

reprinted

FILED MAR 17 1989

SENATE FILE 498
BY COMMITTEE ON
JUDICIARY

(SUCCESSOR TO SSB 308)

Passed Senate, Date 3-27-89 (p1015) Passed House, Date 4-12-89 (p.1584)
Vote: Ayes 48 Nays 0 Vote: Ayes 92 Nays 0
Approved 5-4-89

A BILL FOR

1 An Act relating to the appointment, terms, retention, and
3372-2 qualifications of magistrates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4
5

SENATE FILE 498

S-3329

1 Amend Senate File 498 as follows:
2 1. Page 1, by striking lines 20 through 23 and
3 inserting the following:
4 "2. A person is not qualified for appointment as a
5 magistrate ~~unless the person can complete the entire~~
6 ~~term of office prior to reaching~~ if at the time of
7 appointment the person has reached age seventy-two."

By PAT DELUHERY
C. JOSEPH COLEMAN

S-3329 FILED MARCH 20, 1989
Adopted 3-27-89 (p1014)

SENATE FILE 498

S-3397

1 Amend Senate File 498 as follows:
2 1. Page 1, by inserting after line 23 the
3 following:
4 "Sec. ____ This Act, being deemed of immediate
5 importance, takes effect upon enactment."
6 2. Title, line 2, by inserting after the word
7 "magistrates" the following: ", and providing an
8 effective date".

By JACK W. HESTER

S-3397 FILED MARCH 23, 1989

Adopted 3-27-89 (p1014)

1 Section 1. Section 602.6302, subsection 3, paragraphs b
2 and c, Code 1989, are amended to read as follows:

3 b. ~~A substitution pursuant to this section shall not be~~
4 ~~made if the effect would be to remove a magistrate from office~~
5 ~~prior to the expiration of the magistrate's term.~~

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

10 Sec. 2. Section 602.6403, subsection 4, Code 1989, is
11 amended to read as follows:

12 4. The term of office of a magistrate is two four years,
13 commencing July 1 ~~of each odd-numbered year,~~ 1989. However,
14 the terms of all magistrates in a county are deemed to expire
15 if a substitution under section 602.6302 or the allocation
16 under section 602.6401 results in a reduction in the number of
17 magistrates in a county where the magistrates hold office.

18 Sec. 3. Section 602.6404, subsection 2, Code 1989, is
19 amended to read as follows:

3329 20 2. A person is not qualified for appointment as a
21 magistrate unless the person ~~can complete the entire term of~~
22 ~~office prior to reaching~~ at the time of appointment has not
23 reached age seventy-two.

24 EXPLANATION

25 This bill relates to the appointment, terms, retention, and
26 qualification of magistrates as follows:

27 Section 1 strikes language providing that the appointment
28 of a district associate judge in lieu of magistrates as
29 provided in section 602.6403 could not be made if the effect
30 would be to remove a magistrate prior to the expiration of the
31 magistrate's term.

32 Section 2 increases the term of office of a magistrate from
33 two to four years. The section also provides that the term of
34 office of all magistrates in a county are deemed to expire if
35 a substitution or a change in allocation results in a

1 reduction in the number of magistrates holding office in the
2 county.

3 Section 3 provides that a person is not qualified for
4 appointment as a magistrate if the person has reached age 72
5 at the time of appointment. Current law provides that the
6 person would not be qualified if the person could not complete
7 the term of office before reaching age 72.

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

LSB 2116SV 73

S.F. 498

3705 Amends all-

3927 Amends all-

1 Section 1. Section 602.6302, subsection 3, paragraphs b
2 and c, Code 1989, are amended to read as follows:

3 b. ~~A substitution pursuant to this section shall not be~~
4 ~~made if the effect would be to remove a magistrate from office~~
5 ~~prior to the expiration of the magistrate's term.~~

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

3927

10 Sec. 2. Section 602.6403, subsection 4, Code 1989, is
11 amended to read as follows:

12 4. The term of office of a magistrate is ~~two~~ four years,
13 commencing July 1 ~~of each odd-numbered year, 1989.~~ However,
14 the terms of all magistrates in a county are deemed to expire
15 if a substitution under section 602.6302 or the allocation
16 under section 602.6401 results in a reduction in the number of
17 magistrates in a county where the magistrates hold office.

18 Sec. 3. Section 602.6404, subsection 2, Code 1989, is
19 amended to read as follows:

20 2. A person is not qualified for appointment as a
21 ~~magistrate unless the person can complete the entire term of~~
22 ~~office prior to reaching if at the time of appointment the~~
23 ~~person has reached age seventy-two.~~

24 Sec. 4. This Act, being deemed of immediate importance,
25 takes effect upon enactment.

26

27

28

29

30

31

32

33

34

35

SENATE FILE 498

H-3927

1 Amend Senate File 498, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 602.6302, Code 1989, is
6 amended by striking the section and inserting in lieu
7 thereof the following:

8 602.6302 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE
9 IN LIEU OF MAGISTRATES.

399+10 1. The chief judge of the judicial district may
11 designate by order of substitution that a district
12 associate judge be appointed pursuant to this section
13 in lieu of magistrates appointed under section
14 602.6403, subject to the following limitations:

15 a. The county in which the district associate
16 judge is to be appointed, or the counties in which the
17 district associate judge is to be appointed in
18 combination, must have an apportionment of three or
19 more magistrates.

20 b. The substitution must not result in a lack of a
21 resident district associate judge or magistrate in one
22 or more of the counties.

23 c. The substitution must be approved by the
24 supreme court.

25 d. A majority of district judges in that judicial
26 election district, or in the case of an appointment
27 involving more than one judicial election district in
28 the same judicial district, a majority of the district
29 judges in each judicial election district, must vote
30 in favor of the substitution and find that the
31 substitution will provide more timely and efficient
32 performance of judicial business within that judicial
33 election district.

34 2. An order of substitution shall not take effect
35 unless a copy of the order is received by the
36 chairperson of the county magistrate appointing
37 commission or commissions no later than May 31 of the
38 year in which the substitution is to take effect. A
39 copy of the order shall also be sent to the state
40 court administrator.

41 3. For a county in which a substitution order is
42 in effect, the number of magistrates actually
43 appointed pursuant to section 602.6403 shall be
44 reduced by three for each district associate judge
45 substituted under this section. However, if the
46 substitution order is for a district associate judge
47 appointed to more than one county, the reduction of
48 three magistrates shall be as provided in the order of
49 the chief judge of the judicial district. Upon a
50 subsequent reduction in the apportionment of

H-3927

Page 2

1 magistrates to the county or counties, the magistrate
2 appointing commission shall further reduce the number
3 of magistrates appointed.

4 4. a. Except as provided in subsections 1 through
5 3, a substitution shall not increase or decrease the
6 number of magistrates authorized by this article.

7 b. A substitution shall not be made where the
8 apportionment of magistrates to a county is
9 insufficient to permit the full reduction in
10 appointments of magistrates as required by subsection
11 3.

12 5. If an apportionment by the state court
13 administrator pursuant to section 602.6401 reduces the
14 number of magistrates in the county or counties to
15 less than the number required to be apportioned to
16 allow a substitution order pursuant to subsection 1,
17 or if a majority of the district judges in the
18 judicial election district or districts determines
19 that a substitution is no longer desirable, then the
20 substituted office shall be terminated. However, a
21 reversion pursuant to this subsection, irrespective of
22 cause, shall not take effect until the substitute
23 district associate judge fails to be retained in
24 office at a judicial election or otherwise leaves
25 office, whether voluntarily or involuntarily. Upon
26 the termination of office of that district associate
27 judge, appointments shall be made pursuant to section
28 602.6403 as necessary to reestablish terms of office
29 as provided in section 602.6403, subsection 4.

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

32 2. A person does not qualify for appointment to
33 the office of district associate judge unless the
34 person is at the time of ~~application~~ appointment a
35 resident of the county in which the vacancy exists,
36 ~~and unless the person is~~ licensed to practice law in
37 Iowa, and ~~unless the person~~ will be able, measured by
38 the person's age at the time of appointment, to
39 complete the initial term of office plus a four-year
40 term of office prior to reaching age seventy-two.

41 Sec. 3. Section 602.6403, subsection 1, Code 1989,
42 is amended to read as follows:

43 1. In ~~April~~ June of each year in which
44 magistrates' terms expire, the county magistrate
45 appointing commission shall appoint, except as
46 otherwise provided in section 602.6302, the number of
47 magistrates apportioned to the county by the state
48 court administrator under section 602.6401, and may
49 appoint an additional magistrate when allowed by
50 section 602.6402. The commission shall not appoint

1 more magistrates than are authorized for the county by
2 this article.

3 Sec. 4. Section 602.6403, subsection 4, Code 1989,
4 is amended to read as follows:

5 4. The term of office of a magistrate is two four
6 years, commencing July August 1 of each odd-numbered
7 year, 1989. However, the terms of all magistrates in
8 a county are deemed to expire if a substitution under
9 section 602.6302 or the allocation under section
10 602.6401 results in a reduction in the number of
11 magistrates in a county where the magistrates hold
12 office.

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

15 2. A person is not qualified for appointment as a
16 ~~magistrate unless the person can complete the entire~~
17 ~~term of office prior to reaching~~ if at the time of
18 appointment the person has reached age seventy-two.

19 Sec. 6. Upon enactment, except as provided in
20 section 602.6403, subsection 4, a magistrate appointed
21 pursuant to section 602.6403, subsection 1, prior to
22 the effective date of this Act shall be deemed to have
23 been appointed pursuant to this Act and the
24 magistrates term shall commence August 1, 1989.

25 Except as provided in section 602.6403, subsection
26 4, the term of a magistrate whose term is to expire on
27 June 30, 1989, shall be extended through July 31,
28 1989.

29 Sec. 7. This Act, being deemed of immediate
30 importance, takes effect upon enactment."

31 2. Title page, line 2, by inserting after the
32 word "magistrates" the following: "district associate
33 judges".

By COMMITTEE ON JUDICIARY AND LAW
ENFORCEMENT

JAY of Appanoose, Chairperson

SENATE FILE 498

H-3962

1 Amend Senate File 498, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by inserting after line 9 the
4 following:

5 "Sec. ____ . Section 602.6403, subsection 2, Code
6 1989, is amended to read as follows:

7 2. The magistrate appointing commission for each
8 county shall prescribe the contents of an application
9 for an appointment pursuant to this section. The
10 commission shall publicize notice of any vacancy to be
11 filled in at least two publications in the official
12 county newspaper newspapers. The commission shall
13 accept applications for a minimum of fifteen days
14 prior to making an appointment, and shall make
15 available during that period of time any printed
16 application forms the commission prescribes."

17 2. By renumbering as necessary.

By HIBBARD of Madison
JAY of Appanoose

H-3962 FILED APRIL 11, 1989

out of order 4-12-89 (p. 1534)
SENATE FILE 498

H-3994

1 Amend the amendment, H-3927, to Senate File 498, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 10, by striking the word "jduge"
5 and inserting the word "judge".

By JAY of Appanoose

H-3994 FILED APRIL 12, 1989

ADOPTED BY UNANIMOUS CONSENT

4-12-89 (p. 1534)

HOUSE AMENDMENT TO
SENATE FILE 498

S-3705

1 Amend Senate File 498, as amended, passed, and
2 reprinted by the Senate, as follows:

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

5 "Section 1. Section 602.6302, Code 1989, is
6 amended by striking the section and inserting in lieu
7 thereof the following:

8 602.6302 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE
9 IN LIEU OF MAGISTRATES.

10 1. The chief judge of the judicial district may
11 designate by order of substitution that a district
12 associate judge be appointed pursuant to this section
13 in lieu of magistrates appointed under section
14 602.6403, subject to the following limitations:

15 a. The county in which the district associate
16 judge is to be appointed, or the counties in which the
17 district associate judge is to be appointed in
18 combination, must have an apportionment of three or
19 more magistrates.

20 b. The substitution must not result in a lack of a
21 resident district associate judge or magistrate in one
22 or more of the counties.

23 c. The substitution must be approved by the
24 supreme court.

25 d. A majority of district judges in that judicial
26 election district, or in the case of an appointment
27 involving more than one judicial election district in
28 the same judicial district, a majority of the district
29 judges in each judicial election district, must vote
30 in favor of the substitution and find that the
31 substitution will provide more timely and efficient
32 performance of judicial business within that judicial
33 election district.

34 2. An order of substitution shall not take effect
35 unless a copy of the order is received by the
36 chairperson of the county magistrate appointing
37 commission or commissions no later than May 31 of the
38 year in which the substitution is to take effect. A
39 copy of the order shall also be sent to the state
40 court administrator.

41 3. For a county in which a substitution order is
42 in effect, the number of magistrates actually
43 appointed pursuant to section 602.6403 shall be
44 reduced by three for each district associate judge
45 substituted under this section. However, if the
46 substitution order is for a district associate judge
47 appointed to more than one county, the reduction of
48 three magistrates shall be as provided in the order of
49 the chief judge of the judicial district. Upon a
50 subsequent reduction in the apportionment of

S-3705

Page 2

1 magistrates to the county or counties, the magistrate
2 appointing commission shall further reduce the number
3 of magistrates appointed.

4 4. a. Except as provided in subsections 1 through
5 3, a substitution shall not increase or decrease the
6 number of magistrates authorized by this article.

7 b. A substitution shall not be made where the
8 apportionment of magistrates to a county is
9 insufficient to permit the full reduction in
10 appointments of magistrates as required by subsection
11 3.

12 5. If an apportionment by the state court
13 administrator pursuant to section 602.6401 reduces the
14 number of magistrates in the county or counties to
15 less than the number required to be apportioned to
16 allow a substitution order pursuant to subsection 1,
17 or if a majority of the district judges in the
18 judicial election district or districts determines
19 that a substitution is no longer desirable, then the
20 substituted office shall be terminated. However, a
21 reversion pursuant to this subsection, irrespective of
22 cause, shall not take effect until the substitute
23 district associate judge fails to be retained in
24 office at a judicial election or otherwise leaves
25 office, whether voluntarily or involuntarily. Upon
26 the termination of office of that district associate
27 judge, appointments shall be made pursuant to section
28 602.6403 as necessary to reestablish terms of office
29 as provided in section 602.6403, subsection 4.

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

32 2. A person does not qualify for appointment to
33 the office of district associate judge unless the
34 person is at the time of application appointment a
35 resident of the county in which the vacancy exists,
36 ~~and-unless-the-person-is~~ licensed to practice law in
37 Iowa, and ~~unless-the-person~~ will be able, measured by
38 the person's age at the time of appointment, to
39 complete the initial term of office plus a four-year
40 term of office prior to reaching age seventy-two.

41 Sec. 3. Section 602.6403, subsection 1, Code 1989,
42 is amended to read as follows:

43 1. In ~~April~~ June of each year in which
44 magistrates' terms expire, the county magistrate
45 appointing commission shall appoint, except as
46 otherwise provided in section 602.6302, the number of
47 magistrates apportioned to the county by the state
48 court administrator under section 602.6401, and may
49 appoint an additional magistrate when allowed by
50 section 602.6402. The commission shall not appoint

S-3705

Page 3

1 more magistrates than are authorized for the county by
2 this article.

3 Sec. 4. Section 602.6403, subsection 4, Code 1989,
4 is amended to read as follows:

5 4. The term of office of a magistrate is ~~two~~ four
6 years, commencing ~~July~~ August 1 of each odd-numbered
7 year, 1989. However, the terms of all magistrates in
8 a county are deemed to expire if a substitution under
9 section 602.6302 or the allocation under section
10 602.6401 results in a reduction in the number of
11 magistrates in a county where the magistrates hold
12 office.

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

15 2. A person is not qualified for appointment as a
16 magistrate ~~unless the person can complete the entire~~
17 ~~term of office prior to reaching~~ if at the time of
18 appointment the person has reached age seventy-two.

19 Sec. 6. Upon enactment, except as provided in
20 section 602.6403, subsection 4, a magistrate appointed
21 pursuant to section 602.6403, subsection 1, prior to
22 the effective date of this Act shall be deemed to have
23 been appointed pursuant to this Act and the
24 magistrates term shall commence August 1, 1989.

25 Except as provided in section 602.6403, subsection
26 4, the term of a magistrate whose term is to expire on
27 June 30, 1989, shall be extended through July 31,
28 1989.

29 Sec. 7. This Act, being deemed of immediate
30 importance, takes effect upon enactment."

31 2. Title page, line 2, by inserting after the
32 word "magistrates" the following: "district associate
33 judges".

RECEIVED FROM THE HOUSE

S-3705 FILED APRIL 14, 1989

Senate Concurred 4-24-89 (p1614)

HORN, CH.
WELSH
HESTER

SSB 308
JUDICIARY

SENATE FILE 498
BY (PROPOSED COMMITTEE ON
JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the appointment, terms, retention, and
2 qualifications of magistrates.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 Section 1. Section 602.6401, subsections 2 and 4, Code
2 1989, are amended to read as follows:

3 2. During February of each odd-numbered year in which
4 magistrates' terms expire, the state court administrator shall
5 apportion magistrate offices among the counties in accordance
6 with the following criteria:

7 a. The number and type of proceedings contained in the
8 administrative reports required by section 602.6606.

9 b. The existence of either permanent, temporary, or
10 seasonal populations not included in the current census
11 figures.

12 c. The geographical area to be served.

13 d. Any inordinate number of cases over which magistrates
14 have jurisdiction that were pending at the end of the
15 preceding year.

16 e. The number and types of juvenile proceedings handled by
17 district associate judges.

18 4. During March of each odd-numbered year in which
19 magistrates' terms expire, the state court administrator shall
20 give notice to the clerks of the district court and to the
21 chief judges of the judicial districts of the number of
22 magistrates to which each county is entitled.

23 Sec. 2. Section 602.6403, Code 1989, is amended to read as
24 follows:

25 602.6403 APPOINTMENT AND QUALIFICATION OF MAGISTRATES.

26 1. In ~~April~~ February of each year in which magistrates'
27 terms expire, ~~the-county-magistrate-appointing-commission~~
28 ~~shall-appoint,-except-as-otherwise-provided-in-section~~
29 ~~602-6302,~~ the number of magistrates apportioned to the each
30 county shall be fixed by the state court administrator under
31 section 602.6401, ~~-and-may-appoint-an-additional-magistrate~~
32 ~~when-allowed-by-section-602-6402.~~ The magistrate appointing
33 commission shall not appoint more magistrates than are
34 authorized for the county by this article.

35 2. The magistrate appointing commission for each county

1 shall prescribe the contents of an application for an
2 appointment pursuant to this section. The commission shall
3 publicize notice of any vacancy to be filled in at least two
4 publications in ~~the-official~~ a newspaper of general
5 circulation in the county newspaper. The commission shall
6 accept applications for a minimum of fifteen days ~~prior-to~~
7 before making an appointment, and shall make available during
8 that period of time any printed application forms the
9 commission prescribes.

10 3. Within thirty days following receipt of notification of
11 a vacancy in the office of magistrate, the ~~commission~~ county
12 magistrate appointing commission shall appoint a person to the
13 office to serve the remainder of the unexpired term as
14 magistrate. For purposes of this section, vacancy means a
15 death, resignation, retirement, or removal of a magistrate, or
16 an increase in the number of positions authorized.

17 4. The term of office of a magistrate is ~~two~~ four years,
18 commencing ~~July~~ January 1 of ~~each-odd-numbered~~ the year
19 following the year in which magistrates' terms expire.

20 5. The commission shall promptly certify the names and
21 addresses of appointees to the clerk of the district court and
22 to the chief judge of the judicial district. The clerk of the
23 district court shall certify to the state court administrator
24 the names and addresses of these appointees.

25 6. Before assuming office, a magistrate shall subscribe
26 and file in the office of the state court administrator the
27 oath of office specified in section 63.6.

28 7. ~~Annually~~ Twice each year, the state court administrator
29 shall cause a school of instruction to be conducted for
30 magistrates, and each magistrate shall attend ~~prior-to~~ before
31 the time of taking office unless excused by the chief justice
32 for good cause. A magistrate appointed to fill a vacancy
33 shall attend the first school of instruction that is held
34 following the appointment, unless excused by the chief justice
35 for good cause.

1 Sec. 3. Section 602.6404, Code 1989, is amended by
2 striking the section and inserting in lieu thereof the
3 following:

4 602.6404 TERM, RETENTION, QUALIFICATIONS.

5 1. Magistrates shall serve initial terms upon appointment
6 and shall stand for retention in office within the counties of
7 their residences at the judicial election in 1992, and every
8 four years thereafter, under sections 46.17 to 46.24.

9 2. A person does not qualify for appointment to the office
10 of magistrate unless the person is at the time of application
11 a resident of the county in which the vacancy exists, and, at
12 the time of appointment, has not reached age seventy-two.

13 3. A magistrate must be a resident of the judicial
14 district in which the office is held during the entire term of
15 office.

16 4. A person is not required to be admitted to the practice
17 of law in this state as a condition of being appointed to the
18 office of magistrate, but the magistrate appointing commission
19 shall first consider applicants who are admitted to practice
20 law in this state when selecting persons for the office of
21 magistrate.

22 5. A magistrate who is not retained in office at the
23 election is ineligible to serve as magistrate in the county of
24 the election for two years commencing on the first day of
25 January following the election.

26 6. A magistrate shall serve within the judicial district
27 in which appointed, as directed by the chief judge, provided
28 that the chief judge may assign a magistrate to hold court
29 outside of the judicial district only if it is necessary for
30 the orderly administration of justice. A magistrate is
31 subject to reassignment under section 602.6108.

32 Sec. 4. The term of office of a magistrate serving within
33 a judicial district on the effective date of this Act shall
34 expire on December 31, 1992.

35

EXPLANATION

1 This bill relates to the appointment, terms, retention, and
2 qualification of magistrates as follows:

3 Section 1 of the bill modifies the section of the Code
4 pertaining to the appointment and qualification of magistrates
5 and changes the dates for the commencement and expiration of
6 magistrate terms, the length of terms, and the frequency of
7 schools of instruction.

8 Section 2 of the bill strikes the existing section on
9 qualifications of magistrates and replaces it with a section
10 which provides for the terms, qualifications, and retention of
11 magistrates (similar to existing requirements on district
12 associate judges except that magistrates are not required to
13 be lawyers).

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

29

30

31

32

33

34

35

SENATE FILE 498

AN ACT

RELATING TO THE APPOINTMENT, TERMS, RETENTION, AND QUALIFICATIONS OF MAGISTRATES, DISTRICT ASSOCIATE JUDGES AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. Section 602.6302, Code 1989, is amended by striking the section and inserting in lieu thereof the following:

602.6302 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE IN LIEU OF MAGISTRATES.

1. The chief judge of the judicial district may designate by order of substitution that a district associate judge be appointed pursuant to this section in lieu of magistrates appointed under section 602.6403, subject to the following limitations:

a. The county in which the district associate judge is to be appointed, or the counties in which the district associate judge is to be appointed in combination, must have an apportionment of three or more magistrates.

b. The substitution must not result in a lack of a resident district associate judge or magistrate in one or more of the counties.

c. The substitution must be approved by the supreme court.

d. A majority of district judges in that judicial election district, or in the case of an appointment involving more than one judicial election district in the same judicial district, a majority of the district judges in each judicial election district, must vote in favor of the substitution and find that the substitution will provide more timely and efficient performance of judicial business within that judicial election district.

2. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the county magistrate appointing commission or commissions no later than May 31 of the year in which the substitution is to take effect. A copy of the order shall also be sent to the state court administrator.

3. For a county in which a substitution order is in effect, the number of magistrates actually appointed pursuant to section 602.6403 shall be reduced by three for each district associate judge substituted under this section. However, if the substitution order is for a district associate judge appointed to more than one county, the reduction of three magistrates shall be as provided in the order of the chief judge of the judicial district. Upon a subsequent reduction in the apportionment of magistrates to the county or counties, the magistrate appointing commission shall further reduce the number of magistrates appointed.

4. a. Except as provided in subsections 1 through 3, a substitution shall not increase or decrease the number of magistrates authorized by this article.

b. A substitution shall not be made where the apportionment of magistrates to a county is insufficient to permit the full reduction in appointments of magistrates as required by subsection 3.

5. If an apportionment by the state court administrator pursuant to section 602.6401 reduces the number of magistrates in the county or counties to less than the number required to be apportioned to allow a substitution order pursuant to subsection 1, or if a majority of the district judges in the judicial election district or districts determines that a substitution is no longer desirable, then the substituted office shall 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. Upon the termination of office of that district associate judge,

appointments shall be made pursuant to section 602.6403 as necessary to reestablish terms of office as provided in section 602.6401, subsection 4.

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~~ appointment 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.

Sec. 3. Section 602.6401, subsection 1, Code 1989, is amended to read as follows:

1. In ~~April~~ June of each year in which magistrates' terms expire, the county magistrate appointing commission shall appoint, except as otherwise provided in section 602.6302, the number of magistrates apportioned to the county by the state court administrator under section 602.6401, and may appoint an additional magistrate when allowed by section 602.6402. The commission shall not appoint more magistrates than are authorized for the county by this article.

Sec. 4. Section 602.6403, subsection 4, Code 1989, is amended to read as follows:

4. The term of office of a magistrate is ~~two~~ four years, commencing ~~July~~ August 1 ~~of each odd-numbered year,~~ 1989. However, the terms of all magistrates in a county are deemed to expire if a substitution under section 602.6302 or the allocation under section 602.6401 results in a reduction in the number of magistrates in a county where the magistrates hold office.

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 can complete the entire term of office prior to reaching~~ if at the time of appointment the person has reached age seventy-two.

Sec. 6. Upon enactment, except as provided in section 602.6403, subsection 4, a magistrate appointed pursuant to section 602.6403, subsection 1, prior to the effective date of this Act shall be deemed to have been appointed pursuant to this Act and the magistrates term shall commence August 1, 1989.

Except as provided in section 602.6403, subsection 4, the term of a magistrate whose term is to expire on June 30, 1989, shall be extended through July 31, 1989.

Sec. 7. This Act, being deemed of immediate importance, takes effect upon enactment.

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 498, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved 5/4, 1989

TERRY E. BRANSTAD
Governor