

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_

Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_

Approved \_\_\_\_\_

**A BILL FOR**

1 An Act providing for the transfer and apportionment of district  
2 associate judges and to the qualifications of magistrates,  
3 providing for a study, and providing for a future repeal.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5

**SENATE FILE 2310**

**S-5386**

1 Amend Senate File 2310 as follows:

2 1. Page 4, by inserting after line 26 the  
3 following:

4 "Sec. \_\_\_\_ . Section 602.6401, Code 2003, is amended  
5 by adding the following new subsection:

6 NEW SUBSECTION. 5. A county of appointment and a  
7 county that is not the county of appointment shall not  
8 share a part-time magistrate."

9 2. Page 4, line 34, by inserting after the word  
10 "office." the following: "The magistrate appointing  
11 commission shall first consider applicants who will be  
12 a resident of the county of appointment during the  
13 term of the appointment."

14 3. By renumbering as necessary.

**By KEITH A. KREIMAN**

**S-5386** FILED APRIL 20, 2004

ADOPTED

SF 2310 RULES & ADMINISTRATION

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

28 b. A district associate judgeship apportioned pursuant to  
29 subsection 2 shall also not be counted for purposes of this  
30 section.

31 c. A district associate judge transferred pursuant to  
32 subsection 3 shall also not be counted for purposes of this  
33 section.

34 2. If a vacancy in a district associate judgeship occurs,  
35 and the chief justice of the supreme court makes a finding

1 that a substantial disparity exists in the allocation of  
2 district associate judgeships and district associate judge  
3 workloads between judicial election districts, the chief  
4 justice may apportion the district associate judgeship from  
5 the judicial election district where the vacancy occurs to  
6 another judicial election district based upon the substantial  
7 disparity finding. However, a district associate judgeship  
8 shall not be apportioned pursuant to this subsection unless a  
9 majority of the judicial council approves the apportionment.

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

1 pursuant to this subsection shall not cause a vacancy of a  
2 district associate judgeship in the judicial election district  
3 from which the district associate judge was transferred.

4 Sec. 2. Section 602.6301, subsection 1, paragraph c, as  
5 enacted by this Act, is amended by striking the paragraph.

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

8 Sec. 4. Section 602.6302, subsection 1, paragraph b, Code  
9 2003, is amended to read as follows:

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

13 Sec. 5. Section 602.6304, subsection 3, Code Supplement  
14 2003, is amended to read as follows:

15 3. Within thirty days after a county magistrate appointing  
16 commission receives notification of an actual or impending  
17 vacancy in the office of district associate judge, other than  
18 a vacancy referred to in subsection 2, the commission shall  
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, unless the chief justice has ordered the  
22 commission to delay the certification of the nominees to the  
23 chief judge. The chief justice may order the delay of the  
24 certification for up to one hundred eighty days for budgetary  
25 reasons. The commission shall publicize notice of the vacancy  
26 in at least two publications in the official county newspaper.  
27 The commission shall accept applications for consideration for  
28 nomination as district associate judge for a minimum of  
29 fifteen days prior to certifying nominations. The commission  
30 shall consider the applications and shall, by majority vote,  
31 certify to the chief judge of the judicial district the names  
32 of three applicants who are nominated by the commission for  
33 the vacancy. If there are three or fewer applicants the  
34 commission shall certify all applicants who meet the statutory  
35 qualifications. Nominees shall be chosen solely on the basis

1 of the qualifications of the applicants, and political  
2 affiliation shall not be considered. As used in this  
3 subsection, a vacancy is created by the death, retirement,  
4 resignation, or removal of a district associate judge, or by  
5 an increase in the number of positions authorized. In  
6 addition, if a vacancy occurs because a district associate  
7 judge is apportioned pursuant to section 602.6301, the vacancy  
8 is considered to have occurred in the judicial election  
9 district receiving the apportioned district associate judge.

10 Sec. 6. Section 602.6305, subsection 3, Code Supplement  
11 2003, is amended to read as follows:

12 3. a. A district associate judge must be a resident of a  
13 county in which the office is held during the entire term of  
14 office. A district associate judge shall serve within the  
15 judicial district in which appointed, as directed by the chief  
16 judge, and is subject to reassignment under section 602.6108.

17 b. A district associate judge need not meet the residency  
18 or service requirements of this subsection if the district  
19 associate judge is voluntarily transferred pursuant to section  
20 602.6301, subsection 3.

21 Sec. 7. Section 602.6305, subsection 3, paragraph b, as  
22 enacted by this Act, is amended by striking the paragraph.

23 Sec. 8. Section 602.6401, subsection 3, Code 2003, is  
24 amended to read as follows:

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

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

29 1. A magistrate shall be a resident of the county of  
30 appointment or a contiguous county to the county of  
31 appointment within thirty days of appointment, and shall  
32 reside in the county of appointment or a contiguous county to  
33 the county of appointment during the magistrate's term of  
34 office. A magistrate shall serve within the judicial district  
35 in which appointed, as directed by the chief judge, provided

1 that the chief judge may assign a magistrate to hold court  
2 outside of the county of the magistrate's residence for the  
3 orderly administration of justice. A magistrate is subject to  
4 reassignment under section 602.6108.

5 3. A person ~~is-not-required-to~~ must be admitted to the  
6 practice of law in this state as a condition of being  
7 appointed to the office of magistrate, ~~but-the-magistrate~~  
8 ~~appointing-commission-shall-first-consider-applicants-who-are~~  
9 ~~admitted-to-practice-law-in-this-state-when-selecting-persons~~  
10 ~~for-the-office-of-magistrate.~~ However, any nonlawyer  
11 magistrate serving as a magistrate on July 1, 2004, may  
12 continue to serve as a magistrate and is eligible to reapply  
13 for appointment pursuant to section 602.6403.

14 Sec. 10. EFFECTIVE DATE. The sections of this Act  
15 striking section 602.6301, subsection 1, paragraph "c", and  
16 subsection 3, and section 602.6305, subsection 3, paragraph  
17 "b", take effect July 1, 2008.

18 Sec. 11. JUDICIAL DISTRICT REDISTRICTING INTERIM STUDY  
19 COMMITTEE. The legislative council is requested to authorize  
20 the extension of the judicial district and judicial resources  
21 study committee for an additional two years, and the  
22 legislative council is requested to authorize up to three  
23 meeting days for each additional year the judicial district  
24 and judicial resources study committee is authorized to meet.

25 EXPLANATION

26 This bill relates to the transfer and apportionment of  
27 district associate judges and to the qualifications of  
28 magistrates.

29 The bill provides that if a vacancy in a district associate  
30 judgeship occurs, and the chief justice makes a finding that a  
31 substantial disparity exists in the allocation of district  
32 associate judgeships and district associate judicial workloads  
33 between judicial election districts, the chief justice may  
34 apportion the vacant district associate judgeship to another  
35 judicial election district if a majority of the judicial

1 council approves the apportionment.

2 The bill provides that if the chief justice has determined  
3 that a substantial disparity exists, the chief justice may  
4 also authorize a voluntary permanent transfer of a district  
5 associate judge from one judicial election district to  
6 another, upon approval of a majority of the judicial council.  
7 A judge who voluntarily transfers shall establish residency in  
8 the new judicial election district within six months of the  
9 transfer and shall stand for retention in the new judicial  
10 election district. A district associate judge is not eligible  
11 for a voluntary transfer unless the judge has served a regular  
12 term of office. The bill provides that the provision related  
13 to voluntary permanent transfers of district associate judges  
14 shall be repealed effective July 1, 2008.

15 The bill requires that any newly appointed magistrates be  
16 an attorney; provided, however, that current nonlawyer  
17 magistrates would not lose their position as a result of this  
18 change and would be eligible to apply and be reappointed as a  
19 magistrate in the future.

20 The bill permits an applicant to be a resident of another  
21 county when applying for a magistrate position, but the  
22 applicant must be a resident of the county of appointment or a  
23 county contiguous to the county of appointment within 30 days  
24 of appointment.

25 The bill further provides that the legislative council is  
26 requested to authorize the extension of the judicial district  
27 and judicial resources study committee for an additional two  
28 years, and the legislative council is requested to authorize  
29 up to three meeting days for each additional year the  
30 committee is authorized to meet.

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(AS AMENDED AND PASSED BY THE SENATE APRIL 20, 2004)

~~REPEAL OF SECTION 20.1~~ - New Language by the Senate

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

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1 An Act providing for the transfer and apportionment of district  
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S.F. 2310

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18 a population of three hundred five thousand or more. However,  
19 a county shall not lose a district associate judgeship solely  
20 because of a reduction in the county's population. If the  
21 formula provided in this section results in the allocation of  
22 an additional district associate judgeship to a county,  
23 implementation of the allocation shall be subject to prior  
24 approval of the supreme court and availability of funds to the  
25 judicial branch. A district associate judge appointed  
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27 of this section.

28 b. A district associate judgeship apportioned pursuant to  
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8 shall not be apportioned pursuant to this subsection unless a  
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10 3. If the chief justice of the supreme court determines a  
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32 is transferred. A district associate judge who has been  
33 transferred shall stand for retention in the judicial election  
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35 transferred as provided in chapter 46. A voluntary transfer

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22 commission to delay the certification of the nominees to the  
23 chief judge. The chief justice may order the delay of the  
24 certification for up to one hundred eighty days for budgetary  
25 reasons. The commission shall publicize notice of the vacancy  
26 in at least two publications in the official county newspaper.  
27 The commission shall accept applications for consideration for  
28 nomination as district associate judge for a minimum of  
29 fifteen days prior to certifying nominations. The commission  
30 shall consider the applications and shall, by majority vote,  
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15 judicial district in which appointed, as directed by the chief  
16 judge, and is subject to reassignment under section 602.6108.

17 b. A district associate judge need not meet the residency  
18 or service requirements of this subsection if the district  
19 associate judge is voluntarily transferred pursuant to section  
20 602.6301, subsection 3.

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3 the county of appointment during the magistrate's term of  
4 office. The magistrate appointing commission shall first  
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8 as directed by the chief judge, provided that the chief judge  
9 may assign a magistrate to hold court outside of the county of  
10 the magistrate's residence for the orderly administration of  
11 justice. A magistrate is subject to reassignment under  
12 section 602.6108.

13 3. A person ~~is-not-required-to~~ must be admitted to the  
14 practice of law in this state as a condition of being  
15 appointed to the office of magistrate, ~~but-the-magistrate~~  
16 ~~appointing-commission-shall-first-consider-applicants-who-are~~  
17 ~~admitted-to-practice-law-in-this-state-when-selecting-persons~~  
18 ~~for-the-office-of-magistrate.~~ However, any nonlawyer  
19 magistrate serving as a magistrate on July 1, 2004, may  
20 continue to serve as a magistrate and is eligible to reapply  
21 for appointment pursuant to section 602.6403.

22 Sec. 11. EFFECTIVE DATE. The sections of this Act  
23 striking section 602.6301, subsection 1, paragraph "c", and  
24 subsection 3, and section 602.6305, subsection 3, paragraph  
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26 Sec. 12. JUDICIAL DISTRICT REDISTRICTING INTERIM STUDY  
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