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SENATE FILE 375

By COMMITTEE ON JUDICIARY
Approved 5/3 (p 1350)

Passed Senate, Date 5-5-77 (p 1365) Passed House, Date _____

Vote: Ayes 45 Nays 0 Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to the discipline of judicial magistrates.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 375

1 Section 1. Section six hundred two point fifty-six
2 (602.56), Code 1977, is amended to read as follows:

3 602.56 REMOVAL DISCIPLINE OF JUDICIAL MAGISTRATES. The
4 electors residing within a county where a magistrate resides,
5 or either the chief judge or a district judge of his the
6 magistrate's district as provided for in section six hundred
7 two point eighteen (602.18) of the Code, may petition the
8 judges of the district court to terminate the appointment
9 of or to discipline a judicial magistrate sitting in that
10 district. If by the electorate, such petition shall be signed
11 by at least two percent of the electors voting for governor
12 in the last general election of the county of residence of
13 the judicial magistrate. The petition shall contain a general
14 statement of the grounds upon which termination or discipline
15 is sought. Upon complaint of misconduct of a magistrate,
16 the chief judge of the judicial district in which the
17 magistrate resides, may request an investigation and report
18 by the attorney general's office as to those allegations.
19 Within thirty days after the petition is filed with the clerk
20 of the district court of the county in which the judicial
21 magistrate resides, the chief judge of the judicial district
22 shall appoint a tribunal composed of three other judges of
23 the judicial ~~election~~ district where the magistrate resides
24 who shall schedule and hold a hearing to determine if good
25 cause exists to terminate the appointment or to impose
26 discipline.

27 The clerk shall give notification of the time and place
28 of hearing to the magistrate against whom the petition was
29 brought by restricted certified mail and shall notify all
30 other interested parties by publication. Notification shall
31 be made at least fifteen days prior to the time set for
32 hearing. The judicial magistrate may be represented by counsel
33 at the hearing, shall have the right to confront and cross-
34 examine all witnesses against him or her, and may call
35 witnesses and introduce evidence in his or her own behalf.

1 An attorney may represent those authorized to file a petition
 2 under this section, in preparing of the petition and in
 3 representing the petitioners at the hearing to determine if
 4 good cause exists for removal or discipline.

5 The tribunal may, by majority vote, dismiss the petition,
 6 declare the office vacant, provide an appropriate disciplinary
 7 sanction, or make other disposition of the case as is
 8 appropriate. Discipline or removal shall be only for the
 9 reasons enumerated in subsection two (2) of section six hundred
 10 five point twenty-seven (605.27) of the Code. Discipline
 11 may include suspension without pay for a definite period of
 12 time not to exceed twelve months. All decisions of the tribunal
 13 are final, and there shall be no appeal.

14 Sec. 2. Section thirteen point two (13.2), Code 1977,
 15 is amended by adding the following new subsection:

16 NEW SUBSECTION. Investigate complaints of misconduct of
 17 judicial magistrates as provided for in section six hundred
 18 two point fifty-six (602.56) of the Code.

19 Sec. 3. Section six hundred five point twenty-seven
 20 (605.27), subsection two (2), Code 1977, is amended to read
 21 as follows:

22 2. Discipline or remove any judge referred to in subsection
 23 1 or judicial magistrate for persistent ~~failure~~ failure to
 24 perform his or her duties, habitual intemperance, willful
 25 misconduct in office, conduct which brings judicial office
 26 into disrepute, or substantial violation of the canons of
 27 judicial ethics. Discipline may include suspension without
 28 pay for a definite period of time not to exceed twelve months.

29 EXPLANATION

30 This bill provides that the chief judge of the judicial
 31 district in which the magistrate resides may request an
 32 investigation by the attorney general's office as to
 33 allegations of the petition against the magistrate. The bill
 34 also clarifies the existing law as to whether the hearing
 35 tribunal may provide an appropriate disciplinary sanction

1 short of removal from office, and who may file such a peti-
2 tion under section 602.56 of the Code.

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