, 321.358, 321.360, and 321.361, ~~one dollar~~ eight dollars, effective January 1, 1991 ~~2004~~. The court costs in cases of parking meter and overtime parking violations which are denied, and charged and collected pursuant to section 321.236, subsection 1, or pursuant to a uniform citation and complaint, are eight dollars per information or complaint or per uniform citation and complaint effective January 1, 1991.

d. The court costs in scheduled violation cases where a court appearance is required are ~~twenty-five~~ seventeen dollars.

e. For court costs in scheduled violation cases where a court appearance is not required, ~~five~~ seventeen dollars.

Sec. 48. Section 624.20, Code 2003, is amended to read as follows:

624.20 SATISFACTION OF JUDGMENT.

Where a judgment is set aside or satisfied by execution or otherwise, the clerk shall at once enter a memorandum thereof on the column left for that purpose in the judgment docket. However, the clerk may enter satisfaction of judgment if the amount of the judgment that is unsatisfied is ~~one dollar~~ three dollars or less.

Sec. 49. Section 631.5, subsection 6, Code 2003, is amended to read as follows:

6. DEFAULT. If a defendant fails to appear and the clerk in accordance with subsection 4 determines that proper notice has been given, judgment shall be rendered against the defendant by the clerk if the relief is readily ascertainable. If the relief is not readily ascertainable the claim shall be assigned to a judicial magistrate for determination ~~and the clerk shall immediately notify the plaintiff or the plaintiff's attorney and the judicial magistrate of such assignment by ordinary mail.~~

Sec. 50. Section 631.6, subsection 1, paragraph c, Code 2003, is amended to read as follows:

c. Postage charged for the mailing of original notice shall be ~~the actual costs of the postage~~ eight dollars.

Sec. 51. Section 633.20B, subsections 2 and 3, Code 2003, are amended to read as follows:

2. In November of any year in which an impending vacancy is created because a full-time associate probate judge is not retained in office pursuant to a judicial election, the county magistrate appointing commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate probate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district not later than December 15 of that year the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered.

3. Within thirty days after a county magistrate appointing commission receives notification of an actual or impending vacancy in the office of full-time associate probate judge, other than a vacancy referred to in subsection 2, the commission shall certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy, unless the chief justice has ordered the commission to delay the certification of the nominees to the chief judge. The chief justice may order the delay of the certification for up to one hundred eighty days for budgetary reasons. The commission shall publicize notice of the vacancy in at least two publications in the official county newspaper. The commission shall accept applications for consideration for nomination as full-time associate probate judge for a minimum of fifteen days prior to certifying nominations. The commission shall consider the applications and shall, by majority vote, certify to the chief judge of the judicial district the names of three applicants who are nominated by the commission for the vacancy. If there are three or fewer applicants, the commission shall certify all applicants who meet the statutory qualifications. Nominees shall be chosen solely on the basis of the qualifications of the applicants, and political affiliation shall not be considered. As used in this subsection, a vacancy is created by the death, retirement, resignation, or removal of a full-time associate probate judge, or by an increase in the number of positions authorized.

Sec. 52. Section 633.47, Code 2003, is amended to read as follows:

633.47 PROOF OF SERVICE AND ~~TAXATION~~ PAYMENT OF COSTS.

Proof of service of any notice, required by this Code or by order of court, including those by publication, shall be filed with the clerk. The costs of serving any notice given by the fiduciary shall be ~~taxed by the clerk as part of the costs of administration in said~~ be paid directly by the estate.

Sec. 53. Section 633.301, Code 2003, is amended to read as follows:

633.301 COPY OF WILL FOR EXECUTOR.

When a will has been admitted to probate and certified pursuant to section 633.300, the clerk shall cause ~~an authenticated~~ a certified copy thereof to be placed in the hands of the executor to whom letters are issued. The clerk shall retain the will in a separate file provided for that purpose until the time for contest has expired, and promptly thereafter shall place it with the files of the estate.

Sec. 54. Section 633.479, unnumbered paragraph 2, Code 2003, is amended to read as follows:

An order approving the final report and discharging the personal representative shall not be required if all distributees otherwise entitled to notice are adults, under no legal disability, have signed waivers of notice as provided in section 633.478, have signed statements of consent agreeing that the prayer of the final report shall constitute an order approving the final report and discharging the personal representative, and if the statements of consent are dated not more than thirty days prior to the date of the final report, and if compliance with sections 422.27 and 450.58 have been fulfilled and receipts and certificates are on file. In those instances final order shall not be required and the prayer of the final report shall be considered as granted and shall have the same force and effect as an order of discharge of the personal representative and an order approving the final report. ~~The clerk shall comply with section 633.480 with respect to issuing a change of title.~~

Sec. 55. Section 633.480, Code 2003, is amended to read as follows:

633.480 CERTIFICATE TO COUNTY RECORDER FOR TAX PURPOSES WITH ADMINISTRATION.

After discharge as provided in section 633.479, ~~the clerk shall certify under chapter 558 relative to each parcel of real estate~~ the personal representative shall deliver to the county recorder of the county in which the real estate is situated a certificate pertaining to each parcel of real estate described in the final report of the personal representative which has not been sold by the personal representative, ~~and deliver the certificate to the county recorder of the county in which the real estate is situated.~~ The certificate shall include the name and complete mailing address, as shown on the final report, of the individual or entity in whose name each parcel of real estate is to be taxed. The county recorder shall deliver the certificate to the county auditor as provided in section 558.58.

Sec. 56. Section 633.481, Code 2003, is amended to read as follows:

633.481 CERTIFICATE TO COUNTY RECORDER FOR TAX PURPOSES WITHOUT ADMINISTRATION.

When an inventory or report is filed under section 450.22, without administration of the estate of the decedent, ~~the clerk~~ heir or heir's attorney shall ~~issue~~ prepare and deliver to the county recorder of the county in which the real estate is situated a certificate pertaining to each parcel of real estate described in the inventory or report. Any fees for certificates or recording fees required by this section or section 633.480 shall be assessed as costs of administration. The fee for recording and indexing the instrument shall be as provided in section 331.604. The county recorder shall deliver the certificates to the county auditor as provided in section 558.58.

Sec. 57. Section 635.7, Code 2003, is amended to read as follows:

635.7 REPORT AND INVENTORY — EXCESS VALUE AND TERMINATION.

The executor or administrator is required to file the report and inventory for which provision is made in section 633.361. Nothing in sections 635.1 to 635.3 shall exempt the executor or administrator from complying with the requirements of section 422.27, 450.22, or 450.58, or ~~the clerk from complying with the requirements of section 633.481.~~ If the inventory and report shows assets subject to the jurisdiction of this state which exceed the total gross value of the amount permitted the small estate under the applicable provision of section 635.1, the clerk shall terminate the letters issued under section 635.1 without prejudice to the rights of persons who delivered property as permitted under section 635.3. The executor or administrator shall then be required to petition for administration of the estate as provided in chapter 633.

Sec. 58. Section 668.13, subsection 3, Code 2003, is amended to read as follows:

3. Interest shall be calculated as of the date of judgment at a rate equal to the one-year treasury constant maturity ~~index~~ published by the federal reserve in the H15 report settled immediately prior to the date of the judgment plus two percent. The state court administrator shall distribute notice monthly of that rate and any changes to that rate to all district courts.

Sec. 59. Section 902.4, Code 2003, is amended to read as follows:

902.4 RECONSIDERATION OF FELON'S SENTENCE.

For a period of one year from the date when a person convicted of a felony, other than a class "A" felony or a felony for which a minimum sentence of confinement is imposed, begins to serve a sentence of confinement, the court, on its own motion or on the recommendation of the director of the Iowa department of corrections, may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. Copies of the order to return the person to the court shall be provided to the attorney for the state, the defendant's attorney, and the defendant. Upon a request of the attorney for the state, the defendant's attorney, or the defendant if the defendant has no attorney, the court may, but is not required to, conduct a hearing on the issue of reconsideration of sentence. The court shall not disclose its decision to reconsider or not to reconsider the sentence of confinement until the date reconsideration is ordered or the date the one-year period expires, whichever occurs first. The district court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal. The court's final order in the proceeding shall be delivered to the defendant personally or by certified regular mail. The court's decision to take the action or not to take the action is not subject to appeal. However, for the purposes of appeal, a judgment of conviction of a felony is a final judgment when pronounced.

Sec. 60. Section 903.2, Code 2003, is amended to read as follows:

903.2 RECONSIDERATION OF MISDEMEANANT'S SENTENCE.

For a period of thirty days from the date when a person convicted of a misdemeanor begins to serve a sentence of confinement, the court may order the person to be returned to the court, at which time the court may review its previous action and reaffirm it or substitute for it any sentence permitted by law. The sentencing court retains jurisdiction for the limited purposes of conducting such review and entering an appropriate order notwithstanding the timely filing of a notice of appeal or an application for discretionary review. The court's final order in the proceeding shall be delivered to the defendant personally or by certified regular mail. Such action is discretionary with the court and its decision to take the action or not to take the action is not subject to appeal. The other provisions of this section notwithstanding, for the purposes of appeal a judgment of conviction is a final judgment when pronounced.

Sec. 61. Section 907.4, Code 2003, is amended to read as follows:

907.4 DEFERRED JUDGMENT DOCKET.

A deferment of judgment under section 907.3 shall be ~~reported~~ entered promptly by the clerk

of the district court, or the clerk's designee, to ~~the state court administrator for entry in into the deferred judgment docket database of the state, which shall serve as the deferred judgment docket.~~ The docket shall contain a permanent record of the deferred judgment including the name and date of birth of the defendant, the district court docket number, the nature of the offense, and the date of the deferred judgment. Before granting deferred judgment in any case, the court shall ~~request of the state court administrator a search of the deferred judgment docket and shall consider any prior record of a deferred judgment against the defendant.~~ The permanent record provided for in this section is a confidential record exempted from public access under section 22.7 and shall be available only to justices of the supreme court, judges of the court of appeals, district judges, district associate judges, judicial magistrates, clerks of the district court, and county attorneys, and the department of corrections requesting information pursuant to this section, or the designee of a justice, judge, magistrate, clerk, or county attorney, or department.

Sec. 62. Sections 602.6303 and 633.15, Code 2003, are repealed.

Sec. 63. Section 602.6201, subsection 12, as enacted by this Act, is amended by striking the subsection effective July 1, 2008.

Sec. 64. The sections of this Act amending section 46.12; section 602.6304, subsections 2 and 3; and sections 602.6403, 602.7103B, and 633.20B are repealed on July 1, 2006.

Sec. 65. RETENTION OF JUDGES. The amendments in this Act to section 46.16, subsections 2 and 3, apply to elections for retaining a judge occurring after the effective date of this Act.

Sec. 66. JUDICIAL DISTRICT REDISTRICTING INTERIM STUDY COMMITTEE. The legislative council is requested to establish an interim study committee to study the judicial district and judicial election district redistricting and the allocation of judicial branch resources. The committee shall review all relevant matters regarding judicial district and judicial election district redistricting, and the allocation of judicial branch resources deemed relevant by the majority of the committee including but not limited to determining whether a misallocation of judicial officers exists between judicial districts, the nature and history of judicial branch resources and a cost analysis of current judicial branch resources, the optimum allocation of resources regardless of judicial district boundaries, the effect of redistricting on the delivery of court services and employee morale, a cost benefits analysis of implementing a redistricting plan, and the recommendations of the Iowa supreme court committee on redistricting. If after reviewing all relevant matters the committee determines that redistricting should occur, the committee shall adopt a redistricting plan and submit the plan for consideration by the general assembly by December 15, 2003. If the committee determines redistricting should not occur, the committee shall submit to the general assembly other recommendations for achieving an optimum allocation of judicial branch resources by December 15, 2003. The committee shall consist of thirty-one members with each organization selecting their member or representative as follows:

1. Three members to be selected by the supreme court.
2. One member to be selected by the majority leader of the senate.
3. One member to be selected by the minority leader of the senate.
4. One member to be selected by the majority leader of the house of representatives.
5. One member to be selected by the minority leader of the house of representatives.
6. Three members of the Iowa state bar association.
7. Three members of the Iowa judges association.
8. Three members of the Iowa trial lawyers association.
9. Two members of the Iowa clerks of court association.
10. One member of the Iowa association of magistrate judges.

11. One member of the Iowa defense counsel association.
12. One member of the Iowa academy of trial lawyers.
13. One member of the Iowa county attorneys association.
14. A representative of the judicial district department of correctional services to be selected by the eight directors of the judicial district department of correctional services.
15. One member of the Iowa sheriffs' and deputies' association.
16. One member of the recorders affiliate of the Iowa state association of counties.
17. One member of the Iowa court reporters association.
18. One member to be selected by the Iowa civil liberties union.
19. One member of the supervisors affiliate of the Iowa state association of counties.
20. One member of the juvenile court officers' association.
21. One member to be selected by the American federation of state, county, and municipal employees.
22. One district court administrator to be selected by the district court administrators of the state.

Approved May 23, 2003

CHAPTER 152

FISHING LICENSES AND FEES — HABITAT DEVELOPMENT AND TROUT PROGRAM FUNDING

S.F. 348

AN ACT relating to fishing by establishing fees, allocating fishing license revenue to fish habitat development, modifying trout fishing fee requirements, and providing effective and applicability dates.

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

Section 1. Section 483A.1, subsection 1, paragraphs a, l, and s, Code 2003, are amended to read as follows:

a. Fishing license	\$ 10.50
	<u>17.00</u>
l. Fishing license, seven-day	\$ 8.50
	<u>11.50</u>
s. Fish habitat fee <u>Fishing license, one-day</u>	\$ 3.00
	<u>7.50</u>

Sec. 2. Section 483A.1, subsection 2, paragraphs a, b, and s, Code 2003, are amended to read as follows:

a. Fishing license, annual	\$ 36.00
	<u>39.00</u>
b. Fishing license, seven-day	\$ 27.00
	<u>30.00</u>
s. Fish habitat fee <u>Fishing license, three-day</u>	\$ 3.00
	<u>15.50</u>