

House Study Bill 177 - Introduced

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL BRANCH
BILL)

A BILL FOR

- 1 An Act relating to the appointment of judicial officers, senior
- 2 judges, and clerks of the district court.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 602.1215, subsection 1, Code 2011, is
2 amended to read as follows:

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

19 Sec. 2. NEW SECTION. 602.2301 Judicial officer appointment
20 — delay.

21 1. Notwithstanding section 46.12, the chief justice
22 may order the state commissioner of elections to delay, for
23 budgetary reasons, the sending of a notification to the proper
24 judicial nominating commission that a vacancy in the supreme
25 court, court of appeals, or district court has occurred or will
26 occur.

27 2. Notwithstanding sections 602.6304, 602.7103B, and
28 633.20B, the chief justice may order any county magistrate
29 appointing commission to delay, for budgetary reasons,
30 publicizing the notice of a vacancy for a district associate
31 judgeship, associate juvenile judgeship, or associate probate
32 judgeship.

33 3. Notwithstanding section 602.6403, subsection 3, if a
34 magistrate position is vacant due to a death, resignation,
35 retirement, an increase in the number of positions authorized,

1 or to the removal of a magistrate, the chief justice may order
2 any county magistrate appointing commission to delay, for
3 budgetary reasons, the appointment of a magistrate to serve the
4 remainder of an unexpired term.

5 Sec. 3. NEW SECTION. 602.6113 **Apportionment of certain**
6 **judicial officers — substantial disparity.**

7 Notwithstanding section 602.6201, 602.6301, 602.6304,
8 602.7103B, or 633.20B, if a vacancy occurs in the office of a
9 district judge, district associate judge, associate juvenile
10 judge, or associate probate judge, and the chief justice of
11 the supreme court makes a finding that a substantial disparity
12 exists in the allocation of such judgeships and judicial
13 workload between judicial election districts, the chief
14 justice may apportion the vacant office from the judicial
15 election district where the vacancy occurs to another judicial
16 election district based upon the substantial disparity finding.
17 However, such a judgeship shall not be apportioned pursuant
18 to this section unless a majority of the judicial council
19 approves the apportionment. This section does not apply to a
20 district associate judge office authorized by section 602.6302
21 or 602.6307.

22 Sec. 4. Section 602.6305, subsections 2 and 3, Code 2011,
23 are amended to read as follows:

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

34 3. A district associate judge must be a resident of a ~~county~~
35 the judicial election district in which the office is held

1 during the entire term of office. A district associate judge
2 shall serve within the judicial district in which appointed,
3 as directed by the chief judge, and is subject to reassignment
4 under section 602.6108.

5 Sec. 5. Section 602.6401, subsection 2, Code 2011, is
6 amended by adding the following new paragraph:

7 NEW PARAGRAPH. e. A case-related workload formula.

8 Sec. 6. Section 602.6404, subsection 1, Code 2011, is
9 amended to read as follows:

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

19 Sec. 7. Section 602.9203, subsection 1, Code 2011, is
20 amended to read as follows:

21 1. A supreme court judge, court of appeals judge, district
22 judge, district associate judge, full-time associate juvenile
23 judge, or full-time associate probate judge, who qualifies
24 under subsection 2 may become a senior judge by filing with
25 the clerk of the supreme court a written election in the form
26 specified by the ~~court administrator~~ supreme court. The
27 election shall be filed within six months of the date of
28 retirement.

29 Sec. 8. Section 602.9203, subsection 2, paragraph c, Code
30 2011, is amended to read as follows:

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

1 Sec. 9. Section 602.9203, subsection 5, paragraph b, Code
2 2011, is amended to read as follows:

3 b. A senior judge may be reappointed to ~~an additional~~
4 ~~two-year~~ a one-year term upon attaining seventy-eight years of
5 age and to a succeeding one-year term, at the discretion of the
6 supreme court, if the judicial officer meets the requirements
7 of subsection 2.

8 EXPLANATION

9 This bill relates to the appointment of judicial officers,
10 senior judges, and clerks of the district court.

11 The bill creates new Code section 602.2301 granting
12 authority to the chief justice to delay the nomination of
13 a supreme court justice, court of appeals judge, district
14 judge, district associate judge, associate juvenile judge,
15 or associate probate judge for budgetary reasons. New Code
16 section 602.2301 also grants authority to the chief justice to
17 delay the appointment of a magistrate to serve the remainder
18 of an unexpired term, if the vacancy is due to a death,
19 resignation, retirement, an increase in the number of positions
20 authorized, or to the removal of a magistrate. New Code
21 section 602.2301 does not grant authority to the chief justice
22 to delay the appointment of magistrates when all magistrates'
23 terms expire pursuant to Code section 602.6403(1).

24 The amendment to Code section 602.1215 changes the method
25 by which the clerk of the district court is appointed. The
26 amendment permits the chief judge of each judicial district to
27 appoint the clerk of the district court and remove the clerk
28 for cause after consultation with the district judges of the
29 judicial district. The clerk under current law is appointed by
30 a majority vote of all district judges in the judicial election
31 district, and removed by a majority vote.

32 The bill creates new Code section 602.6113 authorizing the
33 chief justice to apportion a vacancy in the office of district
34 judge, district associate judge, associate juvenile judge, or
35 associate probate judge, from the judicial election district

1 where the vacancy occurs to another judicial election district.
2 An apportionment from one judicial election district to another
3 judicial election district shall not occur under the bill,
4 unless the chief justice finds a substantial disparity exists
5 in the allocation of judgeships and judicial workload between
6 judicial election districts, and a majority of the judicial
7 council approves the apportionment. Current law does not
8 permit the chief justice and the judicial council to apportion
9 vacant judgeships across judicial election district boundaries.

10 The amendment to Code section 602.6305 requires a district
11 associate judge to reside in the judicial election district
12 at the time of appointment and throughout the entire term of
13 office. Currently, a district associate judge is required to
14 reside in the county where the vacancy exists at the time of
15 appointment and throughout the entire term of office.

16 The amendment to Code section 602.6401(2) modifies the
17 criteria used by the state court administrator to apportion
18 magistrates throughout the state. Under the bill, the state
19 court administrator must also consider a case-related workload
20 formula in addition to the other criteria listed in Code
21 section 602.6401(2).

22 The amendment to Code section 602.6404(1) allows a
23 magistrate to be a resident of a county contiguous to the
24 county of appointment during the magistrate's term of office.
25 The bill permits the chief judge to assign a magistrate to hold
26 court outside of the magistrate's county of appointment for the
27 orderly administration of justice.

28 The amendments to Code section 602.9203(1) and (2) require
29 senior judge written forms to be prescribed by the supreme
30 court. Currently, the court administrator prescribes the
31 forms.

32 The amendment to Code section 602.9203(5) specifies that
33 a senior judge, upon attaining the age of 78, may serve a
34 one-year term and a succeeding one-year term at the discretion
35 of the supreme court. Currently, a senior judge, upon

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1 attaining the age of 78, may serve a two-year term at the
2 discretion of the supreme court.