

MAY 2 1989

HOUSE FILE 791

BY ARNOULD and STROMER

Judiciary & Law Enforcement

Do pass 5-3-89 (p.2396)
Sen. Judiciary
Do pass 5-5-89 (p.2018)

Passed House, Date 5-4-89 (p.2414)
Vote: Ayes 93 Nays 0

Passed Senate, Date 5-6-89 (p.2015)
Vote: Ayes 47 Nays 0

Approved May 23, 1989

Passed per Senate amendment 4470
5/6/89 (p.2603)
97-0

A BILL FOR

4162-1 An Act relating to the decertification of a magistrate prior to
2 commencement of the magistrate's term and providing an
3 effective date.

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

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HF 791

4162 -

1 Section 1. Section 602.6403, Code 1989, is amended by
2 adding the following new subsection:
3 NEW SUBSECTION. 6A. Before the commencement of the term
4 of a magistrate, the members of the magistrate appointing
5 commission may reconsider the appointment. Written
6 notification of the reasons for reconsideration and time and
7 place for the meeting must be sent to the magistrate appointee
8 and the clerk of the district court. The commission may
9 reconvene and decertify the magistrate appointee for good
10 cause. Notice of the decertification and a statement of the
11 reasons justifying the decertification shall be promptly sent
12 to the clerk of the district court, the chief judge of the
13 judicial district, and the state court administrator.

4162 -

14 Sec. 2. This Act, being deemed of immediate importance,
15 takes effect upon enactment.

16 EXPLANATION

17 This bill provides that a person certified as a magistrate
18 by a magistrate appointing commission may be decertified for
19 good cause prior to the commencement of the term of the
20 magistrate. Notice of the decertification is to be sent to
21 the clerk of the district court, the chief judge of the
22 judicial district, and the state court administrator. The
23 bill takes effect upon enactment.

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HOUSE FILE 791

S-4162

1 Amend House File 791, as passed by the House, as
2 follows:

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

5 "Section 1. Section 46.14, Code 1989, is amended
6 to read as follows:

7 46.14 NOMINATION.

8 Each judicial nominating commission shall carefully
9 consider the individuals available for judge, and
10 within sixty days after receiving notice of a vacancy
11 shall certify to the governor and the chief justice
12 the proper number of nominees, in alphabetical order.
13 Such nominees shall be chosen by the affirmative vote
14 of a majority of the full statutory number of
15 commissioners upon the basis of their qualifications
16 and without regard to political affiliation. Nominees
17 shall be members of the bar of Iowa, shall be
18 residents of the state or district of the court to
19 which they are nominated, and shall be of such age
20 that they will be able to serve an initial and one
21 regular term of office to which they are nominated
22 before reaching the age of seventy-two years.

23 Nominees for district judge shall file a certified
24 application form, to be provided by the supreme court,
25 with the chairperson of the district judicial
26 nominating commission. No person shall be eligible
27 for nomination by a commission as judge during the
28 term for which the person was elected or appointed to
29 that commission. Absence of a commissioner or vacancy
30 upon the commission shall not invalidate a nomination.
31 The chairperson of the commission shall promptly
32 certify the names of the nominees, in alphabetical
33 order, to the governor and the chief justice.

34 Sec. ____ . Section 602.6305, subsection 2, Code
35 1989, is amended to read as follows:

36 2. A person does not qualify for appointment to
37 the office of district associate judge unless the
38 person is at the time of application a resident of the
39 county in which the vacancy exists, and unless the
40 person is licensed to practice law in Iowa, and unless
41 the person will be able, measured by the person's age
42 at the time of appointment, to complete the initial
43 term of office plus a four-year term of office prior
44 to reaching age seventy-two. An applicant for
45 district associate judge shall file a certified
46 application form, to be provided by the supreme court,
47 with the chairperson of the county magistrate
48 appointing commission.

49 Sec. ____ . Section 602.6403, subsection 2, Code
50 1989, is amended to read as follows:

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1 2. The magistrate appointing commission for each
2 county shall prescribe the contents of an application,
3 in addition to any application form provided by the
4 supreme court, for an appointment pursuant to this
5 section. The commission shall publicize notice of any
6 vacancy to be filled in at least two publications in
7 the official county newspaper. The commission shall
8 accept applications for a minimum of fifteen days
9 prior to making an appointment, and shall make
10 available during that period of time any printed
11 application forms the commission prescribes."

12 2. Page 1, by inserting after line 13, the
13 following:

14 "Sec. ____ . Section 602.6404, subsection 2, Code
15 1989, is amended to read as follows:

16 2. A person is not qualified for appointment as a
17 magistrate unless the person files a certified
18 application form, to be provided by the supreme court,
19 with the chairperson of the county magistrate
20 appointing commission. A person is not qualified for
21 appointment as a magistrate unless the person can
22 complete the entire term of office prior to reaching
23 age seventy-two."

24 3. Title page, line 1, by inserting after the
25 words "relating to" the following: "the application
26 process for judges and magistrates and".

27 4. By renumbering as necessary.

By JOE J. WELSH

S-4162 FILED MAY 5, 1989

Adopted 5/6 (y. 2015)

SENATE AMENDMENT TO HOUSE FILE 791

H-4470

1 Amend House File 791, as passed by the House, as
2 follows:

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

5 "Section 1. Section 46.14, Code 1989, is amended
6 to read as follows:

7 46.14 NOMINATION.

8 Each judicial nominating commission shall carefully
9 consider the individuals available for judge, and
10 within sixty days after receiving notice of a vacancy
11 shall certify to the governor and the chief justice
12 the proper number of nominees, in alphabetical order.
13 Such nominees shall be chosen by the affirmative vote
14 of a majority of the full statutory number of
15 commissioners upon the basis of their qualifications
16 and without regard to political affiliation. Nominees
17 shall be members of the bar of Iowa, shall be
18 residents of the state or district of the court to
19 which they are nominated, and shall be of such age
20 that they will be able to serve an initial and one
21 regular term of office to which they are nominated
22 before reaching the age of seventy-two years.

23 Nominees for district judge shall file a certified
24 application form, to be provided by the supreme court,
25 with the chairperson of the district judicial
26 nominating commission. No person shall be eligible
27 for nomination by a commission as judge during the
28 term for which the person was elected or appointed to
29 that commission. Absence of a commissioner or vacancy
30 upon the commission shall not invalidate a nomination.
31 The chairperson of the commission shall promptly
32 certify the names of the nominees, in alphabetical
33 order, to the governor and the chief justice.

34 Sec. ____ . Section 602.6305, subsection 2, Code
35 1989, is amended to read as follows:

36 2. A person does not qualify for appointment to
37 the office of district associate judge unless the
38 person is at the time of application a resident of the
39 county in which the vacancy exists, and unless the
40 person is licensed to practice law in Iowa, and unless
41 the person will be able, measured by the person's age
42 at the time of appointment, to complete the initial
43 term of office plus a four-year term of office prior
44 to reaching age seventy-two. An applicant for
45 district associate judge shall file a certified
46 application form, to be provided by the supreme court,
47 with the chairperson of the county magistrate
48 appointing commission.

49 Sec. ____ . Section 602.6403, subsection 2, Code
50 1989, is amended to read as follows:

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Page 2

1 2. The magistrate appointing commission for each
2 county shall prescribe the contents of an application,
3 in addition to any application form provided by the
4 supreme court, for an appointment pursuant to this
5 section. The commission shall publicize notice of any
6 vacancy to be filled in at least two publications in
7 the official county newspaper. The commission shall
8 accept applications for a minimum of fifteen days
9 prior to making an appointment, and shall make
10 available during that period of time any printed
11 application forms the commission prescribes."

12 2. Page 1, by inserting after line 13, the
13 following:

14 "Sec. ____ . Section 602.6404, subsection 2, Code
15 1989, is amended to read as follows:

16 2. A person is not qualified for appointment as a
17 magistrate unless the person files a certified
18 application form, to be provided by the supreme court,
19 with the chairperson of the county magistrate
20 appointing commission. A person is not qualified for
21 appointment as a magistrate unless the person can
22 complete the entire term of office prior to reaching
23 age seventy-two."

24 3. Title page, line 1, by inserting after the
25 words "relating to" the following: "the application
26 process for judges and magistrates and".

27 4. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-4470 FILED MAY 6, 1989

CONCURRED (J. 2603)

HOUSE FILE 791

AN ACT

RELATING TO THE APPLICATION PROCESS FOR JUDGES AND MAGISTRATES
AND THE DECERTIFICATION OF A MAGISTRATE PRIOR TO
COMMENCEMENT OF THE MAGISTRATE'S TERM AND PROVIDING AN
EFFECTIVE DATE.

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

Section 1. Section 46.14, Code 1989, is amended to read as follows:

46.14 NOMINATION.

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

Sec. 2. Section 602.6305, subsection 2, Code 1989, is amended to read as follows:

2. A person does 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 the person's 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. An applicant for district associate judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission.

Sec. 3. Section 602.6403, subsection 2, Code 1989, is amended to read as follows:

2. The magistrate appointing commission for each county shall prescribe the contents of an application, in addition to any application form provided by the supreme court, for an appointment pursuant to this section. The commission shall publicize notice of any vacancy to be filled in at least two publications in the official county newspaper. The commission shall accept applications for a minimum of fifteen days prior to making an appointment, and shall make available during that period of time any printed application forms the commission prescribes.

Sec. 4. Section 602.6403, Code 1989, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. Before the commencement of the term of a magistrate, the members of the magistrate appointing commission may reconsider the appointment. Written notification of the reasons for reconsideration and time and place for the meeting must be sent to the magistrate appointee and the clerk of the district court. The commission may reconvene and decertify the magistrate appointee for good cause. Notice of the decertification and a statement of the reasons justifying the decertification shall be promptly sent to the clerk of the district court, the chief judge of the judicial district, and the state court administrator.

Sec. 5. Section 602.6404, subsection 2, Code 1989, is amended to read as follows:

2. A person is not qualified for appointment as a magistrate unless the person files a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission. A person is not qualified for appointment as a magistrate unless the person can complete the entire term of office prior to reaching age seventy-two.

Sec. 6. This Act, being deemed of immediate importance, takes effect upon enactment.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 791, Seventy-third General Assembly.

JOSEPH O'HERN
Chief Clerk of the House

Approved May 23, 1989

TERRY E. BRANSTAD
Governor