

# House Study Bill 661

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL BRANCH  
BILL)

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

## A BILL FOR

1 An Act relating to the appointment of certain judicial officers,  
2 the retirement of senior judges, the entry of temporary  
3 custody and visitation orders, and the jurisdiction of certain  
4 judges in probate court.  
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
6 TLSB 5465DP 82  
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1 1 Section 1. Section 46.12, Code 2007, is amended to read as  
1 2 follows:  
1 3 46.12 NOTIFICATION OF VACANCY AND RESIGNATION.  
1 4 1. a. When a vacancy occurs or will occur within one  
1 5 hundred twenty days in the supreme court, the court of  
1 6 appeals, or district court, the state commissioner of  
1 7 elections shall ~~forthwith~~ so immediately notify the  
1 8 chairperson of the proper judicial nominating commission. The  
1 9 chairperson shall call a meeting of the commission within ten  
1 10 days after such notice; if the chairperson fails to do so, the  
1 11 chief justice shall call such meeting.  
1 12 b. When a judge of the supreme court, court of appeals, or  
1 13 district court resigns, the judge shall submit a copy of the  
1 14 resignation to the state commissioner of elections at the time  
1 15 the judge submits the resignation to the governor; and when a  
1 16 judge of the supreme court, court of appeals, or district  
1 17 court dies, the clerk of district court of the county of the  
1 18 judge's residence shall in writing ~~forthwith~~ immediately  
1 19 notify the state commissioner of elections of such fact.  
1 20 2. a. When a vacancy occurs or will occur within one  
1 21 hundred twenty days in the office of a district associate  
1 22 judge, associate juvenile judge, or associate probate judge,  
1 23 the state commissioner of elections shall immediately notify  
1 24 the chairperson of the judicial district nominating  
1 25 commission. The chairperson shall call a meeting of the  
1 26 commission within ten days after such notice; if the  
1 27 chairperson fails to do so, the chief judge of the judicial  
1 28 district shall call such meeting.  
1 29 b. When a district associate judge, associate juvenile  
1 30 judge, or associate probate judge resigns, the judge shall  
1 31 submit the resignation to the chief judge and shall submit a  
1 32 copy of the resignation to the state court administrator who  
1 33 shall notify the state commissioner of elections of the  
1 34 resignation and the actual or impending vacancy. When a  
1 35 district associate judge, associate juvenile judge, or  
2 1 associate probate judge dies, the clerk of the district court  
2 2 of the county of the judge's residence shall in writing  
2 3 immediately notify the chief judge of the judicial district  
2 4 and the state court administrator of such fact. The state  
2 5 court administrator shall notify the state commissioner of  
2 6 elections of the vacancy in the office.  
2 7 Sec. 2. Section 46.14, Code 2007, is amended to read as  
2 8 follows:  
2 9 46.14 NOMINATION.  
2 10 1. SUPREME COURT, COURT OF APPEALS, AND DISTRICT JUDGES.  
2 11 Each judicial nominating commission shall carefully consider  
2 12 the individuals available for judge, and within sixty days  
2 13 after receiving notice of a vacancy shall certify to the  
2 14 governor and the chief justice the proper number of nominees,  
2 15 in alphabetical order. Such nominees shall be chosen by the  
2 16 affirmative vote of a majority of the full statutory number of  
2 17 commissioners upon the basis of their qualifications and

2 18 without regard to political affiliation. Nominees shall be  
2 19 members of the bar of Iowa, shall be residents of the state or  
2 20 district of the court to which they are nominated, and shall  
2 21 be of such age that they will be able to serve an initial and  
2 22 one regular term of office to which they are nominated before  
2 23 reaching the age of seventy-two years. Nominees for district  
2 24 judge shall file a certified application form, to be provided  
2 25 by the supreme court, with the chairperson of the district  
2 26 judicial nominating commission. Absence of a commissioner or  
2 27 vacancy upon the commission shall not invalidate a nomination.  
2 28 The chairperson of the commission shall promptly certify the  
2 29 names of the nominees, in alphabetical order, to the governor  
2 30 and the chief justice.

2 31 2. OFFICE OF DISTRICT ASSOCIATE JUDGE, ASSOCIATE JUVENILE  
2 32 JUDGE, AND ASSOCIATE PROBATE JUDGE. The judicial district  
2 33 nominating commission shall carefully consider the individuals  
2 34 available for judge, and within sixty days after receiving  
2 35 notice of a vacancy shall certify, as provided in section  
3 1 602.6304, 602.7103B, or 633.20B, whichever is applicable, to  
3 2 the longest serving district judge in the judicial election  
3 3 district the proper number of nominees, in alphabetical order.  
3 4 Such nominees shall be chosen by the affirmative vote of a  
3 5 majority of the full statutory number of commissioners upon  
3 6 the basis of their qualifications and without regard to  
3 7 political affiliation. Nominees shall be members of the bar  
3 8 of Iowa, shall be residents of the judicial election district  
3 9 of the court to which they are nominated, and shall be of such  
3 10 age that they will be able to serve an initial and one regular  
3 11 term of office to which they are nominated before reaching the  
3 12 age of seventy-two years.

3 13 2. 3. COMMISSIONER ELIGIBILITY AND VOTING. A  
3 14 commissioner shall not be eligible for nomination by the  
3 15 commission during the term for which the commissioner was  
3 16 elected or appointed to that commission. A commissioner shall  
3 17 not be eligible to vote for the nomination of a family member,  
3 18 current law partner, or current business partner. For  
3 19 purposes of this subsection, "family member" means a spouse,  
3 20 son, daughter, brother, sister, uncle, aunt, first cousin,  
3 21 nephew, niece, father-in-law, mother-in-law, son-in-law,  
3 22 daughter-in-law, brother-in-law, sister-in-law, father,  
3 23 mother, stepfather, stepmother, stepson, stepdaughter,  
3 24 stepbrother, stepsister, half brother, or half sister.  
3 25 Sec. 3. Section 236.4, subsection 2, Code 2007, is amended  
3 26 to read as follows:

3 27 2. The court may enter any temporary order it deems  
3 28 necessary to protect the plaintiff from domestic abuse prior  
3 29 to the hearing, including temporary custody or visitation  
3 30 orders pursuant to subsection 2A, upon good cause shown in an  
3 31 ex parte proceeding. Present danger of domestic abuse to the  
3 32 plaintiff constitutes good cause for purposes of this  
3 33 subsection.

3 34 Sec. 4. Section 236.4, Code 2007, is amended by adding the  
3 35 following new subsection:

4 1 NEW SUBSECTION. 2A. The court may award temporary custody  
4 2 of or establish temporary visitation rights with regard to  
4 3 children under eighteen years of age. In awarding temporary  
4 4 custody or temporary visitation rights, the court shall give  
4 5 primary consideration to the safety of the alleged victim and  
4 6 the children. If the court finds that the safety of the  
4 7 alleged victim will be jeopardized by unsupervised or  
4 8 unrestricted visitation, the court shall set conditions or  
4 9 restrict visitation as to time, place, duration, or  
4 10 supervision, or deny visitation entirely, as needed to guard  
4 11 the safety of the victim and the children. The court shall  
4 12 also investigate whether any other existing orders awarding  
4 13 custody or visitation should be modified.

4 14 Sec. 5. Section 236.4, subsection 3, Code 2007, is amended  
4 15 to read as follows:

4 16 3. If a hearing is continued, the court may make or extend  
4 17 any temporary order under subsection 2 or 2A that it deems  
4 18 necessary.

4 19 Sec. 6. NEW SECTION. 602.6113 APPORTIONMENT OF CERTAIN  
4 20 JUDICIAL OFFICERS == SUBSTANTIAL DISPARITY.

4 21 Notwithstanding section 602.6201, 602.6301, 602.6304,  
4 22 602.7103B, or 633.20B, if a vacancy occurs in the office of a  
4 23 district judge, district associate judge, associate juvenile  
4 24 judge, or associate probate judge, and the chief justice of  
4 25 the supreme court makes a finding that a substantial disparity  
4 26 exists in the allocation of such judgeships and judicial  
4 27 workload between judicial election districts, the chief  
4 28 justice may apportion the vacant office from the judicial

4 29 election district where the vacancy occurs to another judicial  
4 30 election district based upon the substantial disparity  
4 31 finding. However, such a judgeship shall not be apportioned  
4 32 pursuant to this section unless a majority of the judicial  
4 33 council approves the apportionment. This section does not  
4 34 apply to a district associate judge office authorized by  
4 35 section 602.6302 or 602.6307.

5 1 Sec. 7. Section 602.6303, subsection 5, Code 2007, is  
5 2 amended to read as follows:

5 3 5. If a majority of the district judges in a judicial  
5 4 election district determines that a substitution is no longer  
5 5 desirable, then all three magistrate positions shall be  
5 6 terminated. However, a reversion pursuant to this subsection  
5 7 shall not take effect until the terms of the three magistrates  
5 8 expire. Upon the termination of the magistrate positions  
5 9 created under this section, an appointment shall be made to  
5 10 reestablish the term of office for a district associate judge  
5 11 as provided in ~~sections~~ section 602.6304 and ~~602.6305~~.

5 12 Sec. 8. Section 602.6304, Code 2007, is amended by  
5 13 striking the section and inserting in lieu thereof the  
5 14 following:

5 15 602.6304 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE.

5 16 1. A district associate judge authorized by the formula  
5 17 pursuant to section 602.6301 or authorized by section 602.6302  
5 18 or 602.6307, shall be nominated, serve an initial term, and  
5 19 stand for retention in office as provided in this section and  
5 20 as provided in chapter 46.

5 21 2. A person does not qualify for appointment to the office  
5 22 of district associate judge unless the person is at the time  
5 23 of appointment a resident of the judicial election district in  
5 24 which the vacancy exists, licensed to practice law in Iowa,  
5 25 and will be able, measured by the person's age at the time of  
5 26 appointment, to complete the initial term of office prior to  
5 27 reaching age seventy-two. An applicant for district associate  
5 28 judge shall file a certified application form, to be provided  
5 29 by the supreme court, with the chairperson of the district  
5 30 judicial nominating commission.

5 31 3. A district associate judge shall be a resident of the  
5 32 judicial election district in which appointed and retained. A  
5 33 district associate judge shall serve in the judicial district  
5 34 of the residence of the district associate judge while in  
5 35 office, regardless of the number of district associate  
6 1 judgeships authorized. A district associate judge is subject  
6 2 to reassignment as provided in section 602.6108.

6 3 4. A district associate judge shall qualify for office as  
6 4 provided in chapter 63 for a district judge.

6 5 5. For purposes of this section, "vacancy" means the  
6 6 death, resignation, retirement, or removal of a district  
6 7 associate judge, or the failure of a district associate judge  
6 8 to be retained in office at the judicial election, or an  
6 9 increase in judgeships allowable by law.

6 10 6. Applicants for the office of district associate judge  
6 11 shall apply to the district judicial nominating commission for  
6 12 the judicial election district in which the vacancy is  
6 13 located. The judicial district nominating commission and the  
6 14 nominating process shall be governed by chapter 46 if not  
6 15 inconsistent with the provisions of this section.

6 16 7. The district judicial nominating commission shall  
6 17 nominate three persons to the district judges of the judicial  
6 18 election district. The district judicial nominating  
6 19 commission shall certify the nominees in writing to the  
6 20 district judge with the longest service in the judicial  
6 21 election district in which the appointment is to occur.  
6 22 Copies shall be sent to the chief judge of the judicial  
6 23 district, the district court administrator of the judicial  
6 24 district, and the state court administrator. The longest  
6 25 serving district judge of the judicial election district shall  
6 26 serve as the chairperson of the district judges for the  
6 27 purpose of this section.

6 28 8. Within thirty days of the date the longest serving  
6 29 district judge in the judicial election district receives the  
6 30 list of nominees from the judicial district nominating  
6 31 commission to a vacancy in the office of district associate  
6 32 judge, the district judges in the judicial election district  
6 33 shall, by majority vote, appoint one of the nominees to fill  
6 34 the vacancy. If the appointment is not made within thirty  
6 35 days, the chief justice shall make the appointment from the  
7 1 list of nominees.

7 2 Sec. 9. Section 602.7103B, Code 2007, is amended by  
7 3 striking the section and inserting in lieu thereof the  
7 4 following:

7 5 602.7103B APPOINTMENT OF AN ASSOCIATE JUVENILE JUDGE.

7 6 1. An associate juvenile judge shall be nominated, serve  
7 7 an initial term, and stand for retention in office as provided  
7 8 in this section and as provided in chapter 46.

7 9 2. A person does not qualify for appointment to the office  
7 10 of an associate juvenile judge unless the person is at the  
7 11 time of appointment a resident of the judicial election  
7 12 district in which the vacancy exists, licensed to practice law  
7 13 in Iowa, and will be able, measured by the person's age at the  
7 14 time of appointment, to complete the initial term of office  
7 15 prior to reaching age seventy-two. An applicant for associate  
7 16 juvenile judge shall file a certified application form, to be  
7 17 provided by the supreme court, with the chairperson of the  
7 18 district judicial nominating commission.

7 19 3. An associate juvenile judge shall be a resident of the  
7 20 judicial election district in which appointed and retained.  
7 21 An associate juvenile judge shall serve in the judicial  
7 22 district of the residence of the judge while in office,  
7 23 regardless of the number of judgeships authorized. An  
7 24 associate juvenile judge is subject to reassignment under  
7 25 section 602.6108.

7 26 4. An associate juvenile judge shall qualify for office as  
7 27 provided in chapter 63 for a district judge.

7 28 5. For purposes of this section, "vacancy" means the  
7 29 death, resignation, retirement, or removal of an associate  
7 30 juvenile judge, or the failure of an associate juvenile judge  
7 31 to be retained in office at the judicial election, or an  
7 32 increase in associate juvenile judgeships allowable by law.

7 33 6. Applicants for the office of associate juvenile judge  
7 34 shall apply to the district judicial nominating commission for  
7 35 the judicial election district in which the vacancy is  
8 1 located. The judicial district nominating commission and the  
8 2 nominating process shall be governed by chapter 46 if not  
8 3 inconsistent with the provisions of this section.

8 4 7. The district judicial nominating commission shall  
8 5 nominate three persons to the district judges of the judicial  
8 6 election district. The district judicial nominating  
8 7 commission shall certify the nominees in writing to the  
8 8 district judge with the longest service in the judicial  
8 9 election district in which the appointment is to occur.  
8 10 Copies shall be sent to the chief judge of the judicial  
8 11 district, the district court administrator of the judicial  
8 12 district, and the state court administrator. The longest  
8 13 serving district judge of the judicial election district shall  
8 14 serve as the chairperson of the district judges for the  
8 15 purpose of this section.

8 16 8. Within thirty days of the date the longest serving  
8 17 district judge in the judicial election district receives the  
8 18 list of nominees from the judicial district nominating  
8 19 commission to a vacancy in the office of associate juvenile  
8 20 judge, the district judges in the judicial election district  
8 21 shall, by majority vote, appoint one of the nominees to fill  
8 22 the vacancy. If the appointment is not made within thirty  
8 23 days, the chief justice shall make the appointment from the  
8 24 list of nominees.

8 25 Sec. 10. Section 602.9204, subsection 1, Code 2007, is  
8 26 amended to read as follows:

8 27 1. A judge who retires on or after July 1, 1994, and who  
8 28 is appointed a senior judge under section 602.9203 shall be  
8 29 paid a salary as determined by the general assembly. A senior  
8 30 judge or retired senior judge shall be paid an annuity under  
8 31 the judicial retirement system in the manner provided in  
8 32 section 602.9109, but computed under this section in lieu of  
8 33 section 602.9107, as follows: The annuity paid to a senior  
8 34 judge or retired senior judge shall be an amount equal to the  
8 35 applicable percentage multiplier of the basic senior judge  
9 1 salary, multiplied by the judge's years of service prior to  
9 2 retirement as a judge of one or more of the courts included  
9 3 under this article, for which contributions were made to the  
9 4 system, except the annuity of the senior judge or retired  
9 5 senior judge shall not exceed an amount equal to the  
9 6 applicable specified percentage of the basic senior judge  
9 7 salary used in calculating the annuity. However, ~~following~~  
~~9 8 the twelve-month period during which the senior judge or~~  
~~9 9 retired when a senior judge attains seventy-eight years of~~  
9 10 age, the annuity paid to the person shall be an amount equal  
9 11 to the applicable percentage multiplier of the basic senior  
9 12 judge salary cap, multiplied by the judge's years of service  
9 13 prior to retirement as a judge of one or more of the courts  
9 14 included under this article, for which contributions were made  
9 15 to the system, except that the annuity shall not exceed an

9 16 amount equal to the applicable specified percentage of the  
9 17 basic senior judge salary cap. A senior judge or retired  
9 18 senior judge shall not receive benefits calculated using a  
9 19 basic senior judge salary established after the twelve-month  
9 20 period in which the senior judge or retired senior judge  
9 21 attains seventy-eight years of age. The state shall provide,  
9 22 regardless of age, to an active senior judge or a senior judge  
9 23 with six years of service as a senior judge and to the judge's  
9 24 spouse, and pay for medical insurance until the judge attains  
9 25 the age of seventy-eight years.

9 26 Sec. 11. Section 602.9204, subsection 2, paragraphs d and  
9 27 e, Code 2007, are amended to read as follows:  
9 28 d. "Basic senior judge salary cap" means the basic senior  
9 29 judge salary, ~~at the end of the twelve-month period during~~  
~~9 30 which when~~ the senior judge or retired senior judge attained  
9 31 ~~attains~~ seventy-eight years of age, of the office in which the  
9 32 person last served as a judge before retirement as a judge or  
9 33 senior judge.

9 34 e. "Escalator" means the difference between the current  
9 35 basic salary, as of the time each payment is made up to and  
10 1 including the ~~twelve-month period during which when~~ the senior  
10 2 judge or retired senior judge attains seventy-eight years of  
10 3 age, of the office in which the senior judge last served as a  
10 4 judge before retirement as a judge or senior judge, and the  
10 5 basic annual salary which the judge is receiving at the time  
10 6 the judge becomes separated from full-time service as a judge  
10 7 of one or more of the courts included in this article, as  
10 8 would be used in computing an annuity pursuant to section  
10 9 602.9107 without service as a senior judge.

10 10 Sec. 12. Section 602.9207, subsection 1, Code 2007, is  
10 11 amended to read as follows:  
10 12 1. A senior judge shall cease to be a senior judge upon  
10 13 ~~completion of the twelve-month period during which the judge~~  
~~10 14 attains~~ attaining the age of seventy-eight years of age. The  
10 15 clerk of the supreme court shall make a notation of the  
10 16 retirement of a senior judge in the roster of senior judges,  
10 17 at which time the senior judge shall become a retired senior  
10 18 judge.

10 19 Sec. 13. Section 602.9208, subsection 1, Code 2007, is  
10 20 amended to read as follows:  
10 21 1. A senior judge, at any time prior to ~~the end of the~~  
~~10 22 twelve-month period during which the judge attains~~ attaining  
10 23 seventy-eight years of age, may submit to the clerk of the  
10 24 supreme court a written request that the judge's name be  
10 25 stricken from the roster of senior judges. Upon the receipt  
10 26 of the request the clerk shall strike the name of the person  
10 27 from the roster of senior judges, at which time the person  
10 28 shall cease to be a senior judge. A person who relinquishes a  
10 29 senior judgeship as provided in this subsection may be  
10 30 assigned to temporary judicial duties as provided in section  
10 31 602.1612.

10 32 Sec. 14. Section 633.13, unnumbered paragraph 2, Code  
10 33 2007, is amended by striking the unnumbered paragraph.

10 34 Sec. 15. Section 633.20B, Code 2007, is amended by  
10 35 striking the section and inserting in lieu thereof the  
11 1 following:  
11 2 633.20B APPOINTMENT OF AN ASSOCIATE PROBATE JUDGE.  
11 3 1. An associate probate judge shall be nominated, serve an  
11 4 initial term, and stand for retention in office as provided in  
11 5 this section and as provided in chapter 46.  
11 6 2. A person does not qualify for appointment to the office  
11 7 of associate probate judge unless the person is at the time of  
11 8 appointment a resident of the judicial election district in  
11 9 which the vacancy exists, licensed to practice law in Iowa,  
11 10 and will be able, measured by the person's age at the time of  
11 11 appointment, to complete the initial term of office prior to  
11 12 reaching age seventy-two. An applicant for associate probate  
11 13 judge shall file a certified application form, to be provided  
11 14 by the supreme court, with the chairperson of the district  
11 15 judicial nominating commission.  
11 16 3. An associate probate judge shall be a resident of the  
11 17 judicial election district in which appointed and retained.  
11 18 An associate probate judge shall serve in the judicial  
11 19 district of the residence of the associate probate judge while  
11 20 in office, regardless of the number of associate probate  
11 21 judgeships authorized. An associate probate judge is subject  
11 22 to reassignment under section 602.6108.  
11 23 4. An associate probate judge shall qualify for office as  
11 24 provided in chapter 63 for a district judge.  
11 25 5. For purposes of this section, "vacancy" means the  
11 26 death, resignation, retirement, or removal of an associate

11 27 probate judge, or the failure of an associate probate judge to  
11 28 be retained in office at the judicial election, or an increase  
11 29 in associate probate judgeships allowable by law.  
11 30 6. Applicants for the office of associate probate judge  
11 31 shall apply to the district judicial nominating commission for  
11 32 the judicial election district in which the vacancy is  
11 33 located. The judicial district nominating commission and the  
11 34 nominating process shall be governed by chapter 46 if not  
11 35 inconsistent with the provisions of this section.

12 1 7. The district judicial nominating commission shall  
12 2 nominate three persons to the district judges of the judicial  
12 3 election district. The district judicial nominating  
12 4 commission shall certify the nominees in writing to the  
12 5 district judge with the longest service in the judicial  
12 6 election district in which the appointment is to occur.  
12 7 Copies shall be sent to the chief judge of the judicial  
12 8 district, the district court administrator of the judicial  
12 9 district, and the state court administrator. The longest  
12 10 serving district judge of the judicial election district shall  
12 11 serve as the chairperson of the district judges for the  
12 12 purpose of this section.

12 13 8. Within thirty days of the date the longest serving  
12 14 district judge in the judicial election district receives the  
12 15 list of nominees from the judicial district nominating  
12 16 commission to a vacancy in the office of associate probate  
12 17 judge, the district judges in the judicial election district  
12 18 shall, by majority vote, appoint one of the nominees to fill  
12 19 the vacancy. If the appointment is not made within thirty  
12 20 days, the chief justice shall make the appointment from the  
12 21 list of nominees.

12 22 Sec. 16. Sections 602.6305, 602.7103C, and 633.20C, Code  
12 23 2007, are repealed.

#### 12 24 EXPLANATION

12 25 This bill relates to the appointment of certain judicial  
12 26 officers, the retirement of senior judges, the entry of  
12 27 temporary custody and visitation orders, and the jurisdiction  
12 28 of certain judges in probate court.

12 29 The bill changes the nominating process for district  
12 30 associate judges, associate juvenile judges, and associate  
12 31 probate judges. The bill provides that the district judicial  
12 32 nominating commission shall nominate persons for appointment  
12 33 to the office of district associate judge, associate juvenile  
12 34 judge, or associate probate judge, rather than the county  
12 35 magistrate appointing commission.

13 1 The bill provides that a person at the time of appointment  
13 2 to the office of district associate judge, associate juvenile  
13 3 judge, or associate probate judge, shall be a resident of the  
13 4 judicial election district where the vacancy occurs. Current  
13 5 law provides that a person at the time of appointment be a  
13 6 resident of the county where the vacancy occurs.

13 7 The bill provides that the district judicial nominating  
13 8 commission shall carefully consider all applicants, and shall  
13 9 within 60 days of receiving notice of the vacancy, certify  
13 10 three persons for appointment in writing to the longest  
13 11 serving district judge in the judicial election district where  
13 12 the vacancy occurs. Current law provides that the list of  
13 13 nominees be provided to the chief judge of the judicial  
13 14 district.

13 15 The bill also provides that the district judges of the  
13 16 judicial election district where the vacancy occurs, within 30  
13 17 days of receiving the nominees and by a majority vote, shall  
13 18 appoint a person from the list of nominees to fill the vacant  
13 19 district associate judge, associate juvenile judge, or  
13 20 associate probate judge position. If the district judges fail  
13 21 to make the appointment within 30 days, the chief justice of  
13 22 the supreme court shall make the appointment. Under current  
13 23 law, the district judges of the judicial election district  
13 24 where the vacancy occurs shall appoint within 15 days of  
13 25 receiving the list of nominees.

13 26 Under the bill, if a vacancy occurs in the office of  
13 27 district judge, district associate judge, associate juvenile  
13 28 judge, or associate probate judge, the chief justice of the  
13 29 supreme court may apportion the vacant office from the  
13 30 judicial election district where the vacancy occurs to another  
13 31 judicial election district. An apportionment from one  
13 32 judicial election district to another judicial election  
13 33 district shall not occur under the bill, unless the chief  
13 34 justice finds a substantial disparity exists in the allocation  
13 35 of judgeships and judicial workload between judicial election  
14 1 districts, and the judicial council, by majority vote,  
14 2 approves the apportionment. However, a vacant district

14 3 associate judge office created in lieu of magistrates pursuant  
14 4 to Code section 602.6302 or created in lieu of an associate  
14 5 juvenile judge pursuant to Code section 602.6307 shall not be  
14 6 apportioned by a substantial disparity finding under the bill.  
14 7 Current law does not permit the chief justice and the judicial  
14 8 council to apportion vacant judgeships across judicial  
14 9 election district boundaries.

14 10 The bill provides that the court may enter temporary  
14 11 custody and visitation orders prior to a hearing to determine  
14 12 whether domestic abuse has occurred under Code chapter 236.  
14 13 In awarding temporary custody and visitation under the bill,  
14 14 the court shall give primary consideration to the safety of  
14 15 the alleged victim and the children.

14 16 The bill also provides that a senior judge shall cease  
14 17 being a senior judge upon attaining 78 years of age. Current  
14 18 law provides that a senior judge shall cease being a senior  
14 19 judge upon completion of the 12-month period during which the  
14 20 judge attains 78 years of age.

14 21 The bill strikes a provision permitting a district judge or  
14 22 district associate judge to enter orders which do not require  
14 23 a hearing in probate matters pending in another judicial  
14 24 district.

14 25 The bill repeals Code sections 602.6305, 602.7103C, and  
14 26 633.20C because the provisions have been subsumed or modified  
14 27 by the bill in Code sections 602.6304, 602.7103B, and 633.20B.  
14 28 LSB 5465DP 82

14 29 jm/rj/5.1