

# House Study Bill 83

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 judicial officers and the  
2 clerk of the district court, the appointment and retirement of  
3 senior judges, and the entry of orders in civil proceedings.  
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
5 TLSB 1408XD 83  
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1 1 Section 1. Section 46.12, Code 2009, 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~~ immediately notify the  
1 8 chairperson of the proper judicial nominating commission  
1 9 unless the chief justice has ordered the state commissioner of  
1 10 elections to delay sending the notification for up to one  
1 11 hundred eighty days for budgetary reasons. The chairperson  
1 12 shall call a meeting of the commission within ten days after  
1 13 such notice; if the chairperson fails to do so, the chief  
1 14 justice shall call such meeting.

1 15 b. When a judge of the supreme court, court of appeals, or  
1 16 district court resigns, the judge shall submit a copy of the  
1 17 resignation to the state commissioner of elections at the time  
1 18 the judge submits the resignation to the governor; and when a  
1 19 judge of the supreme court, court of appeals, or district  
1 20 court dies, the clerk of district court of the county of the  
1 21 judge's residence shall in writing ~~forthwith~~ immediately  
1 22 notify the state commissioner of elections of such fact.

1 23 2. a. When a vacancy occurs or will occur within one  
1 24 hundred twenty days in the office of a district associate  
1 25 judge, associate juvenile judge, or associate probate judge,  
1 26 the state commissioner of elections shall immediately notify  
1 27 the chairperson of the judicial district nominating commission  
1 28 unless the chief justice has ordered the state commissioner of  
1 29 elections to delay sending the notification for up to one  
1 30 hundred eighty days for budgetary reasons. The chairperson  
1 31 shall call a meeting of the commission within ten days after  
1 32 such notice; if the chairperson fails to do so, the chief  
1 33 judge of the judicial district shall call such meeting.

1 34 b. When a district associate judge, associate juvenile  
1 35 judge, or associate probate judge resigns, the judge shall  
2 1 submit the resignation to the chief judge and shall submit a  
2 2 copy of the resignation to the state court administrator who  
2 3 shall notify the state commissioner of elections of the  
2 4 resignation and the actual or impending vacancy unless the  
2 5 chief justice has ordered the state commissioner of elections  
2 6 to delay sending the notification for up to one hundred eighty  
2 7 days for budgetary reasons. When a district associate judge,  
2 8 associate juvenile judge, or associate probate judge dies, the  
2 9 clerk of the district court of the county of the judge's  
2 10 residence shall in writing immediately notify the chief judge  
2 11 of the judicial district and the state court administrator of  
2 12 such fact. The state court administrator shall notify the  
2 13 state commissioner of elections of the vacancy in the office  
2 14 unless the chief justice has ordered the state commissioner of  
2 15 elections to delay sending the notification for up to one  
2 16 hundred eighty days for budgetary reasons.

2 17 Sec. 2. Section 46.14, Code 2009, is amended to read as  
2 18 follows:

2 19 46.14 NOMINATION.

2 20 1. SUPREME COURT, COURT OF APPEALS, AND DISTRICT JUDGES.

2 21 Each judicial nominating commission shall carefully consider  
2 22 the individuals available for judge, and within sixty days  
2 23 after receiving notice of a vacancy shall certify to the  
2 24 governor and the chief justice the proper number of nominees,  
2 25 in alphabetical order. Such nominees shall be chosen by the  
2 26 affirmative vote of a majority of the full statutory number of  
2 27 commissioners upon the basis of their qualifications and  
2 28 without regard to political affiliation. Nominees shall be  
2 29 members of the bar of Iowa, shall be residents of the state or  
2 30 district of the court to which they are nominated, and shall  
2 31 be of such age that they will be able to serve an initial and  
2 32 one regular term of office to which they are nominated before  
2 33 reaching the age of seventy-two years. Nominees for district  
2 34 judge shall file a certified application form, to be provided  
2 35 by the supreme court, with the chairperson of the district  
3 1 judicial nominating commission. Absence of a commissioner or  
3 2 vacancy upon the commission shall not invalidate a nomination.  
3 3 The chairperson of the commission shall promptly certify the  
3 4 names of the nominees, in alphabetical order, to the governor  
3 5 and the chief justice.

3 6 2. OFFICE OF DISTRICT ASSOCIATE JUDGE, ASSOCIATE JUVENILE

3 7 JUDGE, AND ASSOCIATE PROBATE JUDGE. The judicial district

3 8 nominating commission shall carefully consider the individuals

3 9 available for judge, and within sixty days after receiving

3 10 notice of a vacancy shall certify, as provided in section

3 11 602.6304, 602.7103B, or 633.20B, whichever is applicable, to

3 12 the longest serving district judge in the judicial election

3 13 district the proper number of nominees, in alphabetical order.

3 14 Such nominees shall be chosen by the affirmative vote of a

3 15 majority of the full statutory number of commissioners upon

3 16 the basis of their qualifications and without regard to

3 17 political affiliation. Nominees shall be members of the bar

3 18 of Iowa, shall be residents of the judicial election district

3 19 of the court to which they are nominated, and shall be of such

3 20 age that they will be able to serve an initial and one regular

3 21 term of office to which they are nominated before reaching the

3 22 age of seventy-two years.

3 23 ~~2-~~ 3. COMMISSIONER ELIGIBILITY AND VOTING. A

3 24 commissioner shall not be eligible for nomination by the

3 25 commission during the term for which the commissioner was

3 26 elected or appointed to that commission. A commissioner shall

3 27 not be eligible to vote for the nomination of a family member,

3 28 current law partner, or current business partner. For

3 29 purposes of this subsection, "family member" means a spouse,

3 30 son, daughter, brother, sister, uncle, aunt, first cousin,

3 31 nephew, niece, father-in-law, mother-in-law, son-in-law,

3 32 daughter-in-law, brother-in-law, sister-in-law, father,

3 33 mother, stepfather, stepmother, stepson, stepdaughter,

3 34 stepbrother, stepsister, half brother, or half sister.

3 35 Sec. 3. Section 236.4, subsection 2, Code 2009, is amended

4 1 to read as follows:

4 2 2. The court may enter any temporary order it deems

4 3 necessary to protect the plaintiff from domestic abuse prior

4 4 to the hearing, including temporary custody or visitation

4 5 orders pursuant to subsection 2A, upon good cause shown in an

4 6 ex parte proceeding. Present danger of domestic abuse to the

4 7 plaintiff constitutes good cause for purposes of this

4 8 subsection.

4 9 Sec. 4. Section 236.4, Code 2009, is amended by adding the

4 10 following new subsection:

4 11 NEW SUBSECTION. 2A. The court may award temporary custody

4 12 of or establish temporary visitation rights with regard to

4 13 children under eighteen years of age. In awarding temporary

4 14 custody or temporary visitation rights, the court shall give

4 15 primary consideration to the safety of the alleged victim and

4 16 the children. If the court finds that the safety of the

4 17 alleged victim will be jeopardized by unsupervised or

4 18 unrestricted visitation, the court shall set conditions or

4 19 restrict visitation as to time, place, duration, or

4 20 supervision, or deny visitation entirely, as needed to guard

4 21 the safety of the victim and the children. The court shall

4 22 also investigate whether any other existing orders awarding

4 23 custody or visitation should be modified.

4 24 Sec. 5. Section 236.4, subsection 3, Code 2009, is amended

4 25 to read as follows:

4 26 3. If a hearing is continued, the court may make or extend

4 27 any temporary order under subsection 2 or 2A that it deems

4 28 necessary.

4 29 Sec. 6. Section 602.1215, subsection 1, Code 2009, is

4 30 amended to read as follows:

4 31 1. Subject to the provisions of section 602.1209,  
4 32 subsection 3, the ~~district judges of each chief judge of the~~  
4 33 ~~judicial election district, after consultation with the~~  
4 34 ~~judicial officers of the district, shall by majority vote~~  
4 35 appoint persons to serve as clerks of the district court  
5 1 within the judicial ~~election~~ district. The ~~district judges of~~  
5 2 ~~a judicial election district chief judge~~ may appoint a person  
5 3 to serve as clerk of the district court for more than one but  
5 4 not more than four contiguous counties in the same judicial  
5 5 district. A person does not qualify for appointment to the  
5 6 office of clerk of the district court unless the person is at  
5 7 the time of application a resident of the state. A clerk of  
5 8 the district court may be removed from office for cause by a  
5 9 ~~majority vote of the district judges of the chief judge of the~~  
5 10 judicial ~~election~~ district. ~~Before~~ Prior to removal, the  
5 11 clerk of the district court shall be notified of the cause for  
5 12 removal.

5 13 Sec. 7. NEW SECTION. 602.6113 APPORTIONMENT OF CERTAIN  
5 14 JUDICIAL OFFICERS == SUBSTANTIAL DISPARITY.

5 15 Notwithstanding section 602.6201, 602.6301, 602.6304,  
5 16 602.7103B, or 633.20B, if a vacancy occurs in the office of a  
5 17 district judge, district associate judge, associate juvenile  
5 18 judge, or associate probate judge, and the chief justice of  
5 19 the supreme court makes a finding that a substantial disparity  
5 20 exists in the allocation of such judgeships and judicial  
5 21 workload between judicial election districts, the chief  
5 22 justice may apportion the vacant office from the judicial  
5 23 election district where the vacancy occurs to another judicial  
5 24 election district based upon the substantial disparity  
5 25 finding. However, such a judgeship shall not be apportioned  
5 26 pursuant to this section unless a majority of the judicial  
5 27 council approves the apportionment. This section does not  
5 28 apply to a district associate judge office authorized by  
5 29 section 602.6302 or 602.6307.

5 30 Sec. 8. Section 602.6303, subsection 5, Code 2009, is  
5 31 amended to read as follows:

5 32 5. If a majority of the district judges in a judicial  
5 33 election district determines that a substitution is no longer  
5 34 desirable, then all three magistrate positions shall be  
5 35 terminated. However, a reversion pursuant to this subsection  
6 1 shall not take effect until the terms of the three magistrates  
6 2 expire. Upon the termination of the magistrate positions  
6 3 created under this section, an appointment shall be made to  
6 4 reestablish the term of office for a district associate judge  
6 5 as provided in ~~sections~~ section 602.6304 ~~and 602.6305~~.

6 6 Sec. 9. Section 602.6304, Code 2009, is amended by  
6 7 striking the section and inserting in lieu thereof the  
6 8 following:

6 9 602.6304 APPOINTMENT OF DISTRICT ASSOCIATE JUDGE.

6 10 1. A district associate judge authorized by the formula  
6 11 pursuant to section 602.6301 or authorized by section 602.6302  
6 12 or 602.6307, shall be nominated, serve an initial term, and  
6 13 stand for retention in office as provided in this section and  
6 14 as provided in chapter 46.

6 15 2. A person does not qualify for appointment to the office  
6 16 of district associate judge unless the person is at the time  
6 17 of appointment a resident of the judicial election district in  
6 18 which the vacancy exists, licensed to practice law in Iowa,  
6 19 and will be able, measured by the person's age at the time of  
6 20 appointment, to complete the initial term of office prior to  
6 21 reaching age seventy-two. An applicant for district associate  
6 22 judge shall file a certified application form, to be provided  
6 23 by the supreme court, with the chairperson of the district  
6 24 judicial nominating commission.

6 25 3. A district associate judge shall be a resident of the  
6 26 judicial election district in which appointed and retained. A  
6 27 district associate judge shall serve in the judicial district  
6 28 of the residence of the district associate judge while in  
6 29 office, regardless of the number of district associate  
6 30 judgeships authorized. A district associate judge is subject  
6 31 to reassignment as provided in section 602.6108.

6 32 4. A district associate judge shall qualify for office as  
6 33 provided in chapter 63 for a district judge.

6 34 5. For purposes of this section, "vacancy" means the  
6 35 death, resignation, retirement, or removal of a district  
7 1 associate judge, or the failure of a district associate judge  
7 2 to be retained in office at the judicial election, or an  
7 3 increase in judgeships allowable by law.

7 4 6. Applicants for the office of district associate judge  
7 5 shall apply to the district judicial nominating commission for

7 6 the judicial election district in which the vacancy is  
7 7 located. The judicial district nominating commission and the  
7 8 nominating process shall be governed by chapter 46 if not  
7 9 inconsistent with the provisions of this section.

7 10 7. The district judicial nominating commission shall  
7 11 nominate three persons to the district judges of the judicial  
7 12 election district. The district judicial nominating  
7 13 commission shall certify the nominees in writing to the  
7 14 district judge with the longest service in the judicial  
7 15 election district in which the appointment is to occur.  
7 16 Copies shall be sent to the chief judge of the judicial  
7 17 district, the district court administrator of the judicial  
7 18 district, and the state court administrator. The longest  
7 19 serving district judge of the judicial election district shall  
7 20 serve as the chairperson of the district judges for the  
7 21 purpose of this section.

7 22 8. Within thirty days of the date the longest serving  
7 23 district judge in the judicial election district receives the  
7 24 list of nominees from the judicial district nominating  
7 25 commission to a vacancy in the office of district associate  
7 26 judge, the district judges in the judicial election district  
7 27 shall, by majority vote, appoint one of the nominees to fill  
7 28 the vacancy. If the appointment is not made within thirty  
7 29 days, the chief justice shall make the appointment from the  
7 30 list of nominees.

7 31 Sec. 10. Section 602.7103B, Code 2009, is amended by  
7 32 striking the section and inserting in lieu thereof the  
7 33 following:

7 34 602.7103B APPOINTMENT OF AN ASSOCIATE JUVENILE JUDGE.

7 35 1. An associate juvenile judge shall be nominated, serve  
8 1 an initial term, and stand for retention in office as provided  
8 2 in this section and as provided in chapter 46.

8 3 2. A person does not qualify for appointment to the office  
8 4 of an associate juvenile judge unless the person is at the  
8 5 time of appointment a resident of the judicial election  
8 6 district in which the vacancy exists, licensed to practice law  
8 7 in Iowa, and will be able, measured by the person's age at the  
8 8 time of appointment, to complete the initial term of office  
8 9 prior to reaching age seventy-two. An applicant for associate  
8 10 juvenile judge shall file a certified application form, to be  
8 11 provided by the supreme court, with the chairperson of the  
8 12 district judicial nominating commission.

8 13 3. An associate juvenile judge shall be a resident of the  
8 14 judicial election district in which appointed and retained.  
8 15 An associate juvenile judge shall serve in the judicial  
8 16 district of the residence of the judge while in office,  
8 17 regardless of the number of judgeships authorized. An  
8 18 associate juvenile judge is subject to reassignment under  
8 19 section 602.6108.

8 20 4. An associate juvenile judge shall qualify for office as  
8 21 provided in chapter 63 for a district judge.

8 22 5. For purposes of this section, "vacancy" means the  
8 23 death, resignation, retirement, or removal of an associate  
8 24 juvenile judge, or the failure of an associate juvenile judge  
8 25 to be retained in office at the judicial election, or an  
8 26 increase in associate juvenile judgeships allowable by law.

8 27 6. Applicants for the office of associate juvenile judge  
8 28 shall apply to the district judicial nominating commission for  
8 29 the judicial election district in which the vacancy is  
8 30 located. The judicial district nominating commission and the  
8 31 nominating process shall be governed by chapter 46 if not  
8 32 inconsistent with the provisions of this section.

8 33 7. The district judicial nominating commission shall  
8 34 nominate three persons to the district judges of the judicial  
8 35 election district. The district judicial nominating  
9 1 commission shall certify the nominees in writing to the  
9 2 district judge with the longest service in the judicial  
9 3 election district in which the appointment is to occur.  
9 4 Copies shall be sent to the chief judge of the judicial  
9 5 district, the district court administrator of the judicial  
9 6 district, and the state court administrator. The longest  
9 7 serving district judge of the judicial election district shall  
9 8 serve as the chairperson of the district judges for the  
9 9 purpose of this section.

9 10 8. Within thirty days of the date the longest serving  
9 11 district judge in the judicial election district receives the  
9 12 list of nominees from the judicial district nominating  
9 13 commission to a vacancy in the office of associate juvenile  
9 14 judge, the district judges in the judicial election district  
9 15 shall, by majority vote, appoint one of the nominees to fill  
9 16 the vacancy. If the appointment is not made within thirty

9 17 days, the chief justice shall make the appointment from the  
9 18 list of nominees.

9 19 Sec. 11. Section 602.9202, subsection 4, Code 2009, is  
9 20 amended to read as follows:

9 21 4. "Senior judge retirement age" means seventy-eight years  
9 22 of age or, if the senior judge is reappointed as a senior  
9 23 judge for ~~an two additional two-year term~~ one-year terms upon  
9 24 attaining seventy-eight years of age pursuant to section  
9 25 602.9203, eighty years of age.

9 26 Sec. 12. Section 602.9203, subsection 1, Code 2009, is  
9 27 amended to read as follows:

9 28 1. A supreme court judge, court of appeals judge, district  
9 29 judge, district associate judge, full-time associate juvenile  
9 30 judge, or full-time associate probate judge, who qualifies  
9 31 under subsection 2 may become a senior judge by filing with  
9 32 the clerk of the supreme court a written election in the form  
9 33 specified by the ~~court administrator~~ supreme court. The  
9 34 election shall be filed within six months of the date of  
9 35 retirement.

10 1 Sec. 13. Section 602.9203, subsection 2, unnumbered  
10 2 paragraph 1, Code 2009, is amended to read as follows:

10 3 ~~A Except as otherwise provided in subsection 5, a~~ judicial  
10 4 officer referred to in subsection 1 may be appointed, at the  
10 5 discretion of the supreme court, for a two-year term as a  
10 6 senior judge if the judicial officer meets all of the  
10 7 following requirements:

10 8 Sec. 14. Section 602.9203, subsection 2, paragraph c, Code  
10 9 2009, is amended to read as follows:

10 10 c. Agrees in writing on a form prescribed by the ~~court~~  
~~10 11 administrator~~ supreme court to be available as long as the  
10 12 judicial officer is a senior judge to perform judicial duties  
10 13 as assigned by the supreme court for an aggregate period of  
10 14 thirteen weeks out of each successive twelve-month period.

10 15 Sec. 15. Section 602.9203, subsection 5, paragraph b, Code  
10 16 2009, is amended to read as follows:

10 17 b. A senior judge may be reappointed to ~~an two additional~~  
10 18 ~~two-year term~~ one-year terms upon attaining seventy-eight  
10 19 years of age, at the discretion of the supreme court, if the  
10 20 judicial officer meets the requirements of subsection 2.

10 21 Sec. 16. Section 602.9204, subsection 1, paragraph b,  
10 22 subparagraph (2), Code 2009, is amended to read as follows:

10 23 (2) However, ~~following the twelve-month period during~~  
~~10 24 which~~ after the senior judge or retired senior judge attains  
10 25 senior judge retirement age, the annuity paid to the person  
10 26 shall be an amount equal to the applicable percentage  
10 27 multiplier of the basic senior judge salary cap, multiplied by  
10 28 the judge's years of service prior to retirement as a judge of  
10 29 one or more of the courts included under this article, for  
10 30 which contributions were made to the system, except that the  
10 31 annuity shall not exceed an amount equal to the applicable  
10 32 specified percentage of the basic senior judge salary cap.

10 33 Sec. 17. Section 602.9204, subsection 1, paragraph c, Code  
10 34 2009, is amended to read as follows:

10 35 c. A senior judge or retired senior judge shall not  
11 1 receive benefits calculated using a basic senior judge salary  
11 2 established after ~~the twelve-month period in which~~ the senior  
11 3 judge or retired senior judge attains senior judge retirement  
11 4 age.

11 5 Sec. 18. Section 602.9204, subsection 2, paragraphs d and  
11 6 e, Code 2009, are amended to read as follows:

11 7 d. "Basic senior judge salary cap" means the basic senior  
11 8 judge salary, at the ~~end of the twelve-month period during~~  
~~11 9 which~~ time the senior judge or retired senior judge attained  
11 10 senior judge retirement age, of the office in which the person  
11 11 last served as a judge before retirement as a judge or senior  
11 12 judge.

11 13 e. "Escalator" means the difference between the current  
11 14 basic salary, as of the time each payment is made up to ~~and~~  
~~11 15 including the twelve-month period during which the time the~~  
11 16 senior judge or retired senior judge attains senior judge  
11 17 retirement age, of the office in which the senior judge last  
11 18 served as a judge before retirement as a judge or senior  
11 19 judge, and the basic annual salary which the judge is  
11 20 receiving at the time the judge becomes separated from  
11 21 full-time service as a judge of one or more of the courts  
11 22 included in this article, as would be used in computing an  
11 23 annuity pursuant to section 602.9107 without service as a  
11 24 senior judge.

11 25 Sec. 19. Section 602.9207, subsection 1, Code 2009, is  
11 26 amended to read as follows:

11 27 1. A senior judge shall cease to be a senior judge upon

11 28 ~~completion of the twelve-month period during which the judge~~  
11 29 ~~attains attaining~~ senior judge retirement age. The clerk of  
11 30 the supreme court shall make a notation of the retirement of a  
11 31 senior judge in the roster of senior judges, at which time the  
11 32 senior judge shall become a retired senior judge.

11 33 Sec. 20. Section 602.9208, subsection 1, Code 2009, is  
11 34 amended to read as follows:

11 35 1. A senior judge, at any time prior to ~~the end of the~~  
12 1 ~~twelve-month period during which the judge attains attaining~~  
12 2 senior judge retirement age, may submit to the clerk of the  
12 3 supreme court a written request that the judge's name be  
12 4 stricken from the roster of senior judges. Upon the receipt  
12 5 of the request the clerk shall strike the name of the person  
12 6 from the roster of senior judges, at which time the person  
12 7 shall cease to be a senior judge. A person who relinquishes a  
12 8 senior judgeship as provided in this subsection may be  
12 9 assigned to temporary judicial duties as provided in section  
12 10 602.1612.

12 11 Sec. 21. Section 633.13, Code 2009, is amended to read as  
12 12 follows:

12 13 633.13 EXTENT OF JURISDICTION.

12 14 1. The court of the county in which a will is probated, or  
12 15 in which administration, conservatorship or guardianship is  
12 16 granted, shall have jurisdiction coextensive with the state in  
12 17 the settlement of the estate, and in the sale and distribution  
12 18 thereof.

12 19 2. A district judge or a district associate judge has  
12 20 statewide jurisdiction to enter orders in probate matters ~~not~~  
12 21 ~~except for orders approving fees, granting continuances, or~~  
12 22 ~~extensions and orders~~ requiring notice and hearing, although  
12 23 the judge is not a judge of or present in the district in  
12 24 which the probate matter is pending. The orders shall be made  
12 25 in conformity with the rules of the district in which the  
12 26 probate matter is pending.

12 27 Sec. 22. Section 633.20B, Code 2009, is amended by  
12 28 striking the section and inserting in lieu thereof the  
12 29 following:

12 30 633.20B APPOINTMENT OF AN ASSOCIATE PROBATE JUDGE.

12 31 1. An associate probate judge shall be nominated, serve an  
12 32 initial term, and stand for retention in office as provided in  
12 33 this section and as provided in chapter 46.

12 34 2. A person does not qualify for appointment to the office  
12 35 of associate probate judge unless the person is at the time of  
13 1 appointment a resident of the judicial election district in  
13 2 which the vacancy exists, licensed to practice law in Iowa,  
13 3 and will be able, measured by the person's age at the time of  
13 4 appointment, to complete the initial term of office prior to  
13 5 reaching age seventy-two. An applicant for associate probate  
13 6 judge shall file a certified application form, to be provided  
13 7 by the supreme court, with the chairperson of the district  
13 8 judicial nominating commission.

13 9 3. An associate probate judge shall be a resident of the  
13 10 judicial election district in which appointed and retained.  
13 11 An associate probate judge shall serve in the judicial  
13 12 district of the residence of the associate probate judge while  
13 13 in office, regardless of the number of associate probate  
13 14 judgeships authorized. An associate probate judge is subject  
13 15 to reassignment under section 602.6108.

13 16 4. An associate probate judge shall qualify for office as  
13 17 provided in chapter 63 for a district judge.

13 18 5. For purposes of this section, "vacancy" means the  
13 19 death, resignation, retirement, or removal of an associate  
13 20 probate judge, or the failure of an associate probate judge to  
13 21 be retained in office at the judicial election, or an increase  
13 22 in associate probate judgeships allowable by law.

13 23 6. Applicants for the office of associate probate judge  
13 24 shall apply to the district judicial nominating commission for  
13 25 the judicial election district in which the vacancy is  
13 26 located. The judicial district nominating commission and the  
13 27 nominating process shall be governed by chapter 46 if not  
13 28 inconsistent with the provisions of this section.

13 29 7. The district judicial nominating commission shall  
13 30 nominate three persons to the district judges of the judicial  
13 31 election district. The district judicial nominating  
13 32 commission shall certify the nominees in writing to the  
13 33 district judge with the longest service in the judicial  
13 34 election district in which the appointment is to occur.  
13 35 Copies shall be sent to the chief judge of the judicial  
14 1 district, the district court administrator of the judicial  
14 2 district, and the state court administrator. The longest  
14 3 serving district judge of the judicial election district shall

14 4 serve as the chairperson of the district judges for the  
14 5 purpose of this section.  
14 6 8. Within thirty days of the date the longest serving  
14 7 district judge in the judicial election district receives the  
14 8 list of nominees from the judicial district nominating  
14 9 commission to a vacancy in the office of associate probate  
14 10 judge, the district judges in the judicial election district  
14 11 shall, by majority vote, appoint one of the nominees to fill  
14 12 the vacancy. If the appointment is not made within thirty  
14 13 days, the chief justice shall make the appointment from the  
14 14 list of nominees.  
14 15 Sec. 23. Sections 602.6305, 602.7103C, and 633.20C, Code  
14 16 2009, are repealed.

#### 14 17 EXPLANATION

14 18 This bill relates to the appointment of judicial officers  
14 19 and the clerk of the district court, the appointment and  
14 20 retirement of senior judges, and the entry of orders in civil  
14 21 proceedings.

14 22 The bill authorizes the chief justice to delay the  
14 23 nomination process of any judicial officer for up to 180 days  
14 24 for budgetary reasons.

14 25 The bill changes the nominating process for district  
14 26 associate judges, associate juvenile judges, and associate  
14 27 probate judges. The bill provides that the district judicial  
14 28 nominating commission shall nominate persons for appointment  
14 29 to the office of district associate judge, associate juvenile  
14 30 judge, or associate probate judge, rather than the county  
14 31 magistrate appointing commission.

14 32 The bill provides that a person at the time of appointment  
14 33 to the office of district associate judge, associate juvenile  
14 34 judge, or associate probate judge, shall be a resident of the  
14 35 judicial election district where the vacancy occurs. Current  
15 1 law provides that a person at the time of appointment be a  
15 2 resident of the county where the vacancy occurs.

15 3 The bill provides that the district judicial nominating  
15 4 commission shall carefully consider all applicants, and shall  
15 5 within 60 days of receiving notice of the vacancy, certify  
15 6 three persons for appointment in writing to the longest  
15 7 serving district judge in the judicial election district where  
15 8 the vacancy occurs. Current law provides that the list of  
15 9 nominees be provided to the chief judge of the judicial  
15 10 district.

15 11 The bill also provides that the district judges of the  
15 12 judicial election district where the vacancy occurs, within 30  
15 13 days of receiving the nominees and by a majority vote, shall  
15 14 appoint a person from the list of nominees to fill the vacant  
15 15 district associate judge, associate juvenile judge, or  
15 16 associate probate judge position. If the district judges fail  
15 17 to make the appointment within 30 days, the chief justice of  
15 18 the supreme court shall make the appointment. Under current  
15 19 law, the district judges of the judicial election district  
15 20 where the vacancy occurs shall appoint within 15 days of  
15 21 receiving the list of nominees.

15 22 Under the bill, if a vacancy occurs in the office of  
15 23 district judge, district associate judge, associate juvenile  
15 24 judge, or associate probate judge, the chief justice of the  
15 25 supreme court may apportion the vacant office from the  
15 26 judicial election district where the vacancy occurs to another  
15 27 judicial election district. An apportionment from one  
15 28 judicial election district to another judicial election  
15 29 district shall not occur under the bill, unless the chief  
15 30 justice finds a substantial disparity exists in the allocation  
15 31 of judgeships and judicial workload between judicial election  
15 32 districts, and the judicial council, by majority vote,  
15 33 approves the apportionment. However, a vacant district  
15 34 associate judge office created in lieu of magistrates pursuant  
15 35 to Code section 602.6302 or created in lieu of an associate  
16 1 juvenile judge pursuant to Code section 602.6307 shall not be  
16 2 apportioned by a substantial disparity finding under the bill.  
16 3 Current law does not permit the chief justice and the judicial  
16 4 council to apportion vacant judgeships across judicial  
16 5 election district boundaries.

16 6 The bill provides that the court may enter temporary  
16 7 custody and visitation orders prior to a hearing to determine  
16 8 whether domestic abuse has occurred under Code chapter 236.  
16 9 In awarding temporary custody and visitation under the bill,  
16 10 the court shall give primary consideration to the safety of  
16 11 the alleged victim and the children.

16 12 The bill changes the method by which the clerk of the  
16 13 district court is appointed. The bill permits the chief judge  
16 14 of each judicial district to appoint the clerk of the district

16 15 court and remove the clerk for cause after consultation with  
16 16 the judicial officers of the judicial district. The clerk  
16 17 under current law is appointed by a majority vote of all  
16 18 district judges in the judicial election district, and removed  
16 19 by majority vote.

16 20 The bill provides that a senior judge shall cease being a  
16 21 senior judge upon attaining the age of 78 years of age, unless  
16 22 the senior judge is reappointed by the supreme court for two  
16 23 additional one-year terms until the age of 80 is attained.  
16 24 Upon attaining the age of 80 a senior judge shall cease being  
16 25 a senior judge. Current law provides that a senior judge  
16 26 shall cease being a senior judge upon completion of the  
16 27 12-month period during which the judge attains the age of 78.

16 28 In probate proceedings, the bill requires that a judge or a  
16 29 district associate judge must be a judge of the district or  
16 30 present in the district where a probate matter is pending for  
16 31 the judge to have authority to enter orders approving fees,  
16 32 granting continuances or extensions, and orders requiring a  
16 33 hearing. Current law provides that a district judge or  
16 34 district associate judge has statewide jurisdiction to enter  
16 35 orders in probate matters on a statewide basis that do not  
17 1 require a hearing.

17 2 The bill repeals Code sections 602.6305, 602.7103C, and  
17 3 633.20C because the provisions have been subsumed or modified  
17 4 by the bill in Code sections 602.6304, 602.7103B, and 633.20B.

17 5 LSB 1408XD 83

17 6 jm/rj/5