

FILED MAR 03 '04

SENATE FILE 2243  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3100)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the transfer and apportionment of district  
2 associate judges and to the qualifications of magistrates, and  
3 providing for a study.

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

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SF 2243  
JUDICIARY

1 Section 1. Section 602.6301, Code Supplement 2003, is  
2 amended to read as follows:

3 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE  
4 JUDGES.

5 1. There shall be one district associate judge in counties  
6 having a population of more than thirty-five thousand and less  
7 than eighty thousand; two in counties having a population of  
8 eighty thousand or more and less than one hundred twenty-five  
9 thousand; three in counties having a population of one hundred  
10 twenty-five thousand or more and less than two hundred  
11 thousand; four in counties having a population of two hundred  
12 thousand or more and less than two hundred thirty-five  
13 thousand; five in counties having a population of two hundred  
14 thirty-five thousand or more and less than two hundred seventy  
15 thousand; six in counties having a population of two hundred  
16 seventy thousand or more and less than three hundred five  
17 thousand; and seven in counties having a population of three  
18 hundred five thousand or more. However, a county shall not  
19 lose a district associate judgeship solely because of a  
20 reduction in the county's population. If the formula provided  
21 in this section results in the allocation of an additional  
22 district associate judgeship to a county, implementation of  
23 the allocation shall be subject to prior approval of the  
24 supreme court and availability of funds to the judicial  
25 branch. A district associate judge appointed pursuant to  
26 section 602.6302 shall not be counted for purposes of this  
27 section. A district associate judgeship apportioned pursuant  
28 to subsection 2, or a district associate judge transferred  
29 pursuant to subsection 3, shall also not be counted for  
30 purposes of this section.

31 2. If a vacancy in a district associate judgeship occurs,  
32 and the chief justice of the supreme court makes a finding  
33 that a substantial disparity exists in the allocation of  
34 district associate judgeships and district associate judge  
35 workloads between judicial election districts, the chief

1 justice may apportion the district associate judgeship from  
2 the judicial election district where the vacancy occurs to  
3 another judicial election district based upon the substantial  
4 disparity finding. However, a district associate judgeship  
5 shall not be apportioned pursuant to this subsection unless a  
6 majority of the judicial council approves the apportionment.

7 3. If the chief justice of the supreme court determines a  
8 substantial disparity exists in the allocation of district  
9 associate judgeships and district associate judge workloads  
10 between judicial election districts, the chief justice may  
11 authorize a voluntary permanent transfer of a district  
12 associate judge from one judicial election district to another  
13 upon approval by a majority of the judicial council. After  
14 approval by the judicial council, the chief justice shall  
15 notify all eligible district associate judges of the intent to  
16 seek applicants for a voluntary permanent transfer and the  
17 terms of such a transfer. A district associate judge is not  
18 eligible for a voluntary transfer unless the judge has served  
19 a regular term of office as specified in section 46.16. Upon  
20 approval of the judge's application, the chief justice may  
21 transfer a district associate judge who consents to the  
22 transfer within six months of the notification. The transfer  
23 of a district associate judge shall take effect within sixty  
24 days of the official announcement of the transfer by the chief  
25 justice. A district associate judge transferred pursuant to  
26 this subsection shall have six months from the date of the  
27 announcement of the transfer to establish residency in the  
28 judicial election district where the district associate judge  
29 is transferred. A district associate judge who has been  
30 transferred shall stand for retention in the judicial election  
31 district to which the district associate judge has been  
32 transferred as provided in chapter 46. A voluntary transfer  
33 pursuant to this subsection shall not cause a vacancy of a  
34 district associate judgeship in the judicial election district  
35 from which the district associate judge was transferred.

1 Sec. 2. Section 602.6302, subsection 1, paragraph b, Code  
2 2003, is amended to read as follows:

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

6 Sec. 3. Section 602.6304, subsection 3, Code Supplement  
7 2003, is amended to read as follows:

8 3. Within thirty days after a county magistrate appointing  
9 commission receives notification of an actual or impending  
10 vacancy in the office of district associate judge, other than  
11 a vacancy referred to in subsection 2, the commission shall  
12 certify to the chief judge of the judicial district the names  
13 of three applicants who are nominated by the commission for  
14 the vacancy, unless the chief justice has ordered the  
15 commission to delay the certification of the nominees to the  
16 chief judge. The chief justice may order the delay of the  
17 certification for up to one hundred eighty days for budgetary  
18 reasons. The commission shall publicize notice of the vacancy  
19 in at least two publications in the official county newspaper.  
20 The commission shall accept applications for consideration for  
21 nomination as district associate judge for a minimum of  
22 fifteen days prior to certifying nominations. The commission  
23 shall consider the applications and shall, by majority vote,  
24 certify to the chief judge of the judicial district the names  
25 of three applicants who are nominated by the commission for  
26 the vacancy. If there are three or fewer applicants the  
27 commission shall certify all applicants who meet the statutory  
28 qualifications. Nominees shall be chosen solely on the basis  
29 of the qualifications of the applicants, and political  
30 affiliation shall not be considered. As used in this  
31 subsection, a vacancy is created by the death, retirement,  
32 resignation, or removal of a district associate judge, or by  
33 an increase in the number of positions authorized. In  
34 addition, if a vacancy occurs because a district associate  
35 judge is apportioned pursuant to section 602.6301, the vacancy

1 is considered to have occurred in the judicial election  
2 district receiving the apportioned district associate judge.

3 Sec. 4. Section 602.6305, subsection 3, Code Supplement  
4 2003, is amended to read as follows:

5 3. A district associate judge must be a resident of a  
6 county in which the office is held during the entire term of  
7 office, unless the district associate judge is voluntarily  
8 transferred pursuant to section 602.6301, subsection 3. A  
9 district associate judge shall serve within the judicial  
10 district in which appointed or transferred, as directed by the  
11 chief judge, and is subject to reassignment under section  
12 602.6108.

13 Sec. 5. Section 602.6401, subsection 3, Code 2003, is  
14 amended to read as follows:

15 3. Notwithstanding subsection 2, each county shall be  
16 allotted at least one ~~resident~~ magistrate.

17 Sec. 6. Section 602.6404, subsections 1 and 3, Code 2003,  
18 are amended to read as follows:

19 1. A magistrate shall be a resident of the county of  
20 appointment or a contiguous county to the county of  
21 appointment within thirty days of appointment, and shall  
22 reside in the county of appointment or a contiguous county to  
23 the county of appointment during the magistrate's term of  
24 office. A magistrate shall serve within the judicial district  
25 in which appointed, as directed by the chief judge, provided  
26 that the chief judge may assign a magistrate to hold court  
27 outside of the county of the magistrate's residence for the  
28 orderly administration of justice. A magistrate is subject to  
29 reassignment under section 602.6108.

30 3. A person ~~is-not-required-to~~ must be admitted to the  
31 practice of law in this state as a condition of being  
32 appointed to the office of magistrate, ~~but-the-magistrate~~  
33 ~~appointing-commission-shall-first-consider-applicants-who-are~~  
34 ~~admitted-to-practice-law-in-this-state-when-selecting-persons~~  
35 ~~for-the-office-of-magistrate.~~ However, any nonlawyer

1 magistrate serving as a magistrate on July 1, 2004, may  
2 continue to serve as a magistrate and is eligible to reapply  
3 for appointment pursuant to section 602.6403.

4 Sec. 7. JUDICIAL DISTRICT REDISTRICTING INTERIM STUDY  
5 COMMITTEE. The legislative council is requested to authorize  
6 the extension of the judicial district and judicial resources  
7 study committee for an additional two years, and the  
8 legislative council is requested to authorize up to three  
9 meeting days for each additional year the judicial district  
10 and judicial resources study committee is authorized to meet.

11 EXPLANATION

12 This bill relates to the transfer and apportionment of  
13 district associate judges and to the qualifications of  
14 magistrates.

15 The bill provides that if a vacancy in a district associate  
16 judgeship occurs, and the chief justice makes a finding that a  
17 substantial disparity exists in the allocation of district  
18 associate judgeships and district associate judicial workloads  
19 between judicial election districts, the chief justice may  
20 apportion the vacant district associate judgeship to another  
21 judicial election district if a majority of the judicial  
22 council approves the apportionment.

23 Also under the bill, if the chief justice has determined  
24 that a substantial disparity exists, the chief justice may  
25 also authorize a voluntary permanent transfer of a district  
26 associate judge from one judicial election district to  
27 another, upon approval of a majority of the judicial council.  
28 A judge who voluntarily transfers shall establish residency in  
29 the new judicial election district within six months of the  
30 transfer and shall stand for retention in the new judicial  
31 election district. A district associate judge is not eligible  
32 for a voluntary transfer unless the judge has served a regular  
33 term of office.

34 The bill also requires that any newly appointed magistrates  
35 be an attorney; provided, however, that current nonlawyer

1 magistrates would not lose their position as a result of this  
2 change and would be eligible to apply and be reappointed as a  
3 magistrate in the future.

4 The bill permits an applicant to be a resident of another  
5 county when applying for a magistrate position, but the  
6 applicant must be a resident of the county of appointment or a  
7 county contiguous to the county of appointment within 30 days  
8 of appointment.

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**SENATE FILE 2243**

**S-5073**

1 Amend Senate File 2243 as follows:

2 1. Page 2, by inserting after line 35 the  
3 following:

4 "Sec. \_\_\_\_ . Section 602.6301, subsection 3, as  
5 enacted by this Act, is amended by striking the  
6 subsection."

7 2. Page 5, by inserting after line 3 the  
8 following:

9 "Sec. \_\_\_\_ . EFFECTIVE DATE. The section of this  
10 Act striking section 602.6301, subsection 3, takes  
11 effect July 1, 2008."

12 3. Title page, line 2, by striking the words  
13 "magistrates, and" and inserting the following:  
14 "magistrates,".

15 4. Title page, line 3, by inserting after the  
16 word "study" the following: ", and providing for an  
17 effective date".

**By DONALD B. REDFERN**

**S-5073 FILED MARCH 10, 2004**

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1 Section 1. Section 602.6301, Code Supplement 2003, is  
2 amended to read as follows:

3 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE  
4 JUDGES.

5 1. There shall be one district associate judge in counties  
6 having a population of more than thirty-five thousand and less  
7 than eighty thousand; two in counties having a population of  
8 eighty thousand or more and less than one hundred twenty-five  
9 thousand; three in counties having a population of one hundred  
10 twenty-five thousand or more and less than two hundred  
11 thousand; four in counties having a population of two hundred  
12 thousand or more and less than two hundred thirty-five  
13 thousand; five in counties having a population of two hundred  
14 thirty-five thousand or more and less than two hundred seventy  
15 thousand; six in counties having a population of two hundred  
16 seventy thousand or more and less than three hundred five  
17 thousand; and seven in counties having a population of three  
18 hundred five thousand or more. However, a county shall not  
19 lose a district associate judgeship solely because of a  
20 reduction in the county's population. If the formula provided  
21 in this section results in the allocation of an additional  
22 district associate judgeship to a county, implementation of  
23 the allocation shall be subject to prior approval of the  
24 supreme court and availability of funds to the judicial  
25 branch. A district associate judge appointed pursuant to  
26 section 602.6302 shall not be counted for purposes of this  
27 section. A district associate judgeship apportioned pursuant  
28 to subsection 2, or a district associate judge transferred  
29 pursuant to subsection 3, shall also not be counted for  
30 purposes of this section.

31 2. If a vacancy in a district associate judgeship occurs,  
32 and the chief justice of the supreme court makes a finding  
33 that a substantial disparity exists in the allocation of  
34 district associate judgeships and district associate judge  
35 workloads between judicial election districts, the chief

1 justice may apportion the district associate judgeship from  
2 the judicial election district where the vacancy occurs to  
3 another judicial election district based upon the substantial  
4 disparity finding. However, a district associate judgeship  
5 shall not be apportioned pursuant to this subsection unless a  
6 majority of the judicial council approves the apportionment.

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8 substantial disparity exists in the allocation of district  
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10 between judicial election districts, the chief justice may  
11 authorize a voluntary permanent transfer of a district  
12 associate judge from one judicial election district to another  
13 upon approval by a majority of the judicial council. After  
14 approval by the judicial council, the chief justice shall  
15 notify all eligible district associate judges of the intent to  
16 seek applicants for a voluntary permanent transfer and the  
17 terms of such a transfer. A district associate judge is not  
18 eligible for a voluntary transfer unless the judge has served  
19 a regular term of office as specified in section 46.16. Upon  
20 approval of the judge's application, the chief justice may  
21 transfer a district associate judge who consents to the  
22 transfer within six months of the notification. The transfer  
23 of a district associate judge shall take effect within sixty  
24 days of the official announcement of the transfer by the chief  
25 justice. A district associate judge transferred pursuant to  
26 this subsection shall have six months from the date of the  
27 announcement of the transfer to establish residency in the  
28 judicial election district where the district associate judge  
29 is transferred. A district associate judge who has been  
30 transferred shall stand for retention in the judicial election  
31 district to which the district associate judge has been  
32 transferred as provided in chapter 46. A voluntary transfer  
33 pursuant to this subsection shall not cause a vacancy of a  
34 district associate judgeship in the judicial election district  
35 from which the district associate judge was transferred.

1 Sec. 2. Section 602.6301, subsection 3, as enacted by this  
2 Act, is amended by striking the subsection.

3 Sec. 3. Section 602.6302, subsection 1, paragraph b, Code  
4 2003, is amended to read as follows:

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

8 Sec. 4. Section 602.6304, subsection 3, Code Supplement  
9 2003, is amended to read as follows:

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11 commission receives notification of an actual or impending  
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15 of three applicants who are nominated by the commission for  
16 the vacancy, unless the chief justice has ordered the  
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18 chief judge. The chief justice may order the delay of the  
19 certification for up to one hundred eighty days for budgetary  
20 reasons. The commission shall publicize notice of the vacancy  
21 in at least two publications in the official county newspaper.  
22 The commission shall accept applications for consideration for  
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24 fifteen days prior to certifying nominations. The commission  
25 shall consider the applications and shall, by majority vote,  
26 certify to the chief judge of the judicial district the names  
27 of three applicants who are nominated by the commission for  
28 the vacancy. If there are three or fewer applicants the  
29 commission shall certify all applicants who meet the statutory  
30 qualifications. Nominees shall be chosen solely on the basis  
31 of the qualifications of the applicants, and political  
32 affiliation shall not be considered. As used in this  
33 subsection, a vacancy is created by the death, retirement,  
34 resignation, or removal of a district associate judge, or by  
35 an increase in the number of positions authorized. In

1 addition, if a vacancy occurs because a district associate  
2 judge is apportioned pursuant to section 602.6301, the vacancy  
3 is considered to have occurred in the judicial election  
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6 2003, is amended to read as follows:

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9 office, unless the district associate judge is voluntarily  
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11 district associate judge shall serve within the judicial  
12 district in which appointed or transferred, as directed by the  
13 chief judge, and is subject to reassignment under section  
14 602.6108.

15 Sec. 6. Section 602.6401, subsection 3, Code 2003, is  
16 amended to read as follows:

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18 allotted at least one resident magistrate.

19 Sec. 7. Section 602.6404, subsections 1 and 3, Code 2003,  
20 are amended to read as follows:

21 1. A magistrate shall be a resident of the county of  
22 appointment or a contiguous county to the county of  
23 appointment within thirty days of appointment, and shall  
24 reside in the county of appointment or a contiguous county to  
25 the county of appointment during the magistrate's term of  
26 office. 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 county of the magistrate's residence for the  
30 orderly administration of justice. A magistrate is subject to  
31 reassignment under section 602.6108.

32 3. A person ~~is not required to~~ must be admitted to the  
33 practice of law in this state as a condition of being  
34 appointed to the office of magistrate, ~~but the magistrate~~  
35 ~~appointing commission shall first consider applicants who are~~

1 ~~admitted-to-practice-law-in-this-state-when-selecting-persons~~  
2 ~~for-the-office-of-magistrate.~~ However, any nonlawyer  
3 magistrate serving as a magistrate on July 1, 2004, may  
4 continue to serve as a magistrate and is eligible to reapply  
5 for appointment pursuant to section 602.6403.

6 Sec. 8. EFFECTIVE DATE. The section of this Act striking  
7 section 602.6301, subsection 3, takes effect July 1, 2008.

8 Sec. 9. JUDICIAL DISTRICT REDISTRICTING INTERIM STUDY  
9 COMMITTEE. The legislative council is requested to authorize  
10 the extension of the judicial district and judicial resources  
11 study committee for an additional two years, and the  
12 legislative council is requested to authorize up to three  
13 meeting days for each additional year the judicial district  
14 and judicial resources study committee is authorized to meet.

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Redfern  
Kreiman  
McKibben

Succeeded By  
F/HF 2243  
SSB#3100  
Judiciary

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL  
DISTRICT AND JUDICIAL  
RESOURCES INTERIM STUDY  
COMMITTEE BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to the transfer and apportionment of district  
2 associate judges and associate juvenile judges, and to the  
3 qualifications of magistrates.

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

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1 Section 1. Section 602.6301, Code Supplement 2003, is  
2 amended to read as follows:

3 602.6301 NUMBER AND APPORTIONMENT OF DISTRICT ASSOCIATE  
4 JUDGES.

5 1. There shall be one district associate judge in counties  
6 having a population of more than thirty-five thousand and less  
7 than eighty thousand; two in counties having a population of  
8 eighty thousand or more and less than one hundred twenty-five  
9 thousand; three in counties having a population of one hundred  
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12 thousand or more and less than two hundred thirty-five  
13 thousand; five in counties having a population of two hundred  
14 thirty-five thousand or more and less than two hundred seventy  
15 thousand; six in counties having a population of two hundred  
16 seventy thousand or more and less than three hundred five  
17 thousand; and seven in counties having a population of three  
18 hundred five thousand or more. However, a county shall not  
19 lose a district associate judgeship solely because of a  
20 reduction in the county's population. If the formula provided  
21 in this section results in the allocation of an additional  
22 district associate judgeship to a county, implementation of  
23 the allocation shall be subject to prior approval of the  
24 supreme court and availability of funds to the judicial  
25 branch. A district associate judge appointed pursuant to  
26 section 602.6302 shall not be counted for purposes of this  
27 section. A district associate judgeship apportioned pursuant  
28 to subsection 2, or a district associate judge transferred  
29 pursuant to subsection 3, shall also not be counted for  
30 purposes of this section.

31 2. If a vacancy in a district associate judgeship occurs,  
32 and the chief justice of the supreme court makes a finding  
33 that a substantial disparity exists in the allocation of  
34 district associate judgeships and district associate judge  
35 workloads between judicial election districts, the chief

1 justice may apportion the district associate judgeship from  
 2 the judicial election district where the vacancy occurs to  
 3 another judicial election district based upon the substantial  
 4 disparity finding. However, a district associate judgeship  
 5 shall not be apportioned pursuant to this subsection unless a  
 6 majority of the judicial council approves the apportionment.

7 3. If the chief justice of the supreme court determines a  
 8 substantial disparity exists in the allocation of district  
 9 associate judgeships and district associate judge workloads  
 10 between judicial election districts, the chief justice may  
 11 authorize a voluntary permanent transfer of a district  
 12 associate judge from one judicial election district to another  
 13 upon approval by a majority of the judicial council. After  
 14 approval by the judicial council, the chief justice shall  
 15 notify all eligible district associate judges of the intent to  
 16 seek applicants for a voluntary permanent transfer and the  
 17 terms of such a transfer. A district associate judge is not  
 18 eligible for a voluntary transfer unless the judge has served  
 19 a regular term of office as specified in section 46.16. Upon  
 20 approval of the judge's application, the chief justice may  
 21 transfer a district associate judge who consents to the  
 22 transfer within six months of the notification. The transfer  
 23 of a district associate judge shall take effect within sixty  
 24 days of the official announcement of the transfer by the chief  
 25 justice. A district associate judge transferred pursuant to  
 26 this subsection shall have six months from the date of the  
 27 announcement of the transfer to establish residency in the  
 28 judicial election district where the district associate judge  
 29 is transferred. A district associate judge who has been  
 30 transferred shall stand for retention in the judicial election  
 31 district to which the district associate judge has been  
 32 transferred as provided in chapter 46. A voluntary transfer  
 33 pursuant to this subsection shall not cause a vacancy of a  
 34 district associate judgeship in the judicial election district  
 35 from which the district associate judge was transferred.

1     Sec. 2. Section 602.6304, subsection 3, Code Supplement  
2 2003, is amended to read as follows:

3     3. Within thirty days after a county magistrate appointing  
4 commission receives notification of an actual or impending  
5 vacancy in the office of district associate judge, other than  
6 a vacancy referred to in subsection 2, the commission shall  
7 certify to the chief judge of the judicial district the names  
8 of three applicants who are nominated by the commission for  
9 the vacancy, unless the chief justice has ordered the  
10 commission to delay the certification of the nominees to the  
11 chief judge. The chief justice may order the delay of the  
12 certification for up to one hundred eighty days for budgetary  
13 reasons. The commission shall publicize notice of the vacancy  
14 in at least two publications in the official county newspaper.  
15 The commission shall accept applications for consideration for  
16 nomination as district associate judge for a minimum of  
17 fifteen days prior to certifying nominations. The commission  
18 shall consider the applications and shall, by majority vote,  
19 certify to the chief judge of the judicial district the names  
20 of three applicants who are nominated by the commission for  
21 the vacancy. If there are three or fewer applicants the  
22 commission shall certify all applicants who meet the statutory  
23 qualifications. Nominees shall be chosen solely on the basis  
24 of the qualifications of the applicants, and political  
25 affiliation shall not be considered. As used in this  
26 subsection, a vacancy is created by the death, retirement,  
27 resignation, or removal of a district associate judge, or by  
28 an increase in the number of positions authorized. In  
29 addition, if a vacancy occurs because a district associate  
30 judge is apportioned pursuant to section 602.6301, the vacancy  
31 is considered to have occurred in the judicial election  
32 district receiving the apportioned district associate judge.

33     Sec. 3. Section 602.6305, subsection 3, Code Supplement  
34 2003, is amended to read as follows:

35     3. A district associate judge must be a resident of a

1 county in which the office is held during the entire term of  
2 office, unless the district associate judge is voluntarily  
3 transferred pursuant to section 602.6301, subsection 3. A  
4 district associate judge shall serve within the judicial  
5 district in which appointed or transferred, as directed by the  
6 chief judge, and is subject to reassignment under section  
7 602.6108.

8 Sec. 4. Section 602.6404, subsections 1 and 3, Code 2003,  
9 are amended to read as follows:

10 1. A magistrate shall be a resident of the county of  
11 appointment or a contiguous county to the county of  
12 appointment within thirty days of appointment, and shall  
13 reside in the county of appointment or a contiguous county to  
14 the county of appointment during the magistrate's term of  
15 office. A magistrate shall serve within the judicial  
16 district in which appointed, ~~as directed by the chief judge,~~  
17 ~~provided that the chief judge may assign a magistrate to~~ but  
18 may hold court outside of the county of the magistrate's  
19 residence for the orderly administration of justice. A  
20 magistrate is subject to reassignment under section 602.6108.

21 3. A person ~~is not required to~~ must be admitted to the  
22 practice of law in this state as a condition of being  
23 appointed to the office of magistrate, ~~but the magistrate~~  
24 ~~appointing commission shall first consider applicants who are~~  
25 ~~admitted to practice law in this state when selecting persons~~  
26 ~~for the office of magistrate.~~ However, any nonlawyer  
27 magistrate serving as a magistrate on July 1, 2004, may  
28 continue to serve as a magistrate and is eligible to reapply  
29 for appointment pursuant to section 602.6403.

30 Sec. 5. Section 602.7103B, subsection 3, Code Supplement  
31 2003, is amended to read as follows:

32 3. Within thirty days after a county magistrate appointing  
33 commission receives notification of an actual or impending  
34 vacancy in the office of full-time associate juvenile judge,  
35 other than a vacancy referred to in subsection 2, the

1 commission shall certify to the chief judge of the judicial  
2 district the names of three applicants who are nominated by  
3 the commission for the vacancy, unless the chief justice has  
4 ordered the commission to delay the certification of the  
5 nominees to the chief judge. The chief justice may order the  
6 delay of the certification for up to one hundred eighty days  
7 for budgetary reasons. The commission shall publicize notice  
8 of the vacancy in at least two publications in the official  
9 county newspaper. The commission shall accept applications  
10 for consideration for nomination as full-time associate  
11 juvenile judge for a minimum of fifteen days prior to  
12 certifying nominations. The commission shall consider the  
13 applications and shall, by majority vote, certify to the chief  
14 judge of the judicial district the names of three applicants  
15 who are nominated by the commission for the vacancy. If there  
16 are three or fewer applicants, the commission shall certify  
17 all applicants who meet the statutory qualifications.  
18 Nominees shall be chosen solely on the basis of the  
19 qualifications of the applicants, and political affiliation  
20 shall not be considered. As used in this subsection, a  
21 vacancy is created by the death, retirement, resignation, or  
22 removal of a full-time associate juvenile judge, or by an  
23 increase in the number of positions authorized. In addition,  
24 if a vacancy occurs because an associate juvenile judge is  
25 apportioned pursuant to subsection 5A, the vacancy is  
26 considered to have occurred in the judicial election district  
27 receiving the apportioned associate juvenile judge.

28 Sec. 6. Section 602.7103B, Code Supplement 2003, is  
29 amended by adding the following new subsections:

30 NEW SUBSECTION. 5A. If a vacancy in an associate juvenile  
31 judgeship occurs, and the chief justice of the supreme court  
32 makes a finding that a substantial disparity exists in the  
33 allocation of associate juvenile judgeships and associate  
34 juvenile judge workloads between judicial election districts,  
35 the chief justice may apportion the associate juvenile

1 judgeship from the judicial election district where the  
2 vacancy occurs to another judicial election district based  
3 upon the substantial disparity finding. However, an associate  
4 judgeship shall not be apportioned pursuant to this subsection  
5 unless a majority of the judicial council approves the  
6 apportionment.

7 NEW SUBSECTION. 5B. If the chief justice of the supreme  
8 court determines a substantial disparity exists in the  
9 allocation of associate juvenile judgeships and associate  
10 juvenile judge workloads between judicial election districts,  
11 the chief justice may authorize a voluntary permanent transfer  
12 of an associate juvenile judge from one judicial election  
13 district to another upon approval by a majority of the  
14 judicial council. After approval by the judicial council, the  
15 chief justice shall notify all eligible associate juvenile  
16 judges of the intent to seek applicants for a voluntary  
17 permanent transfer and the terms of such a transfer. An  
18 associate juvenile judge is not eligible for a voluntary  
19 transfer unless the judge has served a regular term of office  
20 as specified in section 46.16. Upon approval of the judge's  
21 application, the chief justice may transfer an associate  
22 juvenile judge who consents to the transfer within six months  
23 of the notification. The transfer of an associate juvenile  
24 judge shall take effect within sixty days of the official  
25 announcement of the transfer by the chief justice. An  
26 associate juvenile judge transferred pursuant to this  
27 subsection shall have six months from the date of the  
28 announcement of the transfer to establish residency in the  
29 judicial election district where the associate juvenile judge  
30 is transferred. An associate juvenile judge who has been  
31 transferred shall stand for retention in the judicial election  
32 district to which the associate juvenile judge has been  
33 transferred as provided in chapter 46. A voluntary transfer  
34 pursuant to this subsection shall not cause a vacancy of a  
35 judgeship in the judicial election district from which the

1 associate juvenile judge was transferred.

2 Sec. 7. Section 602.7103C, subsection 3, Code 2003, is  
3 amended to read as follows:

4 3. A full-time associate juvenile judge must be a resident  
5 of a county in which the office is held during the entire term  
6 of office, unless the associate juvenile judge voluntarily  
7 transfers pursuant to section 602.7103B, subsection 5B. A  
8 full-time associate juvenile judge shall serve within the  
9 judicial district in which appointed or transferred, as  
10 directed by the chief judge, and is subject to reassignment  
11 under section 602.6108.

12

#### EXPLANATION

13 This bill relates to the transfer and apportionment of  
14 district associate judges and associate juvenile judges, and  
15 to the qualifications of magistrates.

16 The bill provides that if a vacancy in a district associate  
17 judgeship occurs, and the chief justice makes a finding that a  
18 substantial disparity exists in the allocation of district  
19 associate judgeships and district associate judicial workloads  
20 between judicial election districts, the chief justice may  
21 apportion the vacant district associate judgeship to another  
22 judicial election district if a majority of the judicial  
23 council approves the apportionment.

24 Also under the bill, if the chief justice has determined  
25 that a substantial disparity exists, the chief justice may  
26 also authorize a voluntary permanent transfer of a district  
27 associate judge from one judicial election district to  
28 another, upon approval of a majority of the judicial council.  
29 A judge who voluntarily transfers shall establish residency in  
30 the new judicial election district within six months of the  
31 transfer and shall stand for retention in the new judicial  
32 election district. A district associate judge is not eligible  
33 for a voluntary transfer unless the judge has served a regular  
34 term of office.

35 The provisions of the bill relating to the apportionment of

1 a district associate judge to another judicial election  
2 district and to the voluntary transfer of a district associate  
3 judge also apply to associate juvenile judges.

4 The bill also requires that any newly appointed magistrates  
5 be an attorney; provided, however, that current nonlawyer  
6 magistrates would not lose their position as a result of this  
7 change and would be eligible to apply and be reappointed as a  
8 magistrate in the future.

9 The bill permits an applicant to be a resident of another  
10 county when applying for a magistrate position, but the  
11 applicant must be a resident of the county of appointment or a  
12 county contiguous to the county of appointment within 30 days  
13 of appointment.

14 The bill provides that a magistrate be allowed to serve as  
15 magistrate in a county other than the magistrate's county of  
16 residence without special approval from the chief judge.

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