H-8115

1   Amend House File 2719 as follows:

2   1. By striking everything after the enacting clause and
3 inserting:

4   <Section 1. NEW SECTION. **46.26 Judicial officer**
5 **performance information.**

6   1. The state commissioner of elections shall collect
7 and publish objective, data-driven information, expressed as
8 unadjusted numbers and adjusted percentile ranks, related to
9 each district court judge including district associate judges,
10 full-time associate juvenile judges, and full-time associate
11 probate judges.

12   *a.* The information must include all of the following:

13   (1) The percentage of cases in which the judge set a bond
14 amount lower than the bond schedule promulgated pursuant to
15 section 804.21, subsection 5, categorized by offense class.

16   (2) The frequency with which a person is released on
17 the person's own recognizance by the judge when the person
18 is arrested for a violent offense compared to a nonviolent
19 offense, categorized by offense class.

20   (3) The frequency with which the judge's final sentence is
21 lower than the statutory recommendation or the prosecutor's
22 recommendation, categorized by offense class.

23   (4) The number of times the judge grants a deferred
24 judgment, deferred sentence, or suspended sentence.

25   (5) The number of times the judge's rulings are reversed
26 by the court of appeals or the supreme court due to abuse of
27 discretion or error of law, including the percentage of the
28 total number of the judge's opinions or orders appealed in the
29 same time period, with the total number of appeals displayed as
30 the denominator, categorized by issue type.

31   (6) The average time from the filing of a motion or
32 submission of a case for ruling to the judge's final ruling on
33 the motion or case.

34   (7) The number of cases the judge has disposed of compared
35 to the number of outstanding cases remain on the judge's docket

1 each year.

2   *b.*   Beginning five years after the effective date of this

3 Act, each metric must include a five-year rolling trend line.

4   *c.*   The information collected under this subsection

5 must be available for public download in an electronic,

6 machine-readable open format. All data and adjusted metrics

7 must be equally prominent and equally accessible.

8   2. *a.*   The judicial branch shall provide the state

9 commissioner of elections with read-only access to all publicly

10 available information on the Iowa court information system

11 within one year of the effective date of this Act.

12   *b.*   The state court administrator shall annually certify the

13 accuracy and completeness of the information made available

14 under paragraph *"a"* during the period beginning November 1 and

15 ending December 31.

16   *c.*   The state court administrator shall report any material

17 discrepancies in the information to the general assembly.

18   3.   Within eighteen months of the effective date of this Act,

19 the state commissioner of elections shall submit a methodology

20 report to the general assembly that contains all of the

21 following:

22   *a.*   A case complexity index assigning weighted scores to

23 each case type based on objective criteria including statutory

24 penalty range, number of parties, number of hearings, length of

25 the trial or contested hearing, and whether the case involved a

26 constitutional challenge or question of first impression.

27   *b.*   The method for assigning judges to peer groups of

28 comparable docket composition.

29   *c.*   The mathematical formula for each adjusted metric

30 including expression of the adjusted metric as a percentile

31 rank within the judge's peer group and judicial district.

32   *d.*   The minimum case volume threshold for statistical

33 confidence under subsection 4.

34   *e.*   The criteria for distinguishing required opinions and

35 orders under subsection 5, paragraph *"a"*.

1 4. Any metric based on fewer cases than the ninety percent
2 statistical confidence at one standard deviation must display,
3 in boldface type, the following phrase immediately adjacent to
4 the metric:
5 RELIABILITY WARNING: This figure is based on a small number
6 of cases and may not accurately reflect this judge's typical
7 performance.
8 5. *a.* The state commissioner of elections shall maintain
9 an online searchable public repository of all written opinions
10 and orders that disclose a judge's reasoning, legal analysis,
11 factual findings, or conclusions of law for each judge's
12 current term and the six preceding years to the extent
13 available. In cases of ambiguity, the state commissioner of
14 elections shall err on the side of inclusion.
15 *b.* Beginning one year after the effective date of this Act,
16 the state court administrator shall provide the opinions and
17 orders required under paragraph *"a"* electronically each month
18 to the state commissioner of elections.
19 *c.* The state commissioner of elections shall publish the
20 opinions and orders as searchable documents with redactions
21 consistent with Iowa court rules. The redacted documents
22 must note the category of information redacted. Documents
23 subject to a protective order, that are sealed, or that are
24 otherwise confidential under law shall not be posted. The
25 state commissioner of elections shall provide a notice in place
26 of the document identifying the date the document was issued,
27 the general subject matter to the extent disclosable, and the
28 reason for nonproduction.
29 *d.* The online searchable public repository shall support
30 full-text search by keyword, date range, case type, and party
31 type.
32 6. The state commissioner of elections shall maintain an
33 internet site that includes all of the following:
34 *a.* A search by judicial district, county, and judge name.
35 *b.* (1) A profile page for each judge displaying the

1 unadjusted numbers and adjusted metrics required under
2 subsection 1, with peer group and judicial district
3 comparisons, and trend lines where applicable, and a link to
4 the online searchable public repository under subsection 5.
5   (2) The state commissioner of elections shall not add
6 narrative interpretation or editorial commentary to any judge's
7 profile page beyond what this section expressly authorizes and
8 shall not filter or selectively present information in the
9 online searchable public repository.
10   *c.* (1) A space for each judge's personal statement on
11 judicial philosophy or data trends, not to exceed two thousand
12 words.
13   (2) The state commissioner of elections shall not edit the
14 judge's personal statement except to enforce the word limit or
15 remove verifiably false content after providing notice and an
16 opportunity to revise the personal statement to the judge.
17   *d.* The methodology report under subsection 3.
18   *e.* An annual report, to also be submitted to the general
19 assembly, on data collected, documents posted, anomalies,
20 deviations from methodology, and disclaimer acknowledgment
21 statistics.
22   7. *a.* The state commissioner of elections shall create a
23 standalone internet page for a person to acknowledge the notice
24 under paragraph *"b"* prior to accessing a judge's profile page.
25   *b.* The standalone internet page shall require a person to
26 check a box to acknowledge the following statement:
27   IMPORTANT NOTICE —— PLEASE READ BEFORE PROCEEDING
28   This information is published by the Iowa secretary of state
29 to assist voters in judicial retention elections. Statistics
30 reflect caseload composition as much as judicial performance
31 and do not measure whether a judge reached the correct result.
32 Reversal rates cover only appealed cases. Sentencing and bond
33 departures may be legally appropriate exercises of judicial
34 discretion. Written opinions reflect judicial reasoning
35 but not the full underlying record. Metrics flagged with a

1 reliability warning should be given little or no weight. In
2 reviewing this information, the reader will please remember
3 that every lawsuit is different, with different parties,
4 different facts, and different applicable legal principles.
5 Accordingly, any attempt, such as the information presented
6 on the following page, to reduce such complexity to mere
7 statistics is inherently imperfect.

8   [ ] I understand and wish to proceed.
9   8. This section does not authorize the state commissioner of
10 elections to supervise, direct, or regulate any judge.
11   9. *a.* The state commissioner of elections may adopt rules
12 pursuant to chapter 17A to administer this section. A rule
13 adopted by the state commissioner of elections pursuant to
14 chapter 17A for purposes of this section shall not become
15 effective until it is ratified by the general assembly by
16 passage of a joint resolution subject to approval of the
17 governor.
18   *b.* If the state commissioner of elections determines that
19 such a rule must become effective while the general assembly is
20 not in session, the state commissioner of elections may request
21 temporary approval of the rule by the legislative council.
22 The rule shall become effective upon temporary approval by
23 the legislative council. A rule temporarily approved by the
24 legislative council shall cease to be effective upon the
25 adjournment of the next regular session of the general assembly
26 following the effective date of the rule unless the general
27 assembly ratifies the rule before adjournment.
28   *c.* The administrative code editor shall publish a notice in
29 the Iowa administrative bulletin if such a rule is ratified,
30 temporarily approved, or ceases to be effective. If such a
31 rule ceases to be effective, the administrative code editor
32 shall remove the rule from the Iowa administrative code as
33 soon as practicable, but no sooner than two weeks after such
34 publication.>

_____

THOMSON of Floyd