

Senate File 381 - Enrolled

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SENATE FILE 381

AN ACT

RELATING TO JUDICIAL BRANCH PROCEDURES, INCLUDING APPOINTMENTS OF COURT OF APPEALS JUDGES, DISTRICT JUDGES, DISTRICT ASSOCIATE JUDGES, ASSOCIATE JUVENILE JUDGES, ASSOCIATE PROBATE JUDGES, MAGISTRATES, AND PATIENT ADVOCATES, AND COMPENSATION TO JUDGES AND OTHER COURT PERSONNEL SERVING AS FIDUCIARIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. 46.14A COURT OF APPEALS == NOMINEES.

Vacancies in the court of appeals shall be filled by appointment by the governor from a list of nominees submitted by the state judicial nominating commission. Three nominees shall be submitted for each vacancy. Nominees to the court of appeals shall have the qualifications prescribed for nominees to the supreme court.

Sec. 2. Section 46.15, Code 2007, is amended to read as follows:

46.15 APPOINTMENTS TO BE FROM NOMINEES.

1. All appointments to the supreme court and court of appeals shall be made from the nominees of the state judicial nominating commission, and all appointments to the district court shall be made from the nominees of the district judicial nominating commission. ~~Nominees to the court of appeals shall have the qualifications prescribed for nominees to the supreme court.~~

~~2.~~ ~~Vacancies in the court of appeals shall be filled by appointment by the governor from a list of nominees submitted by the state judicial nominating commission. Five nominees shall be submitted for each vacancy.~~ If the governor fails to make an appointment within thirty days after a list of nominees has been submitted, the appointment shall be made from the list of nominees by the chief justice of the supreme court.

Sec. 3. Section 229.19, subsection 1, unnumbered paragraph 1, Code 2007, is amended to read as follows:

~~The district court in each county with a population of under three hundred thousand inhabitants and the board of supervisors in In each county with a population of three hundred thousand or more inhabitants the board of supervisors shall appoint an individual who has demonstrated by prior activities an informed concern for the welfare and rehabilitation of persons with mental illness, and who is not an officer or employee of the department of human services nor of any agency or facility providing care or treatment to persons with mental illness, to act as advocate representing the interests of patients involuntarily hospitalized by the court, in any matter relating to the patients' hospitalization or treatment under section 229.14 or 229.15. In each county with a population of under three hundred thousand inhabitants, the chief judge of the judicial district encompassing the county shall appoint the advocate.~~

PARAGRAPH DIVIDED. The court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from a patient's county of legal settlement to represent the interests of the patient. If a patient has no county of legal settlement, the court or, if the advocate is appointed by the county board of supervisors, the board shall assign the advocate appointed from the county where the hospital or facility is located to represent the interests of the patient.

PARAGRAPH DIVIDED. The advocate's responsibility with respect to any patient shall begin at whatever time the attorney employed or appointed to represent that patient as respondent in hospitalization proceedings, conducted under sections 229.6 to 229.13, reports to the court that the attorney's services are no longer required and requests the court's approval to withdraw as counsel for that patient. However, if the patient is found to be seriously mentally

3 4 impaired at the hospitalization hearing, the attorney
3 5 representing the patient shall automatically be relieved of
3 6 responsibility in the case and an advocate shall be assigned
3 7 to the patient at the conclusion of the hearing unless the
3 8 attorney indicates an intent to continue the attorney's
3 9 services and the court so directs. If the court directs the
3 10 attorney to remain on the case, the attorney shall assume all
3 11 the duties of an advocate. The clerk shall furnish the
3 12 advocate with a copy of the court's order approving the
3 13 withdrawal and shall inform the patient of the name of the
3 14 patient's advocate.

3 15 PARAGRAPH DIVIDED. With regard to each patient whose
3 16 interests the advocate is required to represent pursuant to
3 17 this section, the advocate's duties shall include all of the
3 18 following:

3 19 Sec. 4. Section 602.6201, subsection 2, Code 2007, is
3 20 amended to read as follows:

3 21 2. A district judge must be a resident of the judicial
3 22 election district in which appointed and retained. Subject to
3 23 the provision for reassignment of judges under section
3 24 602.6108, a district judge shall serve in the district of the
3 25 judge's residence while in office, regardless of the number of
3 26 judgeships to which the district is entitled under the formula
3 27 prescribed by the supreme court in subsection 3.

3 28 Sec. 5. Section 602.6201, subsection 3, Code 2007, is
3 29 amended by striking the subsection and inserting in lieu
3 30 thereof the following:

3 31 3. The supreme court shall prescribe, subject to the
3 32 restrictions of this section, a formula to determine the
3 33 number of district judges who will serve in each judicial
3 34 election district. The formula shall be based upon a model
3 35 that measures and applies an estimated case-related workload
4 1 formula of judicial officers, and shall account for
4 2 administrative duties, travel time, and other judicial duties
4 3 not related to a specific case.

4 4 Sec. 6. Section 602.6201, subsections 4, 5, 6, 7, 8, 9,
4 5 and 10, Code 2007, are amended to read as follows:

4 6 4. For purposes of this section, a vacancy means the
4 7 death, resignation, retirement, or removal of a district
4 8 judge, or the failure of a district judge to be retained in
4 9 office at the judicial election, or an increase in judgeships
4 10 under this section the formula prescribed in subsection 3.

4 11 5. In those judicial election districts having more
4 12 district judges than the number of judgeships specified by the
4 13 formula prescribed in subsection 3, vacancies shall not be
4 14 filled.

4 15 6. In those judicial election districts having fewer or
4 16 the same number of district judges as the number of judgeships
4 17 specified by the formula prescribed in subsection 3, vacancies
4 18 in the number of district judges shall be filled as they
4 19 occur.

4 20 7. In those judicial districts that contain more than one
4 21 judicial election district, a vacancy in a judicial election
4 22 district shall not be filled if the total number of district
4 23 judges in all judicial election districts within the judicial
4 24 district equals or exceeds the aggregate number of judgeships
4 25 to which all of the judicial election districts of the
4 26 judicial district are authorized by the formula in subsection
4 27 3.

4 28 8. An incumbent district judge shall not be removed from
4 29 office because of a reduction in the number of authorized
4 30 judgeships specified by the formula prescribed in subsection
4 31 3.

4 32 9. During February of each year, and at other times as
4 33 appropriate, the state court administrator shall make the
4 34 determinations required under this section specified by the
4 35 formula prescribed in subsection 3, and shall notify the

5 1 appropriate nominating commissions and the governor of
5 2 appointments that are required.

5 3 10. Notwithstanding the formula for determining the number
5 4 of judgeships in this section district judges prescribed in
5 5 subsection 3, the number of district judges shall not exceed
5 6 one hundred sixteen during the period commencing July 1, 1999.

5 7 Sec. 7. Section 602.6201, subsections 11 and 12, Code
5 8 2007, are amended by striking the subsections.

5 9 Sec. 8. Section 602.6502, Code 2007, is amended to read as
5 10 follows:

5 11 602.6502 ~~MEMBER OF COMMISSION NOT TO BE APPOINTED TO~~
5 12 ~~OFFICE PROHIBITIONS TO APPOINTMENT.~~

5 13 A member of a county magistrate appointing commission shall
5 14 not be appointed to the office of magistrate, and shall not be

5 15 nominated for or appointed to the office of district associate
5 16 judge, office of associate juvenile judge, or office of
5 17 associate probate judge. A member of the commission shall not
5 18 be eligible to vote for the appointment or nomination of a
5 19 family member, current law partner, or current business
5 20 partner. For purposes of this section, "family member" means
5 21 a spouse, son, daughter, brother, sister, uncle, aunt, first
5 22 cousin, nephew, niece, father=in=law, mother=in=law,
5 23 son=in=law, daughter=in=law, brother=in=law, sister=in=law,
5 24 father, mother, stepfather, stepmother, stepson, stepdaughter,
5 25 stepbrother, stepsister, half brother, or half sister.

5 26 Sec. 9. Section 633.201, Code 2007, is amended to read as
5 27 follows:

5 28 633.201 COURT OFFICERS AS FIDUCIARIES.

5 29 Judges, clerks, and deputy clerks serving as fiduciaries

5 30 shall not be allowed any compensation for services as such

5 31 fiduciaries. A judge, clerk, or deputy clerk serving as a

5 32 fiduciary may be compensated for fiduciary services if the

5 33 services are for a family member's estate, trust,

5 34 guardianship, or conservatorship. For purposes of this

5 35 section, "family member" means a spouse, child, grandchild,

6 1 parent, grandparent, sibling, niece, nephew, cousin, or other

6 2 relative or individual with significant personal ties to the

6 3 fiduciary.

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JOHN P. KIBBIE
President of the Senate

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PATRICK J. MURPHY
Speaker of the House

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MICHAEL E. MARSHALL
Secretary of the Senate

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CHESTER J. CULVER
Governor

Approved _____, 2007