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Judiciary and Law Enforcement: Pelton, Chair; Holt and Patchett.

Amended per 3182 - Dr. Pass 1/30 (345)

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HOUSE FILE 54

Judiciary & Law Enforcement

By PELTON, WOODS, SHIMANEK
and CHIODO

Passed House, Date 2-7-79 (p. 488) Passed Senate, Date _____

Vote: Ayes 94 Nays 0 Vote: Ayes _____ Nays _____

Approved 7 May 26, 1980

A BILL FOR

1 An Act relating to district associate judges and judicial
2 magistrates.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 Section 1. Section two hundred thirty-one point three
2 (231.3), unnumbered paragraph one (1), Code 1979, is amended
3 to read as follows:

4 The chief judge of the district shall designate one or
5 more of the district judges, or district associate judges,
6 ~~judicial-magistrates-serving-pursuant-to-section-602-51,~~ or
7 any thereof, to act as judge or judges of the juvenile court
8 in any county or counties.

9 Sec. 2. Section six hundred two point four (602.4), Code
10 1979, is amended to read as follows:

11 602.4 DISTRICT JUDGES. Iowa district judges shall possess
12 the full jurisdiction of the Iowa district court, including
13 the ~~jurisdiction~~ respective jurisdictions of district associate
14 judges and judicial magistrates. While exercising the
15 jurisdiction possessed by judicial magistrates, district
16 judges shall employ judicial magistrates' practice and
17 procedure, and may hold court at any place where a judicial
18 magistrate may do so.

19 Sec. 3. Section six hundred two point twenty-eight
20 (602.28), Code 1979, is amended to read as follows:

21 602.28 DISTRICT ASSOCIATE JUDGES. The regular judges
22 of the municipal courts of Iowa who are in office on June
23 30, 1973, and who are less than seventy-two years of age on
24 July 1, 1973, and who have not been appointed district court
25 judges shall become district associate judges on the latter
26 date. Those retained in office at the judicial election in
27 1978 shall stand for retention in office at the judicial

3/82-28 election in 1982 and every sixth year thereafter.

29 Judicial magistrates appointed for terms of office pursuant
30 to either section six hundred two point fifty-one (602.51)
31 or section six hundred two point fifty-nine (602.59) of the
3/82-32 Code, and who are in office on January 1, 1980, shall become
33 district associate judges on January 1, 1980. Alternates
34 appointed pursuant to section six hundred two point seventy-
35 one (602.71) of the Code and who are in office on January

1 1, 1980 shall become alternate district associate judges on
2 January 1, 1980, and shall be subject to section ten (10)
3 of this Act. They shall stand for retention in office at
3182-4 the judicial election in 1982 and every sixth year thereafter.

5 Sec. 4. Section six hundred two point twenty-nine (602.29),
6 Code 1979, is amended to read as follows:

7 602.29 TERM, RETENTION, QUALIFICATIONS.

8 1. District associate judges shall serve initial terms
9 and shall stand for retention in office within-the-county
3182 { 10 of-their-residence-at-the-judicial-election-in-1974-and-every
11 four-years-thereafter, -under-sections-46-17-to-46-24 in the
12 manner provided in chapter forty-six (46) of the Code for
13 district judges. The term of office of the district associate
14 judges who are retained in office at the a judicial election
3182 - 15 shall extend for four six years after January 1 first next
16 following the election, and the term of office of the district
17 associate judges who are not retained in office at such a
18 judicial election shall extend until January 1 first next
19 following such the election. District-associate-judges-shall
20 cease-to-hold-office-upon-attaining-age-seventy-two. A
3182 { 21 district associate judge shall stand for retention in the
22 county in which he or she holds office.

23 2. A person shall not qualify for appointment to the
24 office of district associate judge unless the person is at
25 the time of application a resident of the county in which
26 the vacancy exists, and unless the person is licensed to
27 practice law in Iowa, and unless the person will be able,
28 measured by his or her age at the time of appointment, to
3182 - 29 complete the initial term of office plus a six-year term of
30 office prior to reaching age seventy-two.

31 3. A district associate judge shall be a resident of the
32 county in which the office is held during his or her entire
33 term. A district associate judge shall cease to hold office
34 at age seventy-two.

35 Sec. 5. Section six hundred two point thirty (602.30),

1 Code 1979, is amended to read as follows:

2 602.30 VACANCIES. ~~A-vacaney-in-the-office-of-district~~
3 ~~assoeiate-judge-after-June-30,-1973,-shall-not-be-filled-and~~
4 Whenever a district associate judge leaves office, all funds,
5 dockets and records relating to the office so vacated shall
6 be promptly deposited by the district associate judge with
7 the clerk of court who issued the docket.

8 Sec. 6. Section six hundred two point thirty-one (602.31),
9 Code 1979, is amended to read as follows:

10 602.31 SALARY, EXPENSES, RETIREMENT. The annual salary
11 of each district associate judge, is payable from the general
12 fund of the state of Iowa, ~~shall-be-a-sum-of-nineteen-thousand~~
13 ~~five-hundred-dollars.~~ District associate judges shall also
14 receive from the state their ~~actual-and-necessary~~ expenses
15 ~~in-the-performanee-of-their-duties-away-from-the-city-of-their~~
16 ~~residence,~~ in accordance with section 605.2. District
17 associate judges who were municipal court judges prior to
18 July 1, 1973, and who are members of the judicial retirement
19 system under chapter 605A shall remain members thereof; but
20 the state of Iowa, instead of the city and county, shall
21 deduct four percent from their salaries for the judicial
22 retirement fund and shall contribute the public's portion
23 to the judicial retirement fund.

24 Sec. 7. Section six hundred two point thirty-two (602.32),
25 unnumbered paragraph one (1), Code 1979, is amended to read
26 as follows:

27 District associate judges shall have the jurisdiction pro-
28 vided in section 602.60, ~~--District-assoeiate-judges for~~
29 judicial magistrates, and when exercising that jurisdiction
30 shall hold court as directed at any place within the judicial
31 district that a judicial magistrate may do so, and shall
32 employ judicial magistrates' practice and procedure. In
33 addition, district associate judges shall have jurisdiction
34 in civil actions for money judgments where the amount in
35 controversy does not exceed three thousand dollars,

1 jurisdiction of indictable misdemeanors, and the jurisdiction
 2 provided for in section 231.3 when designated as a judge of
 3 the juvenile court; and while ~~exercising the additional~~
 4 ~~jurisdiction granted herein,~~ presiding over any of those
 5 subject matters the district associate judge shall employ
 6 district judges' practice and procedure. When a district
 7 ~~court~~ judge is unable to serve as a result of temporary
 8 incapacity, a district associate judge may, by order of the
 9 chief judge of the district enrolled in the records of the
 10 clerk of the district court, temporarily exercise any ~~of~~
 11 judicial authority within the jurisdiction of a district judge
 12 during the time of incapacity ~~and-as~~ with respect to the
 13 ~~specific~~ matters or classes of matters specified in that
 14 order. District associate judges shall have power to act
 15 at any place within their respective judicial districts, and
 16 venue shall be the same as in other district court proceedings.

17 Sec. 8. Section six hundred two point thirty-three
 18 (602.33), Code 1979, is amended to read as follows:

19 602.33 REPORTERS. Each district associate judge ~~and-judi-~~
 20 ~~cial-magistrate-appointed-pursuant-to-section-602-51~~ may ap-
 21 point a shorthand reporter subject to the approval of the
 22 chief judge of the district. All shorthand reporters appointed
 23 are reporters for the judicial district and their compensa-
 24 tion shall be in accordance with section 605.8.

25 Sec. 9. Chapter six hundred two (602), Code 1979, is
 26 amended by adding the following new section as section six
 27 hundred two point thirty-seven (602.37):

28 602.37 NEW SECTION. NUMBER AND APPORTIONMENT OF DIS-
 29 TRICT ASSOCIATE JUDGES.

30 1. There shall be one district associate judge in counties
 31 having a population, according to the most recent federal
 32 decennial census, of more than thirty-five thousand and less
 33 than eighty thousand; two in counties having a population
 34 of more than eighty thousand and less than one hundred twenty-
 35 five thousand; three in counties having a population of more

1 than one hundred twenty-five thousand and less than two hundred
2 thousand; and four in counties having a population of two
3 hundred thousand or above. A district associate judge
4 appointed pursuant to section six hundred two point fifty-
5 nine (602.59) of the Code shall not be counted for the purposes
6 of this subsection.

7 2. The district associate judges authorized by this section
8 and section six hundred two point fifty-nine (602.59) of the
9 Code shall be appointed by the district judges of the judicial
10 election district from persons nominated by the county judi-
11 cial magistrate appointing commission.

12 3. In November of any year in which an impending vacancy
13 is created because a district associate judge is not retained
14 in office pursuant to a judicial election, the county judicial
15 magistrate appointing commission shall publicize notice of
16 the vacancy in at least two publications in the official
17 county newspaper. The commission shall accept applications
18 for consideration for nomination as district associate judge
19 for a minimum of fifteen days prior to certifying nominations.
20 The commission shall consider the applications and shall,
21 by majority vote, certify to the chief judge of the judicial
22 district not later than December fifteenth of that year the
23 names of three applicants who are nominated by the commission
24 for the vacancy. If there are three or fewer applicants the
25 commission shall certify all applicants who meet the statutory
26 qualifications. Nominees shall be chosen solely on the basis
27 of the qualifications of the applicants, and political
28 affiliation shall not be considered.

29 4. Within thirty days after a county judicial magistrate
30 appointing commission receives notification of an actual or
31 impending vacancy in the office of district associate judge,
32 other than a vacancy referred to in subsection three (3) of
33 this section, the commission shall certify to the chief judge
34 of the judicial district the names of three applicants who
35 are nominated by the commission for the vacancy. The

1 commission shall publicize notice of the vacancy in at least
2 two publications in the official county newspaper. The
3 commission shall accept applications for consideration for
4 nomination as district associate judge for a minimum of fifteen
5 days prior to certifying nominations. The commission shall
6 consider the applications and shall, by majority vote, certify
7 to the chief judge of the judicial district the names of three
8 applicants who are nominated by the commission for the vacancy.
9 If there are three or fewer applicants the commission shall
10 certify all applicants who meet the statutory qualifications.
11 Nominees shall be chosen solely on the basis of the
12 qualifications of the applicants, and political affiliation
13 shall not be considered. As used in this subsection, a vacancy
14 may be created by the death, retirement, resignation or removal
15 of an existing district associate judge, or an increase in
16 the number of positions authorized.

17 5. Within fifteen days after the chief judge of a judicial
18 district has received the list of nominees to fill a vacancy
19 in the office of district associate judge, the district judges
20 in the election district shall, by majority vote, appoint
21 one of those nominees to fill the vacancy.

22 6. The supreme court may adopt administrative rules
23 establishing procedures to be used by judicial magistrate
24 appointing commissions when exercising the duties specified
25 in this section.

26 Sec. 10. Chapter six hundred two (602), Code 1979, is
27 amended by inserting the following new section as section
28 six hundred two point thirty-eight (602.38):

29 602.38 NEW SECTION. ALTERNATE DISTRICT ASSOCIATE JUDGE.

30 1. In a county having only one district associate judge,
31 the county judicial magistrate appointing commission, by
32 majority vote, may authorize that an alternate district
33 associate judge be selected.

34 2. The procedures for selecting an alternate shall be
35 those provided in section nine (9) of this Act for selection

1 of a district associate judge, but a person appointed under
2 this section shall be designated as an alternate and shall
3 be subject to the provisions of this section.

4 3. An alternate district associate judge shall have the
3182-5 same qualifications, and when serving, the same jurisdiction,
6 obligations and liabilities as a regularly appointed district
7 associate judge. An alternate shall serve initial and regular
8 terms and shall stand for retention in office in the same
9 manner as regular district associate judges. However, a
10 vacancy in the office of alternate district associate judge
11 shall not be filled unless the conditions of subsection one
12 (1) of this section are satisfied after the vacancy occurs.

13 4. The chief judge of the judicial district may order
14 that the alternate temporarily sit in place of the district
15 associate judge while the latter is unable to act. The words
16 "unable to act" mean a temporary absence from court duties,
17 including a reasonable vacation period. An alternate may
18 practice as an attorney except when serving as a district
19 associate judge. When serving as a district associate judge
20 an alternate shall be subject to section six hundred five
21 point seventeen (605.17) of the Code.

22 5. An alternate district associate judge shall be
23 compensated by the state at the rate of forty dollars per
24 day for each day of actual duty, and for actual expenses
25 incurred in the performance of duties, upon certification
26 to the comptroller by the chief judge of the days of duty
27 and the expenses incurred. An alternate shall not be a member
28 of the Iowa public employees' retirement system or the judicial
29 retirement system.

30 6. The appointment of an alternate district associate
31 judge shall not affect the rights, duties or remuneration
32 of the regularly-appointed district associate judge, and the
33 appointment of an alternate shall not affect the number or
34 apportionment of district associate judges authorized by this
35 chapter.

1 Sec. 11. Section six hundred two point forty-seven
2 (602.47), Code 1979, is amended to read as follows:

3 602.47 NO MEMBER OF COMMISSION TO BE APPOINTED ~~MAGIS-~~
4 ~~TRATE~~ TO OFFICE. No ~~person-while-a~~ member of ~~the~~ a county
5 judicial magistrate appointing commission shall be appointed
6 to the office of judicial magistrate, nor shall a member be
7 nominated for or appointed to the office of district associate
8 judge.

9 Sec. 12. Section six hundred two point fifty-two (602.52),
10 Code 1979, is amended to read as follows:

11 602.52 QUALIFICATIONS, AGE. A judicial magistrate ~~shall~~
12 must be an elector of the county of appointment during his
13 or her term of office. A person ~~shall-not-be~~ is not qualified
14 for appointment ~~and-shall-not-be-appointed~~ as a judicial
15 magistrate unless ~~that~~ the person can complete ~~prior-to-his~~
16 ~~or-her-reaching-the-age-of-seventy-two-years~~ the entire ~~two-~~
17 ~~year-or-four-year~~ term of office ~~of-judicial-magistrate-for~~
18 ~~which-nomination-and-appointment-is-being-made~~ prior to
19 reaching age seventy-two. A judicial magistrate ~~appointed~~
20 ~~pursuant-to-section-602-50~~ may be licensed to practice law
21 in Iowa, and the commission in selecting persons for those
22 positions shall first consider for appointment applicants
23 so licensed. ~~After-July-1,-1973,-a-judicial-magistrate~~
24 ~~nominated-and-appointed-pursuant-to-section-602-51-shall-be~~
25 ~~licensed-to-practice-law-in-Iowa-~~

26 Sec. 13. Section six hundred two point fifty-three
27 (602.53), subsection two (2), Code 1979, is amended to read
28 as follows:

29 2. If a judicial magistrate appears as counsel for a
30 client in a matter that is within the jurisdiction of a
31 magistrate, that matter shall be heard only by a district
32 judge, or a district associate judge, ~~or-a-judicial-magistrate~~
33 ~~appointed-pursuant-to-section-602-51~~. A disqualification
34 under this section shall be had upon motion of the judicial
35 magistrate or of any party, either orally or in writing, and

1 the clerk shall be advised to reassign the matter to a proper
2 judicial officer.

3 Sec. 14. Section six hundred two point fifty-four (602.54),
4 Code 1979, is amended to read as follows:

5 602.54 SALARY, EXPENSES. Each judicial magistrate shall
6 receive a salary payable from the general fund of the state,
7 and also ~~his or her actual and necessary expenses in the per-~~
8 ~~formance of his or her duties while away from the city of~~
9 ~~his or her residence,~~ in accordance with section 605.2. The
10 salary of judicial magistrates, ~~except as otherwise provided~~
11 ~~herein,~~ shall be the sum of four thousand eight hundred dollars
12 annually, except as provided in section six hundred two point
13 fifty-eight (602.58) of the Code. ~~The judicial magistrates~~
14 ~~serving pursuant to section 602.51 shall receive an annual~~
15 ~~salary of nineteen thousand five hundred dollars.--Judicial~~
16 ~~magistrates appointed pursuant to section 602.51 except~~
17 ~~district associate judges shall be members of the Iowa public~~
18 ~~employees' retirement system.~~ Judicial magistrates appointed
19 ~~pursuant to either section 602.50 or section 602.58~~ may elect
20 to be members of the Iowa public employees' retirement system
21 upon filing notice in writing with the Iowa department of
22 job service and the court administrator of the judicial
23 department.

24 Sec. 15. Section six hundred two point fifty-nine (602.59),
25 Code 1979, is amended to read as follows:

26 602.59 SUBSTITUTION FOR APPORTIONMENT.

27 1. ~~APPLICABILITY.~~ In any county having an apportionment
28 of three or more judicial magistrates ~~appointable pursuant~~
29 ~~to section 602.50,~~ the chief judge of the district, subject
30 to the limitations of this section, may designate by order
31 that ~~magistrates appointed pursuant to this section be utilized~~
32 a district associate judge be appointed pursuant to this
33 section in lieu of magistrates appointed pursuant to section
34 602.50. The order of substitution may be made only upon the
35 affirmative vote of a majority of the district judges in that

1 judicial election district that the substitution be made,
2 and only upon a finding by a majority of those district judges
3 that a substitution would provide more speedy and efficient
4 dispatch of judicial business within that judicial election
5 district. An order of substitution ~~is renewable for successive~~
6 ~~terms upon the vote of the judges, but shall not be effec-~~
7 ~~tive for any term shall not take effect~~ unless a copy of the
8 order is received by the chairman of the county judicial
9 magistrate appointing commission not later than the thirty-
10 first day of March of the year in which the substitution is
11 to take effect. A copy of the order also shall be sent to
12 the supreme court administrator.

13 ~~The district judges of a judicial election district may~~
14 ~~determine, for the year 1974, that a substitution be made~~
15 ~~pursuant to this section, by an affirmative vote of a majority~~
16 ~~rendered and with written notice thereof delivered to the~~
17 ~~chairman of the county judicial magistrate appointing~~
18 ~~commission not later than June 1, 1974. A magistrate appointed~~
19 ~~in 1974 pursuant to this subsection shall be subject to all~~
20 ~~of the provisions of this section, except that the term of~~
21 ~~office shall be an irregular one for a period of five years~~
22 ~~from July 1, 1974.~~

23 2. ~~REDUCTION IN APPOINTMENTS.~~ For any county in which
24 ~~such an~~ a substitution order is in effect, the number of
25 magistrates actually appointed pursuant to section 602.50
26 shall be reduced by three for each magistrate district
27 associate judge substituted under the provisions of this
28 section.

29 Upon any subsequent reduction in the apportionment of
30 magistrates to the county, ~~either~~ the commission shall fur-
31 ther reduce the number of magistrates appointed, ~~or the chief~~
32 ~~judge shall revoke an order of substitution.~~

33 3. ~~APPOINTMENT.~~ A judicial magistrate district associate
34 judge ordered pursuant to this section shall be nominated
35 and appointed in the same manner, and shall have the same

1 qualifications, rights, salary, duties, responsibilities,
2 liabilities, authority and jurisdiction, ~~the same~~ as a
3 magistrate district associate judge authorized by paragraph
4 ~~(1)~~ of section 602.51 nine (9) of this Act.

5 4. LIMITATIONS.

6 a. Except as provided in subsections 1 and 2, a substi-
7 tution shall not increase or decrease the number of judicial
8 magistrates authorized by this chapter.

9 b. A substitution ~~or reversion~~ pursuant to this section
10 shall not ~~take effect during the term of office of any~~
11 magistrate be made if the effect would be to remove a
12 magistrate from office prior to the expiration of his or her
13 term.

14 c. A substitution shall not be made ~~or maintained~~ where
15 the apportionment to a county is insufficient to permit the
16 full reduction in appointments of magistrates as required
17 by subsection 2.

18 5. REVERSION. If an apportionment by the supreme court
19 administrator pursuant to section 602.57 reduces the number
20 of judicial magistrate offices in the county to less than
21 three, or a majority of the district judges in that judicial
22 election district determines that a substitution is no longer
23 desirable, then the substituted office shall ~~not be renewed~~
24 for a successive term be terminated. However, a reversion
25 pursuant to this subsection, irrespective of cause, shall
26 not take effect until the substitute district associate judge
27 fails to be retained in office at a judicial election or
28 otherwise leaves office, whether voluntarily or involuntarily.
29 ~~At the end of the term~~ Upon the terminaton of office of that
30 district associate judge, appointments shall be made pursuant
31 to section 602.50 as necessary to reestablish terms of office
32 as provided in subsection four (4) of that section.

33 Sec. 16. Section six hundred two point sixty (602.60),
34 unnumbered paragraph one (1), Code 1979, is amended to read
35 as follows:

1 Judicial magistrates shall have jurisdiction of simple
 2 misdemeanors, including traffic and ordinance violations,
 3 preliminary hearings, search warrant proceedings, and small
 4 claims. They shall also have jurisdiction to exercise the
 5 powers specified in sections 644.2 and 644.12 and the power
 6 to hear complaints, or preliminary informations, issue
 7 warrants, order arrests, make commitments and take bail.
 8 They shall have power to act any place within the judicial
 9 district as directed, and venue shall be the same as in other
 10 district court proceedings. ~~In-addition, judicial magistrates~~
 11 ~~appointed pursuant to section 602.51 shall have jurisdiction~~
 12 ~~of indictable misdemeanors, the jurisdiction provided for~~
 13 ~~in section 231.3 when designated a judge of the juvenile~~
 14 ~~court, and jurisdiction in civil actions for money judgments~~
 15 ~~where the amount in controversy does not exceed three thousand~~
 16 ~~dollars and while exercising that jurisdiction, judicial~~
 17 ~~magistrates shall employ district judges' practice and~~
 18 ~~procedure.~~

19 Sec. 17. Chapter six hundred two (602), Code 1979, is
 20 amended by adding the following new section:

21 NEW SECTION. JUDICIAL MAGISTRATE DEFINED. As used in
 22 this chapter, "judicial magistrate" and "magistrate" mean
 23 only those persons appointed to office under the authority
 24 of sections six hundred two point fifty (602.50) and six
 25 hundred two point fifty-eight (602.58) of the Code.

26 Sec. 18. Section six hundred five point two (605.2), Code
 27 1979, is amended to read as follows:

28 605.2 EXPENSES. ~~Where-a~~ A judicial magistrate or district
 29 associate judge, or a judge of the district court, court of
 30 appeals or supreme court who is required, in the discharge
 31 of official duties, to leave the city or county of the judge's
 32 his or her residence or leave the city of the judge's residence
 33 ~~to perform such duties, the judge~~ shall be paid such actual
 34 and necessary expenses for living quarters and living expenses
 35 not to exceed the sum of twenty-two dollars per day and plus

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3/82 { 1 transportation expenses as shall be incurred. Expenses for
2 judges of the court of appeals are limited as provided in
3 section 684.45.

4 Sec. 19. Section six hundred five point fifteen (605.15),
5 Code 1979, is amended to read as follows:

6 605.15 PRACTICE PROHIBITED. ~~During-the-time-that~~ While
7 holding office, a supreme court judge, court of appeals judge,
8 district judge, or district associate judge, ~~or-judicial~~
9 ~~magistrate-appointed-pursuant-to-section-602-51 is-holding~~
10 ~~such-office-he~~ shall not practice as an attorney or counselor
11 or give advice in relation to any action pending or about
12 to be brought in any of the courts of the state.

13 Sec. 20. Section six hundred five point seventeen (605.17),
14 Code 1979, is amended to read as follows:

15 605.17 WHEN JUDGE DISQUALIFIED. A supreme court judge,
16 judge of the court of appeals, district judge, district
17 associate judge or magistrate is disqualified from acting
18 ~~as-such~~, except by mutual consent of parties, in any case
19 wherein ~~he~~ the judge or magistrate or any member of any
20 corporation, partnership, firm or association with which he
21 or she may be associated is a party or interested, or where
22 ~~he~~ the judge or magistrate is related to either party by
23 consanguinity or affinity within the fourth degree, or where
24 ~~he~~ the judge or magistrate or any member of any ~~firm,~~
25 ~~partnership~~ corporation, partnership, firm or association
26 with which he or she may be associated has been attorney
27 for either party in the action or proceeding. This section
28 shall not prevent ~~him~~ a judge or magistrate from disposing
29 of any preliminary matter not affecting the merits of the
30 case.

31 Sec. 21. Section eight hundred thirteen point three
32 (813.3), rule fifty-four (54), subsection one (1), Code 1979,
33 is amended to read as follows:

34 1. NOTICE OF APPEAL. An appeal may be taken by the
35 plaintiff only upon a finding of invalidity of an ordinance

1 or statute. In all other cases, an appeal may only be taken
2 by the defendant and only upon a judgment of conviction.
3 Execution of the judgment shall be stayed upon the filing
4 with the clerk of the district court an appeal bond with
5 surety approved by the clerk, in the sum specified in the
6 judgment. The defendant may take an appeal, by giving notice
7 orally to the magistrate that he or she appeals, or by de-
8 livering to the magistrate not later than ten days thereafter,
9 a written notice of the defendant's appeal, and in either
10 case the magistrate must make an entry on its docket of the
11 giving of such notice. Payment of fine or service of a
12 sentence of imprisonment does not waive the right to appeal,
13 nor render the appeal moot. When an appeal is taken, the
14 magistrate shall forward to the appropriate district court
15 clerk a copy of the docket entries in the magistrate's court,
16 together with copies of the complaint, warrant, motions,
17 pleadings, the magistrate's minutes of the witness' testimony
18 and the exhibits or copies thereof and all other papers in
19 the case. A district judge shall promptly hear the appeal
20 upon the record thus filed without further evidence if the
21 original action was tried by a district judge, or district
22 associate judge, ~~or-magistrate-appointed-under-sections-602-51~~
23 ~~or-602-59~~ unless the district ~~court~~ judge hearing the appeal
24 either upon application of any party or on the district judge's
25 own motion orders the appeal heard de novo on the grounds
26 the record is inadequate. If the original action was tried
27 by a judicial magistrate ~~appointed-under-sections-602-50-or~~
28 ~~602-58~~, the district judge shall promptly hear the appeal
29 de novo. Within ten days after an appeal is taken, unless
30 extended by order of a district judge or by stipulation of
31 the parties, any party may file with the clerk, as a part
32 of the record, a transcript of the official report, if any,
33 and, in the event the report was made electronically, the
34 tape or other medium on which the proceedings were preserved.
35 If the original action was tried before a district judge

1 acting as a judicial magistrate, the appeal shall be to a
2 different district judge. The judge shall decide the appeal
3 without regard to technicalities or defects. Judgment shall
4 be rendered as though the case were being originally tried.
5 The right to further appeal is governed by division XIV,
6 section 1406.

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7 Sec. 22. Sections six hundred two point fifty-one (602.51)
8 and six hundred two point seventy-one (602.71), Code 1979,
9 are repealed.

10 Sec. 23. This Act shall take effect January 1, 1980.

11 EXPLANATION

12 The Unified Trial Court Act created three types of judicial
13 offices below the level of district judge: District associate
14 judge, "full-time" magistrate and "part-time" magistrate.
15 The offices of district associate judge presently are occupied
16 only by the regular municipal court judges who were in office
17 prior to July 1, 1973, and those positions are being phased
18 out as those judges retire, are not retained at election,
19 etc.

20 The office of "full-time" magistrate is equivalent to that
21 of district associate judge, except that under present law
22 those magistrates serve four-year terms by appointment of
23 the district judges.

24 This bill eliminates the phase-out of the office of district
25 associate judge and provides that all "full-time" magistrates
26 in office on January 1, 1980 become district associate judges
27 as of that date. The office of "full-time" magistrate is
28 eliminated, and the term "magistrate" is preserved to designate
29 only those magistrates who serve part-time.

30 This bill provides that district associate judges initially
31 shall be appointed by the district judges from lists of three
32 nominees certified by the county judicial magistrate appointing
33 commissions. District associate judges would serve six-year
34 terms, and stand for retention in office in the same manner
35 as district judges. Retention would be decided by the voters

1 in the county in which the district associate judge serves.

2 For purposes of transition, those remaining municipal court
3 judges who became associate judges in 1973, and those
4 magistrates who become associate judges on January 1, 1980,
5 will stand for retention in office at the judicial election
6 in 1982 and every sixth year thereafter.

7 The provisions for substituting a "district associate
8 judge" for three "part-time" magistrates are retained, but
9 are modified so that once the substitution is made a reversion
10 cannot take place until the person serving as district
11 associate judge fails retention or otherwise vacates office.

12 This bill does not change the authorized numbers of district
13 associate judges and "full-time" magistrates, and does not
14 effect "part-time" magistrates except where a substitution
15 has been made.

16 The bill would take effect January 1, 1980.

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HOUSE FILE 54

H-3190

1 Amend House File 54 as follows:

2 1. Page 15, by inserting after line 6 the
3 following:

4 "Sec. . Section eight hundred fifteen point
5 seven (815.7), Code 1979, is amended to read as
6 follows:

7 815.7 FEES TO ATTORNEYS. An attorney appointed
8 by the court to represent any a person charged with
9 a crime in this state shall-be is entitled to a
10 reasonable compensation which shall be the ordinary
11 and customary charges for like services in the
12 community to be decided in each case by a-judge-of
13 the-district-court the judicial officer presiding
14 in the action, including such sum or sums as the court
15 may determine are necessary for investigation in the
16 interests of justice and in the event of appeal the
17 cost of obtaining the transcript of the trial and
18 the printing of the trial record and necessary briefs
19 in behalf of the defendant. Such-attorney However,
20 when an action is heard by a magistrate appointed
21 under section six hundred two point fifty (602.50)
22 or six hundred two point fifty-eight (602.58) of the
23 Code the compensation shall be decided in each case
24 by a district judge. An attorney appointed by the
25 court need not follow the case into another county
26 or into the appellate court unless so directed by
27 the court at the request of the defendant, where
28 grounds for further litigation are not capricious
29 or unreasonable, but if such the attorney does so
30 his-er-her the attorney's fee shall be determined
31 accordingly. Only one attorney fee shall be so awarded
32 in any one case except that in class A felony cases,
33 two may be authorized."

34 2. By renumbering sections of the bill.

H-3190 FILED *Ruled not germane*
JANUARY 31, 1979 *2/7 (S. 487)*

BY DOYLE of Woodbury

- 1 Amend House File 54 as follows:
- 2 1. Page 1, line 28, by striking the word "sixth"
- 3 and inserting in lieu thereof the word "fourth".
- 4 2. Page 1, line 32, by inserting after the figure
- 5 "1980," the words "and who meet the qualifications
- 6 for the office of district associate judge,".
- 7 3. Page 2, line 4, by striking the word "sixth"
- 8 and inserting in lieu thereof the word "fourth".
- 9 4. Page 2, by striking lines 9 through 13 and
- 10 inserting in lieu thereof the following: "and shall
- 11 stand for retention in office within the county of
- 12 their residence at the judicial election in 1974 1982
- 13 and every four years thereafter, under sections 46.17
- 14 to 46.24. The term of office of the district
- 15 associate".
- 16 5. Page 2, line 15, by striking the words "four
- 17 six" and inserting in lieu thereof the word "four".
- 18 6. Page 2, lines 20 through 22, by striking the
- 19 words "A district associate judge shall stand for
- 20 retention in the county in which he or she holds
- 21 office.".
- 22 7. Page 2, line 29, by striking the word "six-
- 23 year" and inserting in lieu thereof the word "four-
- 24 year".
- 25 8. Page 3, by striking lines 10 through 23 and
- 26 inserting in lieu thereof the following:
- 27 602.31 SALARY, EXPENSES, RETIREMENT. The annual
- 28 salary of each district associate judge, shall be
- 29 an amount as provided by the general assembly and
- 30 shall be payable from the general fund of the state
- 31 of Iowa, shall be a sum of nineteen thousand five
- 32 hundred dollars. District associate judges shall
- 33 also receive from the state their actual and necessary
- 34 expenses in the performance of their duties away from
- 35 the city of their residence, in accordance with section
- 36 605.2. District associate judges who were municipal
- 37 court judges prior to July 1, 1973, and who are members
- 38 of the judicial retirement system under chapter 605A
- 39 shall remain members thereof; but the state of Iowa,
- 40 instead of the city and county, shall deduct four
- 41 percent from their salaries for the judicial retirement
- 42 fund and shall contribute the public's portion to
- 43 the judicial retirement fund. A person who becomes
- 44 a district associate judge on the effective date of
- 45 this Act by virtue of section three (3) of this Act
- 46 or who is appointed to the office of district associate
- 47 judge after the effective date of this Act shall be
- 48 a member of the Iowa public employees' retirement
- 49 system as long as the person continues to hold office
- 50 as a district associate judge."

i-3182

- 1 9. Page 7, line 5, by striking the word
- 2 "jurisdiction" and inserting in lieu thereof the word
- 3 "jurisdiction".
- 4 10. Page 12, by striking lines 26 through 35.
- 5 11. Page 13, by striking lines 1 through 3.
- 6 12. By renumbering sections and correcting internal
- 7 references as necessary.

Judiciary
Kudart, Chairperson
Briles
Scott

HOUSE FILE 54

*Amended per S. & Dr. Pass
3/26 (p. 1103)*

By PELTON, WOODS, SHIMANEK
and CHIODO

(As Amended and Passed by the House)

Be Passed House, Date 4/12/80 (p. 1258) Passed Senate, Date 4/18/80 (p. 1200)

Vote: Ayes 97 Nays 1 Vote: Ayes 37 Nays 10

Approved May 26, 1980

A BILL FOR

1 An Act relating to district associate judges and judicial
2 magistrates.

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

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_____ House Amendments

1 Section 1. Section two hundred thirty-one point three
2 (231.3), unnumbered paragraph one (1), Code 1979, is amended
3 to read as follows:

4 The chief judge of the district shall designate one or
5 more of the district judges, or district associate judges,
6 ~~judicial-magistrates-serving-pursuant-to-section-602-51,~~ or
7 any thereof, to act as judge or judges of the juvenile court
8 in any county or counties.

9 Sec. 2. Section six hundred two point four (602.4), Code
10 1979, is amended to read as follows:

11 602.4 DISTRICT JUDGES. Iowa district judges shall possess
12 the full jurisdiction of the Iowa district court, including
13 the ~~jurisdiction~~ respective jurisdictions of district associate
14 judges and judicial magistrates. While exercising the
15 jurisdiction possessed by judicial magistrates, district
16 judges shall employ judicial magistrates' practice and
17 procedure, and may hold court at any place where a judicial
18 magistrate may do so.

19 Sec. 3. Section six hundred two point twenty-eight
20 (602.28), Code 1979, is amended to read as follows:

21 602.28 DISTRICT ASSOCIATE JUDGES. The regular judges
22 of the municipal courts of Iowa who are in office on June
23 30, 1973, and who are less than seventy-two years of age on
24 July 1, 1973, and who have not been appointed district court
25 judges shall become district associate judges on the latter
26 date. Those retained in office at the judicial election in
27 1978 shall stand for retention in office at the judicial
28 election in 1982 and every fourth year thereafter.

29 Judicial magistrates appointed for terms of office pursuant
30 to either section six hundred two point fifty-one (602.51)
31 or section six hundred two point fifty-nine (602.59) of the
32 Code, and who are in office on January 1, 1980, and who meet
33 the qualifications for the office of district associate judge,
34 shall become district associate judges on January 1, 1980.
35 Alternates appointed pursuant to section six hundred two point

1 seventy-one (602.71) of the Code and who are in office on
2 January 1, 1980 shall become alternate district associate
3 judges on January 1, 1980, and shall be subject to section
4 ten (10) of this Act. They shall stand for retention in
5 office at the judicial election in 1982 and every fourth
6 year thereafter.

7 Sec. 4. Section six hundred two point twenty-nine (602.29),
8 Code 1979, is amended to read as follows:

9 602.29 TERM, RETENTION, QUALIFICATIONS.

10 1. District associate judges shall serve initial terms
11 and shall stand for retention in office within the county
12 of their residence at the judicial election in 1974 1982 and
13 every four years thereafter, under sections 46.17 to 46.24.

14 The term of office of the district associate judges who are
15 retained in office at the a judicial election shall extend
16 for four years after January 1 first next following the
17 election, and the term of office of the district associate
18 judges who are not retained in office at such a judicial
19 election shall extend until January 1 first next following
20 such the election. District-associate-judges-shall-~~cease~~
21 ~~to-hold-office-upon-attaining-age-seventy-two.~~

22 2. A person shall not qualify for appointment to the
23 office of district associate judge unless the person is at
24 the time of application a resident of the county in which
25 the vacancy exists, and unless the person is licensed to
26 practice law in Iowa, and unless the person will be able,
27 measured by his or her age at the time of appointment, to
28 complete the initial term of office plus a four-year term
29 of office prior to reaching age seventy-two.

30 3. A district associate judge shall be a resident of the
31 county in which the office is held during his or her entire
32 term. A district associate judge shall cease to hold office
33 at age seventy-two.

34 Sec. 5. Section six hundred two point thirty (602.30),
35 Code 1979, is amended to read as follows:

1 602.30 VACANCIES. ~~A-vacaney-in-the-office-of-district~~
2 ~~associate-judge-after-June-30,-1973,-shall-not-be-filled-and~~
3 Whenever a district associate judge leaves office, all funds,
4 dockets and records relating to the office so vacated shall
5 be promptly deposited by the district associate judge with
6 the clerk of court who issued the docket.

7 Sec. 6. Section six hundred two point thirty-one (602.31),
8 Code 1979, is amended to read as follows:

9 602.31 SALARY, EXPENSES, RETIREMENT. The annual salary
10 of each district associate judge, shall be an amount as
11 provided by the general assembly and shall be payable from
12 the general fund of the state of Iowa, shall-be-a-sum-of
13 nineteen-thousand-five-hundred-dollars. District associate
14 judges shall also receive from the state their actual and
15 necessary expenses in the performance of their duties away
16 from the city of their residence, in accordance with section
17 605.2. District associate judges who were municipal court
18 judges prior to July 1, 1973, and who are members of the
19 judicial retirement system under chapter 605A shall remain
20 members thereof; but the state of Iowa, instead of the city
21 and county, shall deduct four percent from their salaries
22 for the judicial retirement fund and shall contribute the
23 public's portion to the judicial retirement fund. A person
24 who becomes a district associate judge on the effective date
25 of this Act by virtue of section three (3) of this Act or
26 who is appointed to the office of district associate judge
27 after the effective date of this Act shall be a member of
28 the Iowa public employees' retirement system as long as the
29 person continues to hold office as a district associate judge.

30 Sec. 7. Section six hundred two point thirty-two (602.32),
31 unnumbered paragraph one (1), Code 1979, is amended to read
32 as follows:

33 District associate judges shall have the jurisdiction
34 provided in section 602.60.--District-associate-judges for
35 judicial magistrates, and when exercising that jurisdiction

1 shall hold court as directed at any place within the judicial
2 district that a judicial magistrate may do so, and shall
3 employ judicial magistrates' practice and procedure. In
4 addition, district associate judges shall have jurisdiction
5 in civil actions for money judgments where the amount in
6 controversy does not exceed three thousand dollars,
7 jurisdiction of indictable misdemeanors, and the jurisdiction
8 provided for in section 231.3 when designated as a judge of
9 the juvenile court; and while ~~exercising the additional~~
10 ~~jurisdiction granted herein,~~ presiding over any of those
11 subject matters the district associate judge shall employ
12 district judges' practice and procedure. When a district
13 ~~court~~ judge is unable to serve as a result of temporary
14 incapacity, a district associate judge may, by order of the
15 chief judge of the district enrolled in the records of the
16 clerk of the district court, temporarily exercise any ~~of~~
17 judicial authority within the jurisdiction of a district judge
18 during the time of incapacity ~~and as~~ with respect to the
19 ~~specific~~ matters or classes of matters specified in that
20 order. District associate judges shall have power to act
21 at any place within their respective judicial districts, and
22 venue shall be the same as in other district court proceedings.

23 Sec. 8. Section six hundred two point thirty-three
24 (602.33), Code 1979, is amended to read as follows:

25 602.33 REPORTERS. Each district associate judge ~~and judi-~~
26 ~~cial magistrate appointed pursuant to section 602.51~~ may
27 appoint a shorthand reporter subject to the approval of the
28 chief judge of the district. All shorthand reporters appointed
29 are reporters for the judicial district and their compensation
30 shall be in accordance with section 605.8.

31 Sec. 9. Chapter six hundred two (602), Code 1979, is
32 amended by adding the following new section as section six
33 hundred two point thirty-seven (602.37):

34 602.37 NEW SECTION. NUMBER AND APPORTIONMENT OF DISTRICT
35 ASSOCIATE JUDGES.

1 1. There shall be one district associate judge in counties
2 having a population, according to the most recent federal
3 decennial census, of more than thirty-five thousand and less
4 than eighty thousand; two in counties having a population
5 of more than eighty thousand and less than one hundred twenty-
6 five thousand; three in counties having a population of more
7 than one hundred twenty-five thousand and less than two hundred
8 thousand; and four in counties having a population of two
9 hundred thousand or above. A district associate judge
10 appointed pursuant to section six hundred two point fifty-
11 nine (602.59) of the Code shall not be counted for the purposes
12 of this subsection.

13 2. The district associate judges authorized by this section
14 and section six hundred two point fifty-nine (602.59) of the
15 Code shall be appointed by the district judges of the judicial
16 election district from persons nominated by the county judicial
17 magistrate appointing commission.

18 3. In November of any year in which an impending vacancy
19 is created because a district associate judge is not retained
20 in office pursuant to a judicial election, the county judicial
21 magistrate appointing commission shall publicize notice of
22 the vacancy in at least two publications in the official
23 county newspaper. The commission shall accept applications
24 for consideration for nomination as district associate judge
25 for a minimum of fifteen days prior to certifying nominations.
26 The commission shall consider the applications and shall,
27 by majority vote, certify to the chief judge of the judicial
28 district not later than December fifteenth of that year the
29 names of three applicants who are nominated by the commission
30 for the vacancy. If there are three or fewer applicants the
31 commission shall certify all applicants who meet the statutory
32 qualifications. Nominees shall be chosen solely on the basis
33 of the qualifications of the applicants, and political
34 affiliation shall not be considered.

35 4. Within thirty days after a county judicial magistrate

1 appointing commission receives notification of an actual or
2 impending vacancy in the office of district associate judge,
3 other than a vacancy referred to in subsection three (3) of
4 this section, the commission shall certify to the chief judge
5 of the judicial district the names of three applicants who
6 are nominated by the commission for the vacancy. The
7 commission shall publicize notice of the vacancy in at least
8 two publications in the official county newspaper. The
9 commission shall accept applications for consideration for
10 nomination as district associate judge for a minimum of fifteen
11 days prior to certifying nominations. The commission shall
12 consider the applications and shall, by majority vote, certify
13 to the chief judge of the judicial district the names of three
14 applicants who are nominated by the commission for the vacancy.
15 If there are three or fewer applicants the commission shall
16 certify all applicants who meet the statutory qualifications.
17 Nominees shall be chosen solely on the basis of the
18 qualifications of the applicants, and political affiliation
19 shall not be considered. As used in this subsection, a vacancy
20 may be created by the death, retirement, resignation or removal
21 of an existing district associate judge, or an increase in
22 the number of positions authorized.

23 5. Within fifteen days after the chief judge of a judicial
24 district has received the list of nominees to fill a vacancy
25 in the office of district associate judge, the district judges
26 in the election district shall, by majority vote, appoint
27 one of those nominees to fill the vacancy.

28 6. The supreme court may adopt administrative rules
29 establishing procedures to be used by judicial magistrate
30 appointing commissions when exercising the duties specified
31 in this section.

32 Sec. 10. Chapter six hundred two (602), Code 1979, is
33 amended by inserting the following new section as section
34 six hundred two point thirty-eight (602.38):

35 602.38 NEW SECTION. ALTERNATE DISTRICT ASSOCIATE JUDGE.

1 1. In a county having only one district associate judge,
2 the county judicial magistrate appointing commission, by
3 majority vote, may authorize that an alternate district
4 associate judge be selected.

5 2. The procedures for selecting an alternate shall be
6 those provided in section nine (9) of this Act for selection
7 of a district associate judge, but a person appointed under
8 this section shall be designated as an alternate and shall
9 be subject to the provisions of this section.

10 3. An alternate district associate judge shall have the
11 same qualifications, and when serving, the same jurisdiction,
12 obligations and liabilities as a regularly appointed district
13 associate judge. An alternate shall serve initial and regular
14 terms and shall stand for retention in office in the same
15 manner as regular district associate judges. However, a
16 vacancy in the office of alternate district associate judge
17 shall not be filled unless the conditions of subsection one
18 (1) of this section are satisfied after the vacancy occurs.

19 4. The chief judge of the judicial district may order
20 that the alternate temporarily sit in place of the district
21 associate judge while the latter is unable to act. The words
22 "unable to act" mean a temporary absence from court duties,
23 including a reasonable vacation period. An alternate may
24 practice as an attorney except when serving as a district
25 associate judge. When serving as a district associate judge
26 an alternate shall be subject to section six hundred five
27 point seventeen (605.17) of the Code.

28 5. An alternate district associate judge shall be
29 compensated by the state at the rate of forty dollars per
30 day for each day of actual duty, and for actual expenses
31 incurred in the performance of duties, upon certification
32 to the comptroller by the chief judge of the days of duty
33 and the expenses incurred. An alternate shall not be a member
34 of the Iowa public employees' retirement system or the judicial
35 retirement system.

1 6. The appointment of an alternate district associate
2 judge shall not affect the rights, duties or remuneration
3 of the regularly-appointed district associate judge, and the
4 appointment of an alternate shall not affect the number or
5 apportionment of district associate judges authorized by this
6 chapter.

7 Sec. 11. Section six hundred two point forty-seven
8 (602.47), Code 1979, is amended to read as follows:

9 602.47 NO MEMBER OF COMMISSION TO BE APPOINTED ~~MAGISTRATE~~
10 TO OFFICE. No ~~person-while-a~~ member of ~~the~~ a county judicial
11 magistrate appointing commission shall be appointed to the
12 office of judicial magistrate, nor shall a member be nominated
13 for or appointed to the office of district associate judge.

14 Sec. 12. Section six hundred two point fifty-two (602.52),
15 Code 1979, is amended to read as follows:

16 602.52 QUALIFICATIONS, AGE. A judicial magistrate ~~shall~~
17 must be an elector of the county of appointment during his
18 or her term of office. A person ~~shall-not-be~~ is not qualified
19 for appointment ~~and-shall-not-be-appointed~~ as a judicial
20 magistrate unless ~~that~~ the person can complete ~~prior-to-his~~
21 ~~or-her-reaching-the-age-of-seventy-two-years~~ the entire ~~two-~~
22 ~~year-or-four-year~~ term of office ~~of-judicial-magistrate-for~~
23 ~~which-nomination-and-appointment-is-being-made~~ prior to
24 reaching age seventy-two. A judicial magistrate ~~appointed~~
25 ~~pursuant-to-section-602-50~~ may be licensed to practice law
26 in Iowa, and the commission in selecting persons for those
27 positions shall first consider for appointment applicants
28 so licensed. ~~After-July-17-1973,-a-judicial-magistrate~~
29 ~~nominated-and-appointed-pursuant-to-section-602-51-shall-be~~
30 ~~licensed-to-practice-law-in-Iowa-~~

31 Sec. 13. Section six hundred two point fifty-three
32 (602.53), subsection two (2), Code 1979, is amended to read
33 as follows:

34 2. If a judicial magistrate appears as counsel for a
35 client in a matter that is within the jurisdiction of a

1 magistrate, that matter shall be heard only by a district
2 judge, or a district associate judge, ~~or a judicial magistrate~~
3 ~~appointed pursuant to section 602.51~~. A disqualification
4 under this section shall be had upon motion of the judicial
5 magistrate or of any party, either orally or in writing, and
6 the clerk shall be advised to reassign the matter to a proper
7 judicial officer.

5532 8 Sec. 14. Section six hundred two point fifty-four (602.54),
9 Code 1979, is amended to read as follows:

10 602.54 SALARY, EXPENSES. Each judicial magistrate shall
11 receive a salary payable from the general fund of the state,
12 ~~and also his or her actual and necessary expenses in the per-~~
13 ~~formance of his or her duties while away from the city of~~
14 ~~his or her residence,~~ in accordance with section 605.2. The
15 salary of judicial magistrates, ~~except as otherwise provided~~
16 ~~herein,~~ shall be the sum of four thousand eight hundred dollars
17 annually, except as provided in section six hundred two point
18 fifty-eight (602.58) of the Code. ~~The judicial magistrates~~
19 ~~serving pursuant to section 602.51 shall receive an annual~~
20 ~~salary of nineteen thousand five hundred dollars.~~ ~~Judicial~~
21 ~~magistrates appointed pursuant to section 602.51 except~~
22 ~~district associate judges shall be members of the Iowa public~~
23 ~~employees' retirement system.~~ Judicial magistrates appointed
24 ~~pursuant to either section 602.50 or section 602.58~~ may elect
25 to be members of the Iowa public employees' retirement system
26 upon filing notice in writing with the Iowa department of
27 job service and the court administrator of the judicial
28 department.

29 Sec. 15. Section six hundred two point fifty-nine (602.59),
30 Code 1979, is amended to read as follows:

31 602.59 SUBSTITUTION FOR APPORTIONMENT.

32 1. ~~APPLICABILITY.~~ In any county having an apportionment
33 of three or more judicial magistrates ~~appointable pursuant~~
34 ~~to section 602.50,~~ the chief judge of the district, subject
35 to the limitations of this section, may designate by order

1 that ~~magistrates-appointed-pursuant-to-this-section-be-utilized~~
2 a district associate judge be appointed pursuant to this
3 section in lieu of magistrates appointed pursuant to section
4 602.50. The order of substitution may be made only upon the
5 affirmative vote of a majority of the district judges in that
6 judicial election district that the substitution be made,
7 and only upon a finding by a majority of those district judges
8 that a substitution would provide more speedy and efficient
9 dispatch of judicial business within that judicial election
10 district. An order of substitution ~~is-renewable-for-succcessive~~
11 ~~terms-upon-the-vote-of-the-judges,-but-shall-not-be-effective~~
12 ~~for-any-term shall not take effect~~ unless a copy of the order
13 is received by the chairman of the county judicial magistrate
14 appointing commission not later than the thirty-first day
15 of March of the year in which the substitution is to take
16 effect. A copy of the order also shall be sent to the supreme
17 court administrator.

18 ~~The-district-judges-of-a-judicial-election-district-may~~
19 ~~determine,-for-the-year-1974,-that-a-substitution-be-made~~
20 ~~pursuant-to-this-section,-by-an-affirmative-vote-of-a-majority~~
21 ~~rendered-and-with-written-notice-thereof-delivered-to-the~~
22 ~~chairman-of-the-county-judicial-magistrate-appointing~~
23 ~~commission-not-later-than-June-17-1974.--A-magistrate-appointed~~
24 ~~in-1974-pursuant-to-this-subsection-shall-be-subject-to-all~~
25 ~~of-the-provisions-of-this-section,-except-that-the-term-of~~
26 ~~office-shall-be-an-irregular-one-for-a-period-of-five-years~~
27 ~~from-July-17-1974.~~

28 2. REDUCTION-IN-APPOINTMENTS. For any county in which
29 ~~such-an~~ a substitution order is in effect, the number of
30 magistrates actually appointed pursuant to section 602.50
31 shall be reduced by three for each magistrate district
32 associate judge substituted under the provisions of this
33 section.

34 Upon any subsequent reduction in the apportionment of
35 magistrates to the county, ~~either~~ the commission shall further

1 reduce the number of magistrates appointed, ~~or the chief judge~~
2 ~~shall revoke an order of substitution.~~

3 3. ~~APPOINTMENT.~~ A ~~judicial magistrate~~ district associate
4 judge ordered pursuant to this section shall be nominated
5 and appointed in the same manner, and shall have the same
6 qualifications, rights, salary, duties, responsibilities,
7 liabilities, authority and jurisdiction, ~~the same~~ as a
8 magistrate district associate judge authorized by paragraph
9 ~~(1)~~ of section 602.51 nine (9) of this Act.

10 4. ~~LIMITATIONS.~~

11 a. Except as provided in subsections 1 and 2, a substi-
12 tution shall not increase or decrease the number of judicial
13 magistrates authorized by this chapter.

14 b. A substitution ~~or reversion~~ pursuant to this section
15 shall not ~~take effect during the term of office of any~~
16 magistrate be made if the effect would be to remove a
17 magistrate from office prior to the expiration of his or her
18 term.

19 c. A substitution shall not be made ~~or maintained~~ where
20 the apportionment to a county is insufficient to permit the
21 full reduction in appointments of magistrates as required
22 by subsection 2.

23 5. ~~REVERSION.~~ If an apportionment by the supreme court
24 administrator pursuant to section 602.57 reduces the number
25 of judicial magistrate offices in the county to less than
26 three, or a majority of the district judges in that judicial
27 election district determines that a substitution is no longer
28 desirable, then the substituted office shall ~~not be renewed~~
29 ~~for a successive term~~ be terminated. However, a reversion
30 pursuant to this subsection, irrespective of cause, shall
31 not take effect until the substitute district associate judge
32 fails to be retained in office at a judicial election or
33 otherwise leaves office, whether voluntarily or involuntarily.
34 ~~At the end of the term~~ Upon the terminaton of office of that
35 district associate judge, appointments shall be made pursuant

1 to section 602.50 as necessary to reestablish terms of office
 2 as provided in subsection four (4) of that section.

3 Sec. 16. Section six hundred two point sixty (602.60),
 4 unnumbered paragraph one (1), Code 1979, is amended to read
 5 as follows:

6 Judicial magistrates shall have jurisdiction of simple
 7 misdemeanors, including traffic and ordinance violations,
 8 preliminary hearings, search warrant proceedings, and small
 9 claims. They shall also have jurisdiction to exercise the
 10 powers specified in sections 644.2 and 644.12 and the power
 11 to hear complaints, or preliminary informations, issue
 12 warrants, order arrests, make commitments and take bail.
 13 They shall have power to act any place within the judicial
 14 district as directed, and venue shall be the same as in other
 15 district court proceedings. ~~In-addition, judicial magistrates~~
 16 ~~appointed pursuant to section 602.51 shall have jurisdiction~~
 17 ~~of indictable misdemeanors, the jurisdiction provided for~~
 18 ~~in section 231.3 when designated a judge of the juvenile~~
 19 ~~court, and jurisdiction in civil actions for money judgments~~
 20 ~~where the amount in controversy does not exceed three thousand~~
 21 ~~dollars and while exercising that jurisdiction, judicial~~
 22 ~~magistrates shall employ district judges' practice and~~
 23 ~~procedure.~~

24 Sec. 17. Chapter six hundred two (602), Code 1979, is
 25 amended by adding the following new section:

26 NEW SECTION. JUDICIAL MAGISTRATE DEFINED. As used in
 27 this chapter, "judicial magistrate" and "magistrate" mean
 28 only those persons appointed to office under the authority
 29 of sections six hundred two point fifty (602.50) and six
 30 hundred two point fifty-eight (602.58) of the Code.

31 Sec. 18. Section six hundred five point fifteen (605.15),
 32 Code 1979, is amended to read as follows:

33 605.15 PRACTICE PROHIBITED. ~~During the time that~~ While
 34 holding office, a supreme court judge, court of appeals judge,
 35 district judge, or district associate judge, ~~or judicial~~

1 ~~magistrate-appointed-pursuant-to-section-602.51-is-holding~~
2 ~~such-office-he~~ shall not practice as an attorney or counselor
3 or give advice in relation to any action pending or about
4 to be brought in any of the courts of the state.

5 Sec. 19. Section six hundred five point seventeen (605.17),
6 Code 1979, is amended to read as follows:

7 605.17 WHEN JUDGE DISQUALIFIED. A supreme court judge,
8 judge of the court of appeals, district judge, district
9 associate judge or magistrate is disqualified from acting
10 ~~as-such,~~ except by mutual consent of parties, in any case
11 wherein ~~he~~ the judge or magistrate or any member of any
12 corporation, partnership, firm or association with which he
13 or she may be associated is a party or interested, or where
14 ~~he~~ the judge or magistrate is related to either party by
15 consanguinity or affinity within the fourth degree, or where
16 ~~he~~ the judge or magistrate or any member of any ~~firm,~~
17 ~~partnership~~ corporation, partnership, firm or association
18 with which he or she may be associated has been attorney for
19 either party in the action or proceeding. This section shall
20 not prevent ~~him~~ a judge or magistrate from disposing of any
21 preliminary matter not affecting the merits of the case.

22 Sec. 20. Section eight hundred thirteen point three
23 (813.3), rule fifty-four (54), subsection one (1), Code 1979,
24 is amended to read as follows:

25 1. NOTICE OF APPEAL. An appeal may be taken by the
26 plaintiff only upon a finding of invalidity of an ordinance
27 or statute. In all other cases, an appeal may only be taken
28 by the defendant and only upon a judgment of conviction.
29 Execution of the judgment shall be stayed upon the filing
30 with the clerk of the district court an appeal bond with
31 surety approved by the clerk, in the sum specified in the
32 judgment. The defendant may take an appeal, by giving notice
33 orally to the magistrate that he or she appeals, or by de-
34 livering to the magistrate not later than ten days thereafter,
35 a written notice of the defendant's appeal, and in either

1 case the magistrate must make an entry on its docket of the
2 giving of such notice. Payment of fine or service of a
3 sentence of imprisonment does not waive the right to appeal,
4 nor render the appeal moot. When an appeal is taken, the
5 magistrate shall forward to the appropriate district court
6 clerk a copy of the docket entries in the magistrate's court,
7 together with copies of the complaint, warrant, motions,
8 pleadings, the magistrate's minutes of the witness' testimony
9 and the exhibits or copies thereof and all other papers in
10 the case. A district judge shall promptly hear the appeal
11 upon the record thus filed without further evidence if the
12 original action was tried by a district judge, or district
13 associate judge, ~~or-magistrate-appointed-under-sections-602-51~~
14 ~~or-602-59~~ unless the district court judge hearing the appeal
15 either upon application of any party or on the district judge's
16 own motion orders the appeal heard de novo on the grounds
17 the record is inadequate. If the original action was tried
18 by a judicial magistrate ~~appointed-under-sections-602-50-or~~
19 ~~602-58~~, the district judge shall promptly hear the appeal
20 de novo. Within ten days after an appeal is taken, unless
21 extended by order of a district judge or by stipulation of
22 the parties, any party may file with the clerk, as a part
23 of the record, a transcript of the official report, if any,
24 and, in the event the report was made electronically, the
25 tape or other medium on which the proceedings were preserved.
26 If the original action was tried before a district judge
27 acting as a judicial magistrate, the appeal shall be to a
28 different district judge. The judge shall decide the appeal
29 without regard to technicalities or defects. Judgment shall
30 be rendered as though the case were being originally tried.
31 The right to further appeal is governed by division XIV,
32 section 1406.

33 Sec. 21. Sections six hundred two point fifty-one (602.51)
34 and six hundred two point seventy-one (602.71), Code 1979,
35 are repealed.

1 Sec. 22. This Act shall take effect January 1, 1980.

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HOUSE FILE 54

S-5532

1 Amend House File 54 as amended, passed and reprinted
2 by the House as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Sec. ____ . Section forty-six point sixteen (46.16),
6 Code 1979, is amended to read as follows:

7 46.16 TERMS OF JUDGES.

8 1. Subject to the provisions of sections 605.24
9 and 605.25 and to removal for cause:

10 a. The initial term of office of judges of the
11 supreme court, court of appeals and district court
12 shall be for one year after appointment and until
13 January 1 following the next judicial election after
14 expiration of such year; and

15 b. The regular term of office of judges of the
16 supreme court retained at a judicial election shall
17 be eight years, and of judges of the court of appeals
18 and district court so retained shall be six years,
19 from the expiration of their initial or previous
20 regular term as the case may be.

21 For the purpose of initial appointments to the
22 court of appeals, two of the judges appointed shall
23 serve an irregular term ending December 30 thirty-
24 first of the fourth year after expiration of the
25 initial term prescribed in subsection 1 and two of
26 the judges appointed shall serve an irregular term
27 ending December 30 thirty-first of the fifth year
28 after expiration of the initial term prescribed in
29 subsection 1. Expiration of irregular terms shall
30 be deemed expiration of regular terms for all purposes.

31 2. Subject to removal for cause, the initial term
32 of office of a district associate judge shall be for
33 one year after appointment and until January first
34 following the next judicial election after expiration
35 of such year, and the regular term of office of a
36 district associate judge retained at a judicial
37 election shall be four years from the expiration of
38 the initial or previous regular term, as the case
39 may be.

40 Sec. ____ . Section forty-six point twenty (46.20),
41 Code 1979, is amended to read as follows:

42 46.20 DECLARATION OF CANDIDACY. At least ninety
43 days prior to the judicial election preceding
44 expiration of his or her initial or regular term of
45 office, a judge of the supreme court, court of appeals
46 or district court including district associate judges
47 may file a declaration of candidacy with the state
48 commissioner of elections, whereupon such judge shall
49 stand for retention or rejection at that election.
50 If a judge fails to file such declaration, his or

1 her office shall be vacant at the end of his or her
2 term. District associate judges filing such a
3 declaration shall stand for retention in the county
4 judicial election district of their residence."

5 2. Page 1, by striking line 21 and inserting in
6 lieu thereof the following:

7 "602.28 DISTRICT ASSOCIATE JUDGES.

8 1. The regular judges".

9 3. By striking page 1, line 29 through page 2,
10 line 6, and inserting in lieu thereof the following:

11 "2. Judicial magistrates who were appointed for
12 terms of office pursuant to either section six hundred
13 two point fifty-one (602.51) or section six hundred
14 two point fifty-nine (602.59) of the Code, and who
15 are in office on January 1, 1981, and who meet the
16 qualifications for appointment to the office of
17 district associate judge, shall become district
18 associate judges on January 1, 1981. Alternates who
19 are appointed pursuant to section six hundred two
20 point seventy-one (602.71) of the Code, and who are
21 in office on January 1, 1981, and who meet the
22 qualifications for appointment to the office of
23 district associate judge, shall become alternate
24 district associate judges on January 1, 1981, and
25 shall be subject to section ten (10) of this Act.

26 3. Judicial magistrates and alternate judicial
27 magistrates who become district associate judges by
28 virtue of subsection two (2) of this section shall
29 stand for retention in office at the judicial election
30 in 1982. Irrespective of the existing terms of office
31 to which they were appointed, these magistrates shall
32 serve as district associate judges until January 1,
33 1983. Those who are retained in office at the judicial
34 election in 1982 shall begin the regular four-year
35 term of office for district associate judges on January
36 1, 1983. Those who are not retained in office at
37 the judicial election in 1982 shall cease to hold
38 office on January 1, 1983.

39 4. A judicial magistrate who was appointed pursuant
40 to section six hundred two point fifty-one (602.51),
41 six hundred two point fifty-nine (602.59) or six
42 hundred two point seventy-one (602.71) of the Code,
43 and who is in office on January 1, 1981, but who does
44 not meet the qualifications for appointment to the
45 office of district associate judge, shall continue
46 to serve as a judicial magistrate until the expiration
47 of the term to which the person was appointed or until
48 the person otherwise leaves office. Upon the person's
49 leaving office, the vacancy shall be filled as provided
50 in section nine (9) of this Act."

S-5532 - PAGE 3

1 4. Page 2, line 11, by striking the word "county"
2 and inserting in lieu thereof the words "county
3 judicial election district".

4 5. Page 2, by striking lines 14 through 21 and
5 inserting in lieu thereof the following: "The-term
6 ~~of-office-of-the-judges-who-are-retained-in-office~~
7 ~~at-the-judicial-election-shall-extend-for-four-years~~
8 ~~after-January-1-next-following-the-election,-and-the~~
9 ~~term-of-office-of-the-judges-who-are-not-retained~~
10 ~~in-office-at-such-a-judicial-election-shall-extend~~
11 ~~until-January-1-next-following-such-election.--District~~
12 ~~associate-judges-shall-cess-to-hold-office-upon~~
13 ~~attaining-age-seventy-two."~~

14 6. Page 3, by striking lines 7 through 29 and
15 inserting in lieu thereof the following:

16 "Sec. _____. Section six hundred two point thirty-
17 one (602.31), Code 1979, as amended by Acts of the
18 Sixty-eighth General Assembly, 1979 Session, chapter
19 two (2), section thirteen (13) is amended to read
20 as follows:

21 602.31 SALARY, EXPENSES, RETIREMENT. The annual
22 salary of each district associate judge, payable from
23 the general fund of the state of Iowa, shall be a
24 sum set by the general assembly. District associate
25 judges shall also receive from the state their actual
26 and necessary expenses in the performance of their
27 duties away from the city of their residence, in
28 accordance with section 605.2. District associate
29 judges who were municipal court judges prior to July
30 1, 1973, and who are members of the judicial retirement
31 system under chapter 605A shall remain members thereof;
32 but the state of Iowa, instead of the city and county,
33 shall deduct four percent from their salaries for
34 the judicial retirement fund and shall contribute
35 the public's portion to the judicial retirement fund.
36 A person who becomes a district associate judge on
37 the effective date of this Act by virtue of section
38 three (3) of this Act or who is appointed to the
39 office of district associate judge after the effective
40 date of this Act shall be a member of the Iowa public
41 employees' retirement system as long as the person
42 continues to hold office as a district associate judge."

43 7. Page 9, by striking lines 8 through 28 and
44 inserting in lieu thereof the following:

45 "Sec. _____. Section six hundred two point fifty-
46 four (602.54), Code 1979, as amended by Acts of the
47 Sixty-eighth General Assembly, 1979 Session, chapter
48 two (2), section fourteen (14), is amended to read
49 as follows:

50 602.54 SALARY, EXPENSES. Each judicial magistrate

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Page 4

1 shall receive a salary payable from the general fund
2 of the state, and also his or her actual and necessary
3 expenses in the performance of his or her duties while
4 away from the city of his or her residence, in
5 accordance with section 605.2. The salary of judicial
6 magistrates, except as otherwise provided herein in
7 section six hundred two point fifty-eight (602.58)
8 of the Code, shall be the sum set by the general
9 assembly. ~~The judicial magistrates serving pursuant~~
10 ~~to section 602.51 shall receive an annual salary in~~
11 ~~an amount set by the general assembly. Judicial~~
12 ~~magistrates appointed pursuant to section 602.51~~
13 ~~except district associate judges shall be members~~
14 ~~of the Iowa public employees' retirement system.~~
15 Judicial magistrates appointed pursuant to either
16 section 602.50 or section 602.58 may elect to be
17 members of the Iowa public employees' retirement
18 system upon filing notice in writing with the Iowa
19 department of job service and the court administrator
20 of the judicial department."

21 8. Page 15, line 1, by striking the numerals
22 "1980" and inserting in lieu thereof the numerals
23 "1981".

24 9. By renumbering sections and correcting internal
25 references.

S-5532 FILED

MARCH 26, 1980

Adopted 4/8 (p. 1299)

BY COMMITTEE ON JUDICIARY

LUCAS J. DeKOSTER, CHAIRPERSON

SENATE AMENDMENT TO
HOUSE FILE 54

H-5964

1 Amend House File 54 as amended, passed and reprinted
2 by the House as follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Sec. _____. Section forty-six point sixteen (46.16),
6 Code 1979, is amended to read as follows:

7 46.16 TERMS OF JUDGES.

8 1. Subject to the provisions of sections 605.24
9 and 605.25 and to removal for cause:

10 4 a. The initial term of office of judges of the
11 supreme court, court of appeals and district court
12 shall be for one year after appointment and until
13 January 1 following the next judicial election after
14 expiration of such year; and

15 2 b. The regular term of office of judges of the
16 supreme court retained at a judicial election shall
17 be eight years, and of judges of the court of appeals
18 and district court so retained shall be six years,
19 from the expiration of their initial or previous
20 regular term as the case may be.

21 For the purpose of initial appointments to the
22 court of appeals, two of the judges appointed shall
23 serve an irregular term ending December 30 thirty-
24 first of the fourth year after expiration of the
25 initial term prescribed in subsection 1 and two of
26 the judges appointed shall serve an irregular term
27 ending December 30 thirty-first of the fifth year
28 after expiration of the initial term prescribed in
29 subsection 1. Expiration of irregular terms shall
30 be deemed expiration of regular terms for all purposes.

31 2. Subject to removal for cause, the initial term
32 of office of a district associate judge shall be for
33 one year after appointment and until January first
34 following the next judicial election after expiration
35 of such year, and the regular term of office of a
36 district associate judge retained at a judicial
37 election shall be four years from the expiration of
38 the initial or previous regular term, as the case
39 may be.

40 Sec. _____. Section forty-six point twenty (46.20),
41 Code 1979, is amended to read as follows:

42 46.20 DECLARATION OF CANDIDACY. At least ninety
43 days prior to the judicial election preceding
44 expiration of his or her initial or regular term of
45 office, a judge of the supreme court, court of appeals
46 or district court including district associate judges
47 may file a declaration of candidacy with the state
48 commissioner of elections, whereupon such judge shall
49 stand for retention or rejection at that election.
50 If a judge fails to file such declaration, his or

1 her office shall be vacant at the end of his or her
2 term. District associate judges filing such a
3 declaration shall stand for retention in the county
4 judicial election district of their residence."

5 2. Page 1, by striking line 21 and inserting in
6 lieu thereof the following:

7 "602.28 DISTRICT ASSOCIATE JUDGES.

8 1. The regular judges".

9 3. By striking page 1, line 29 through page 2,
10 line 6, and inserting in lieu thereof the following:

11 "2. Judicial magistrates who were appointed for
12 terms of office pursuant to either section six hundred
13 two point fifty-one (602.51) or section six hundred
14 two point fifty-nine (602.59) of the Code, and who
15 are in office on January 1, 1981, and who meet the
16 qualifications for appointment to the office of
17 district associate judge, shall become district
18 associate judges on January 1, 1981. Alternates who
19 are appointed pursuant to section six hundred two
20 point seventy-one (602.71) of the Code, and who are
21 in office on January 1, 1981, and who meet the
22 qualifications for appointment to the office of
23 district associate judge, shall become alternate
24 district associate judges on January 1, 1981, and
25 shall be subject to section ten (10) of this Act.

26 3. Judicial magistrates and alternate judicial
27 magistrates who become district associate judges by
28 virtue of subsection two (2) of this section shall
29 stand for retention in office at the judicial election
30 in 1982. Irrespective of the existing terms of office
31 to which they were appointed, these magistrates shall
32 serve as district associate judges until January 1,
33 1983. Those who are retained in office at the judicial
34 election in 1982 shall begin the regular four-year
35 term of office for district associate judges on January
36 1, 1983. Those who are not retained in office at
37 the judicial election in 1982 shall cease to hold
38 office on January 1, 1983.

39 4. A judicial magistrate who was appointed pursuant
40 to section six hundred two point fifty-one (602.51),
41 six hundred two point fifty-nine (602.59) or six
42 hundred two point seventy-one (602.71) of the Code,
43 and who is in office on January 1, 1981, but who does
44 not meet the qualifications for appointment to the
45 office of district associate judge, shall continue
46 to serve as a judicial magistrate until the expiration
47 of the term to which the person was appointed or until
48 the person otherwise leaves office. Upon the person's
49 leaving office, the vacancy shall be filled as provided
50 in section nine (9) of this Act."

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e Three

1 4. Page 2, line 11, by striking the word "county"
2 and inserting in lieu thereof the words "county
3 judicial election district".

4 5. Page 2, by striking lines 14 through 21 and
5 inserting in lieu thereof the following: "~~The term~~
6 ~~of office of the judges who are retained in office~~
7 ~~at the judicial election shall extend for four years~~
8 ~~after January 4 next following the election, and the~~
9 ~~term of office of the judges who are not retained~~
10 ~~in office at such a judicial election shall extend~~
11 ~~until January 4 next following such election. --- District~~
12 ~~associate judges shall cease to hold office upon~~
13 ~~attaining age seventy-two.~~"

14 6. Page 3, by striking lines 7 through 29 and
15 inserting in lieu thereof the following:

16 "Sec. ____ . Section six hundred two point thirty-
17 one (602.31), Code 1979, as amended by Acts of the
18 Sixty-eighth General Assembly, 1979 Session, chapter
19 two (2), section thirteen (13) is amended to read
20 as follows:

21 602.31 SALARY, EXPENSES, RETIREMENT. The annual
22 salary of each district associate judge, payable from
23 the general fund of the state of Iowa, shall be a
24 sum set by the general assembly. District associate
25 judges shall also receive from the state their actual
26 and necessary expenses in the performance of their
27 duties away from the city of their residence, in
28 accordance with section 605.2. District associate
29 judges who were municipal court judges prior to July
30 1, 1973, and who are members of the judicial retirement
31 system under chapter 605A shall remain members thereof;
32 but the state of Iowa, instead of the city and county,
33 shall deduct four percent from their salaries for
34 the judicial retirement fund and shall contribute
35 the public's portion to the judicial retirement fund.
36 A person who becomes a district associate judge on
37 the effective date of this Act by virtue of section
38 three (3) of this Act or who is appointed to the
39 office of district associate judge after the effective
40 date of this Act shall be a member of the Iowa public
41 employees' retirement system as long as the person
42 continues to hold office as a district associate judge."

43 7. Page 9, by striking lines 8 through 28 and
44 inserting in lieu thereof the following:

45 "Sec. ____ . Section six hundred two point fifty-
46 four (602.54), Code 1979, as amended by Acts of the
47 Sixty-eighth General Assembly, 1979 Session, chapter
48 two (2), section fourteen (14), is amended to read
49 as follows:

50 602.54 SALARY, EXPENSES. Each judicial magistrate

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Page Four

1 shall receive a salary payable from the general fund
2 of the state, and ~~also his or her actual and necessary~~
3 ~~expenses in the performance of his or her duties while~~
4 ~~away from the city of his or her residence,~~ in
5 accordance with section 605.2. The salary of judicial
6 magistrates, except as otherwise provided herein in
7 section six hundred two point fifty-eight (602.58)
8 of the Code, shall be the sum set by the general
9 assembly. ~~The judicial magistrates serving pursuant~~
10 ~~to section 602.54 shall receive an annual salary in~~
11 ~~an amount set by the general assembly. ---Judicial~~
12 ~~magistrates appointed pursuant to section 602.54~~
13 ~~except district associate judges shall be members~~
14 ~~of the Iowa public employees' retirement system.~~
15 Judicial magistrates appointed pursuant to either
16 section 602.50 or section 602.58 may elect to be
17 members of the Iowa public employees' retirement
18 system upon filing notice in writing with the Iowa
19 department of job service and the court administrator
20 of the judicial department."

21 8. Page 15, line 1, by striking the numerals
22 "1980" and inserting in lieu thereof the numerals
23 "1981".

24 9. By renumbering sections and correcting internal
25 references.

H-5964 FILED APRIL 10, 1980

RECEIVED FROM THE SENATE

House concurred 4/16 (p. 1638)

HOUSE FILE 54

AN ACT

RELATING TO DISTRICT ASSOCIATE JUDGES AND JUDICIAL MAGISTRATES.

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

Section 1. Section forty-six point sixteen (46.16), Code 1979, is amended to read as follows:

46.16 TERMS OF JUDGES.

1. Subject to the provisions of sections 605.24 and 605.25 and to removal for cause:

1 a. The initial term of office of judges of the supreme court, court of appeals and district court shall be for one year after appointment and until January 1 following the next judicial election after expiration of such year; and

2 b. The regular term of office of judges of the supreme court retained at a judicial election shall be eight years, and of judges of the court of appeals and district court so retained shall be six years, from the expiration of their initial or previous regular term as the case may be.

For the purpose of initial appointments to the court of appeals, two of the judges appointed shall serve an irregular term ending December 30 thirty-first of the fourth year after expiration of the initial term prescribed in subsection 1 and two of the judges appointed shall serve an irregular term ending December 30 thirty-first of the fifth year after expiration of the initial term prescribed in subsection 1. Expiration of irregular terms shall be deemed expiration of regular terms for all purposes.

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 first 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 years from the expiration of the initial or previous regular term, as the case may be.

Sec. 2. Section forty-six point twenty (46.20), Code 1979, is amended to read as follows:

46.20 DECLARATION OF CANDIDACY. At least ninety days prior to the judicial election preceding expiration of his or her initial or regular term of office, a judge of the supreme court, court of appeals or district court including district associate judges may file a declaration of candidacy with the state commissioner of elections, whereupon such judge shall stand for retention or rejection at that election. If a judge fails to file such declaration, his or her office shall be vacant at the end of his or her term. District associate judges filing such a declaration shall stand for retention in the ~~county~~ judicial election district of their residence.

Sec. 3. Section two hundred thirty-one point three (231.3), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

The chief judge of the district shall designate one or more of the district judges, or district associate judges, ~~judicial-magistrates-serving-pursuant-to-section-602-51,~~ or any thereof, to act as judge or judges of the juvenile court in any county or counties.

Sec. 4. Section six hundred two point four (602.4), Code 1979, is amended to read as follows:

602.4 DISTRICT JUDGES. Iowa district judges shall possess the full jurisdiction of the Iowa district court, including the jurisdiction ~~respective jurisdictions~~ of district associate judges and judicial magistrates. While exercising the jurisdiction possessed by judicial magistrates, district judges shall employ judicial magistrates' practice and procedure, and may hold court at any place where a judicial magistrate may do so.

Sec. 5. Section six hundred two point twenty-eight (602.28), Code 1979, is amended to read as follows:

602.28 DISTRICT ASSOCIATE JUDGES.

1. The regular judges of the municipal courts of Iowa who are in office on June 30, 1973, and who are less than seventy-two years of age on July 1, 1973, and who have not been appointed district court judges shall become district associate judges on the latter date. Those retained in office at the judicial election in 1978 shall stand for retention in office at the judicial election in 1982 and every fourth year thereafter.

2. Judicial magistrates who were appointed for terms of office pursuant to either section six hundred two point fifty-one (602.51) or section six hundred two point fifty-nine (602.59) of the Code, and who are in office on January 1, 1981, and who meet the qualifications for appointment to the office of district associate judge, shall become district associate judges on January 1, 1981. Alternates who are appointed pursuant to section six hundred two point seventy-one (602.71) of the Code, and who are in office on January 1, 1981, and who meet the qualifications for appointment to the office of district associate judge, shall become alternate district associate judges on January 1, 1981, and shall be subject to section twelve (12) of this Act.

3. Judicial magistrates and alternate judicial magistrates who become district associate judges by virtue of subsection two (2) of this section shall stand for retention in office at the judicial election in 1982. Irrespective of the existing terms of office to which they were appointed, these magistrates shall serve as district associate judges until January 1, 1983. Those who are retained in office at the judicial election in 1982 shall begin the regular four-year term of office for district associate judges on January 1, 1983. Those who are not retained in office at the judicial election in 1982 shall cease to hold office on January 1, 1983.

4. A judicial magistrate who was appointed pursuant to section six hundred two point fifty-one (602.51), six hundred two point fifty-nine (602.59) or six hundred two point seventy-one (602.71) of the Code, and who is in office on January 1, 1981, but who does not meet the qualifications for appointment to the office of district associate judge, shall continue to serve as a judicial magistrate until the expiration of the term to which the person was appointed or until the person otherwise leaves office. Upon the person's leaving office, the vacancy shall be filled as provided in section eleven (11) of this Act.

Sec. 6. Section six hundred two point twenty-nine (602.29), Code 1979, is amended to read as follows:

602.29 TERM, RETENTION, QUALIFICATIONS.

1. District associate judges shall serve initial terms and shall stand for retention in office within the county judicial election district of their residence at the judicial election in 1974 1982 and every four years thereafter, under sections 46.17 to 46.24. ~~The term of office of the judges who are retained in office at the judicial election shall extend for four years after January 1 next following the election, and the term of office of the judges who are not retained in office at such a judicial election shall extend until January 1 next following such election. District associate judges shall cease to hold office upon attaining age seventy-two.~~

2. A person shall not qualify for appointment to the office of district associate judge unless the person is at the time of application a resident of the county in which the vacancy exists, and unless the person is licensed to practice law in Iowa, and unless the person will be able, measured by his or her age at the time of appointment, to complete the initial term of office plus a four-year term of office prior to reaching age seventy-two.

3. A district associate judge shall be a resident of the county in which the office is held during his or her entire term. A district associate judge shall cease to hold office at age seventy-two.

Sec. 7. Section six hundred two point thirty (602.30), Code 1979, is amended to read as follows:

602.30 VACANCIES. ~~A vacancy in the office of district associate judge after June 30, 1973, shall not be filled and~~ Whenever a district associate judge leaves office, all funds, dockets and records relating to the office so vacated shall be promptly deposited by the district associate judge with the clerk of court who issued the docket.

Sec. 8. Section six hundred two point thirty-one (602.31), Code 1979, as amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter two (2), section thirteen (13) is amended to read as follows:

602.31 SALARY, EXPENSES, RETIREMENT. The annual salary of each district associate judge, payable from the general fund of the state of Iowa, shall be a sum set by the general assembly. District associate judges shall also receive from the state their actual and necessary expenses in the performance of their duties away from the city of their residence, in accordance with section 605.2. District associate judges who were municipal court judges prior to July 1, 1973, and who are members of the judicial retirement system under chapter 605A shall remain members thereof; but the state of Iowa, instead of the city and county, shall deduct four percent from their salaries for the judicial retirement fund and shall contribute the public's portion to the judicial retirement fund. A person who becomes a district associate judge on the effective date of this Act by virtue of section five (5) of this Act or who is appointed to the office of district associate judge after the effective date of this Act shall be a member of the Iowa public employees' retirement system as long as the person continues to hold office as a district associate judge.

Sec. 9. Section six hundred two point thirty-two (602.32), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

District associate judges shall have the jurisdiction provided in section 602.60---~~District-associate-judges for~~ judicial magistrates, and when exercising that jurisdiction shall hold court as directed at any place within the judicial district that a judicial magistrate may do so, and shall employ judicial magistrates' practice and procedure. In addition, district associate judges shall have jurisdiction in civil actions for money judgments where the amount in controversy does not exceed three thousand dollars, jurisdiction of indictable misdemeanors, and the jurisdiction provided for in section 231.3 when designated as a judge of the juvenile court, and while ~~exercising the additional jurisdiction granted herein,~~ presiding over any of those subject matters the district associate judge shall employ district judges' practice and procedure. When a district ~~court~~ judge is unable to serve as a result of temporary incapacity, a district associate judge may, by order of the chief judge of the district enrolled in the records of the clerk of the district court, temporarily exercise any of judicial authority within the jurisdiction of a district judge during the time of incapacity and as with respect to the specific matters or classes of matters specified in that order. District associate judges shall have power to act at any place within their respective judicial districts, and venue shall be the same as in other district court proceedings.

Sec. 10. Section six hundred two point thirty-three (602.33), Code 1979, is amended to read as follows:

602.33 REPORTERS. Each district associate judge ~~and judicial magistrate appointed pursuant to section 602.51~~ may appoint a shorthand reporter subject to the approval of the chief judge of the district. All shorthand reporters appointed are reporters for the judicial district and their compensation shall be in accordance with section 605.8.

Sec. 11. Chapter six hundred two (602), Code 1979, is amended by adding the following new section as section six hundred two point thirty-seven (602.37):

602.37 NEW SECTION. NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES.

1. There shall be one district associate judge in counties having a population, according to the most recent federal decennial census, of more than thirty-five thousand and less than eighty thousand; two in counties having a population of more than eighty thousand and less than one hundred twenty-five thousand; three in counties having a population of more than one hundred twenty-five thousand and less than two hundred thousand; and four in counties having a population of two hundred thousand or above. A district associate judge appointed pursuant to section six hundred two point fifty-nine (602.59) of the Code shall not be counted for the purposes of this subsection.

2. The district associate judges authorized by this section and section six hundred two point fifty-nine (602.59) of the Code shall be appointed by the district judges of the judicial election district from persons nominated by the county judicial magistrate appointing commission.

3. 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 judicial 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 fifteenth of that year 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.

4. Within thirty days after a county judicial 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 three (3) of this section, 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. 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 may be created by the death, retirement, resignation or removal of an existing district associate judge, or an increase in the number of positions authorized.

5. Within fifteen days after the chief judge of a judicial district has received the list of nominees to fill a vacancy in the office of district associate judge, the district judges in the election district shall, by majority vote, appoint one of those nominees to fill the vacancy.

6. The supreme court may adopt administrative rules establishing procedures to be used by judicial magistrate appointing commissions when exercising the duties specified in this section.

Sec. 12. Chapter six hundred two (602), Code 1979, is amended by inserting the following new section as section six hundred two point thirty-eight (602.38):

602.38 NEW SECTION. ALTERNATE DISTRICT ASSOCIATE JUDGE.

1. In a county having only one district associate judge, the county judicial magistrate appointing commission, by majority vote, may authorize that an alternate district associate judge be selected.
2. The procedures for selecting an alternate shall be those provided in section eleven (11) of this Act for selection of a district associate judge, but a person appointed under this section shall be designated as an alternate and shall be subject to the provisions of this section.
3. An alternate district associate judge shall have the same qualifications, and when serving, the same jurisdiction, obligations and liabilities as a regularly appointed district associate judge. An alternate shall serve initial and regular terms and shall stand for retention in office in the same manner as regular district associate judges. However, a vacancy in the office of alternate district associate judge shall not be filled unless the conditions of subsection one (1) of this section are satisfied after the vacancy occurs.
4. The chief judge of the judicial district may order that the alternate temporarily sit in place of the district associate judge while the latter is unable to act. The words "unable to act" mean a temporary absence from court duties, including a reasonable vacation period. An alternate may practice as an attorney except when serving as a district associate judge. When serving as a district associate judge an alternate shall be subject to section six hundred five point seventeen (605.17) of the Code.
5. An alternate district associate judge shall be compensated by the state at the rate of forty dollars per day for each day of actual duty, and for actual expenses incurred in the performance of duties, upon certification

to the comptroller by the chief judge of the days of duty and the expenses incurred. An alternate shall not be a member of the Iowa public employees' retirement system or the judicial retirement system.

6. The appointment of an alternate district associate judge shall not affect the rights, duties or remuneration of the regularly-appointed district associate judge, and the appointment of an alternate shall not affect the number or apportionment of district associate judges authorized by this chapter.

Sec. 13. Section six hundred two point forty-seven (602.47), Code 1979, is amended to read as follows:

602.47 NO MEMBER OF COMMISSION TO BE APPOINTED MAGISTRATE TO OFFICE. No ~~person-while-~~a member of the a county judicial magistrate appointing commission shall be appointed to the office of judicial magistrate, nor shall a member be nominated for or appointed to the office of district associate judge.

Sec. 14. Section six hundred two point fifty-two (602.52), Code 1979, is amended to read as follows:

602.52 QUALIFICATIONS, AGE. A judicial magistrate ~~shall~~ must be an elector of the county of appointment during his or her term of office. A person ~~shall-not-be~~ is not qualified for appointment ~~and-shall-not-be-appointed~~ as a judicial magistrate unless ~~that the~~ person can complete ~~prior-to-his~~ prior to ~~or-her-reaching-the-age-of-seventy-two-years~~ the entire ~~two-year-or-four-year~~ term of office ~~of-judicial-magistrate-for~~ which-nomination-and-appointment-is-being-made ~~prior to~~ reaching age seventy-two. A judicial magistrate ~~appointed pursuant-to-section-602-50~~ appointed may be licensed to practice law in Iowa, and the commission in selecting persons for those positions shall first consider for appointment applicants so licensed. ~~After-July-17-1979,-a-judicial-magistrate~~ nominated-and-appointed-pursuant-to-section-602-51-shall-be ~~licensed-to-practice-law-in-Iowa.~~

Sec. 15. Section six hundred two point fifty-three (602.53), subsection two (2), Code 1979, is amended to read as follows:

2. If a judicial magistrate appears as counsel for a client in a matter that is within the jurisdiction of a magistrate, that matter shall be heard only by a district judge, or a district associate judge, ~~or a judicial magistrate appointed pursuant to section 602.51~~. A disqualification under this section shall be had upon motion of the judicial magistrate or of any party, either orally or in writing, and the clerk shall be advised to reassign the matter to a proper judicial officer.

Sec. 16. Section six hundred two point fifty-four (602.54), Code 1979, as amended by Acts of the Sixty-eighth General Assembly, 1979 Session, chapter two (2), section fourteen (14), is amended to read as follows:

602.54 SALARY, EXPENSES. Each judicial magistrate shall receive a salary payable from the general fund of the state, ~~and also his or her actual and necessary expenses in the performance of his or her duties while away from the city of his or her residence~~, in accordance with section 605.2. The salary of judicial magistrates, except as otherwise provided ~~herein~~ in section six hundred two point fifty-eight (602.58) of the Code, shall be the sum set by the general assembly. ~~The judicial magistrates serving pursuant to section 602.51 shall receive an annual salary in an amount set by the general assembly. Judicial magistrates appointed pursuant to section 602.51 except district associate judges shall be members of the Iowa public employees' retirement system.~~ Judicial magistrates appointed pursuant to either section 602.50 or section 602.58 may elect to be members of the Iowa public employees' retirement system upon filing notice in writing with the Iowa department of job service and the court administrator of the judicial department.

Sec. 17. Section six hundred two point fifty-nine (602.59), Code 1979, is amended to read as follows:

602.59 SUBSTITUTION FOR APPORTIONMENT.

1. ~~APPLICABILITY~~. In any county having an apportionment of three or more judicial magistrates ~~appointable pursuant to section 602.50~~, the chief judge of the district, subject to the limitations of this section, may designate by order that ~~magistrates appointed pursuant to this section be utilized~~ a district associate judge be appointed pursuant to this section in lieu of magistrates appointed pursuant to section 602.50. The order of substitution may be made only upon the affirmative vote of a majority of the district judges in that judicial election district that the substitution be made, and only upon a finding by a majority of those district judges that a substitution would provide more speedy and efficient dispatch of judicial business within that judicial election district. An order of substitution ~~is renewable for successive terms upon the vote of the judges, but shall not be effective for any term~~ shall not take effect unless a copy of the order is received by the chairman of the county judicial magistrate appointing commission not later than the thirty-first day of March of the year in which the substitution is to take effect. A copy of the order also shall be sent to the supreme court administrator.

~~The district judges of a judicial election district may determine, for the year 1974, that a substitution be made pursuant to this section, by an affirmative vote of a majority rendered and with written notice thereof delivered to the chairman of the county judicial magistrate appointing commission not later than June 17, 1974. A magistrate appointed in 1974 pursuant to this subsection shall be subject to all of the provisions of this section, except that the term of office shall be an irregular one for a period of five years from July 17, 1974.~~

2. ~~REDUCTION-IN-APPOINTMENTS.~~ For any county in which ~~such-an~~ a substitution order is in effect, the number of magistrates actually appointed pursuant to section 602.50 shall be reduced by three for each magistrate district associate judge substituted under the provisions of this section.

Upon any subsequent reduction in the apportionment of magistrates to the county, ~~either~~ the commission shall further reduce the number of magistrates appointed, ~~or the chief judge shall revoke an order of substitution.~~

3. ~~APPOINTMENT.~~ A ~~judicial-magistrate~~ district associate judge ordered pursuant to this section shall be nominated and appointed in the same manner, and shall have the same qualifications, rights, salary, duties, responsibilities, liabilities, authority and jurisdiction, ~~the same~~ as a magistrate district associate judge authorized by ~~paragraph (1) of section 602.51~~ eleven (11) of this Act.

4. ~~LIMITATIONS.~~

a. Except as provided in subsections 1 and 2, a substitution shall not increase or decrease the number of judicial magistrates authorized by this chapter.

b. A substitution ~~or reversion~~ pursuant to this section shall not ~~take effect during the term of office of any magistrate~~ be made if the effect would be to remove a magistrate from office prior to the expiration of his or her term.

c. A substitution shall not be made ~~or maintained~~ where the apportionment to a county is insufficient to permit the full reduction in appointments of magistrates as required by subsection 2.

5. ~~REVERSION.~~ If an apportionment by the supreme court administrator pursuant to section 602.57 reduces the number of judicial magistrate offices in the county to less than three, or a majority of the district judges in that judicial election district determines that a substitution is no longer

desirable, then the substituted office shall ~~not be renewed for a successive term~~ be terminated. However, a reversion pursuant to this subsection, irrespective of cause, shall not take effect until the substitute district associate judge fails to be retained in office at a judicial election or otherwise leaves office, whether voluntarily or involuntarily. ~~At the end of the term~~ Upon the termination of office of that district associate judge, appointments shall be made pursuant to section 602.50 as necessary to reestablish terms of office as provided in subsection four (4) of that section.

Sec. 18. Section six hundred two point sixty (602.60), unnumbered paragraph one (1), Code 1979, is amended to read as follows:

Judicial magistrates shall have jurisdiction of simple misdemeanors, including traffic and ordinance violations, preliminary hearings, search warrant proceedings, and small claims. They shall also have jurisdiction to exercise the powers specified in sections 644.2 and 644.12 and the power to hear complaints, or preliminary informations, issue warrants, order arrests, make commitments and take bail. They shall have power to act any place within the judicial district as directed, and venue shall be the same as in other district court proceedings. ~~In addition, judicial magistrates appointed pursuant to section 602.51 shall have jurisdiction of indictable misdemeanors, the jurisdiction provided for in section 231.3 when designated a judge of the juvenile court, and jurisdiction in civil actions for money judgments where the amount in controversy does not exceed three thousand dollars and while exercising that jurisdiction, judicial magistrates shall employ district judges' practice and procedure.~~

Sec. 19. Chapter six hundred two (602), Code 1979, is amended by adding the following new section:

NEW SECTION. JUDICIAL MAGISTRATE DEFINED. As used in this chapter, "judicial magistrate" and "magistrate" mean

only those persons appointed to office under the authority of sections six hundred two point fifty (602.50) and six hundred two point fifty-eight (602.58) of the Code.

Sec. 20. Section six hundred five point fifteen (605.15), Code 1979, is amended to read as follows:

605.15 PRACTICE PROHIBITED. ~~During-the-time-that~~ While holding office, a supreme court judge, court of appeals judge, district judge, or district associate judge, ~~or-judicial-magistrate-appointed-pursuant-to-section-602-51-is-holding-such-office-he~~ 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.

Sec. 21. Section six hundred five point seventeen (605.17), Code 1979, is amended to read as follows:

605.17 WHEN JUDGE DISQUALIFIED. A supreme court judge, judge of the court of appeals, district judge, district associate judge or magistrate is disqualified from acting ~~as-such~~, except by mutual consent of parties, in any case wherein he the judge or magistrate or any member of any corporation, partnership, firm or association with which he or she may be associated is a party or interested, or where he the judge or magistrate is related to either party by consanguinity or affinity within the fourth degree, or where he the judge or magistrate or any member of any ~~firm, partnership~~ corporation, partnership, firm or association with which he or she may be associated has been attorney for either party in the action or proceeding. This section shall not prevent him a judge or magistrate from disposing of any preliminary matter not affecting the merits of the case.

Sec. 22. Section eight hundred thirteen point three (813.3), rule fifty-four (54), subsection one (1), Code 1979, is amended to read as follows:

1. NOTICE OF APPEAL. An appeal may be taken by the plaintiff only upon a finding of invalidity of an ordinance or statute. In all other cases, an appeal may only be taken

by the defendant and only upon a judgment of conviction. Execution of the judgment shall be stayed upon the filing with the clerk of the district court an appeal bond with surety approved by the clerk, in the sum specified in the judgment. The defendant may take an appeal, by giving notice orally to the magistrate that he or she appeals, or by delivering to the magistrate not later than ten days thereafter, a written notice of the defendant's appeal, and in either case the magistrate must make an entry on its docket of the giving of such notice. Payment of fine or service of a sentence of imprisonment does not waive the right to appeal, nor render the appeal moot. When an appeal is taken, the magistrate shall forward to the appropriate district court clerk a copy of the docket entries in the magistrate's court, together with copies of the complaint, warrant, motions, pleadings, the magistrate's minutes of the witness' testimony and the exhibits or copies thereof and all other papers in the case. A district judge shall promptly hear the appeal upon the record thus filed without further evidence if the original action was tried by a district judge, or district associate judge, ~~or-magistrate-appointed-under-sections-602-51-or-602-59~~ unless the district ~~court~~ judge hearing the appeal either upon application of any party or on the district judge's own motion orders the appeal heard de novo on the grounds the record is inadequate. If the original action was tried by a judicial magistrate ~~appointed-under-sections-602-50-or-602-58~~, the district judge shall promptly hear the appeal de novo. Within ten days after an appeal is taken, unless extended by order of a district judge or by stipulation of the parties, any party may file with the clerk, as a part of the record, a transcript of the official report, if any, and, in the event the report was made electronically, the tape or other medium on which the proceedings were preserved. If the original action was tried before a district judge acting as a judicial magistrate, the appeal shall be to a

different district judge. The judge shall decide the appeal without regard to technicalities or defects. Judgment shall be rendered as though the case were being originally tried. The right to further appeal is governed by division XIV, section 1406.

Sec. 23. Sections six hundred two point fifty-one (602.51) and six hundred two point seventy-one (602.71), Code 1979, are repealed.

Sec. 24. This Act shall take effect January 1, 1981.

WILLIAM H. HARBOR
Speaker of the House

TERRY E. BRANSTAD
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 54, Sixty-eighth General Assembly.

BRUCE GRAHAM
Assistant Chief Clerk of the House

Approved May 26, 1980

ROBERT D. RAY
Governor