

Senate Study Bill 1163 - Introduced

SENATE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY BILL BY
CHAIRPERSON ZAUN)

A BILL FOR

1 An Act relating to magistrate judges.

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

1 Section 1. Section 602.1101, Code 2023, is amended by adding
2 the following new subsection:

3 NEW SUBSECTION. 9A. "*Senior magistrate*" means a person who
4 qualifies as a senior magistrate under article 9, part 3.

5 Sec. 2. Section 602.1610, subsection 1, Code 2023, is
6 amended by adding the following new paragraph:

7 NEW PARAGRAPH. d. Notwithstanding paragraph "c", a judicial
8 magistrate who attains the age of seventy-two years and has
9 less than fifty percent of the magistrate's current term of
10 appointment left to serve shall have the right to elect to
11 serve the remainder of the magistrate's current term but shall
12 not be eligible for reappointment.

13 Sec. 3. NEW SECTION. 602.9301 Short title.

14 This part may be cited and referred to as the "*Iowa Senior*
15 *Magistrate Act*".

16 Sec. 4. NEW SECTION. 602.9302 Definitions.

17 As used in this part, unless the context otherwise requires:

18 1. "*Retired magistrate*" means a magistrate that has retired
19 as a magistrate after serving not less than eight years and has
20 attained the age of fifty-five. "*Retired magistrate*" does not
21 include magistrates who are seeking reappointment.

22 2. "*Roster of senior magistrates*" means a roster maintained
23 by the clerk of the supreme court under section 602.9304,
24 subsection 3.

25 3. "*Senior magistrate*" means a magistrate who meets the
26 requirements of section 602.9304 and who has not been retired
27 or removed from the roster of senior magistrates under section
28 602.9307 or 602.9308.

29 4. "*Senior magistrate retirement age*" means seventy-eight
30 years of age, or if the senior magistrate is reappointed as
31 a senior magistrate for an additional one-year term upon
32 attaining seventy-eight years of age, and then to a succeeding
33 one-year term, pursuant to section 602.9304, eighty years of
34 age.

35 5. "*Twelve-month period*" means each successive one-year

1 period commencing on the date a retired magistrate becomes a
2 senior magistrate and while the magistrate continues to be a
3 senior magistrate.

4 Sec. 5. NEW SECTION. 602.9303 **Qualifications — service.**

5 1. A senior magistrate shall be a resident of the judicial
6 district of appointment during the senior magistrate's term of
7 office.

8 2. A senior magistrate shall serve only within the judicial
9 district in which the senior magistrate is appointed.

10 3. A senior magistrate shall serve on a per diem basis
11 as directed by the chief judge of the judicial district of
12 appointment for the orderly administration of justice in order
13 to provide actively serving magistrates with time off from
14 their regular service. Actively serving magistrates shall not
15 receive coverage for time off under this section for more than
16 nine consecutive days in a twelve-month period unless a greater
17 number is approved by the chief judge of the judicial district
18 of appointment.

19 4. A senior magistrate shall not serve more than sixty days
20 in each twelve-month period.

21 Sec. 6. NEW SECTION. 602.9304 **Senior magistrate**
22 **requirements — appointment and term.**

23 1. A magistrate who qualifies under subsection 2 may become
24 a senior magistrate by filing with the clerk of the supreme
25 court a written election in the form specified by the supreme
26 court. The election shall be filed within six months of the
27 date of retirement.

28 2. A magistrate referred to in subsection 1 may be
29 appointed, at the discretion of the supreme court, for a
30 two-year term as senior magistrate if the magistrate meets all
31 of the following requirements:

32 a. Retires from office on or after July 1, 2022, regardless
33 of whether the magistrate is of mandatory retirement age.

34 b. Agrees in writing on a form prescribed by the supreme
35 court to be available as long as the magistrate is a senior

1 magistrate to perform judicial duties as assigned by the
2 supreme court or chief judge of the senior magistrate's
3 judicial district for service not to exceed an aggregate period
4 of sixty days out of each successive twelve-month period.

5 *c.* Submits evidence to the satisfaction of the supreme court
6 that, as of the date of retirement, the magistrate does not
7 suffer from a permanent physical or mental disability which
8 would substantially interfere with the performance of duties
9 agreed to under paragraph "b".

10 3. The clerk of the supreme court shall maintain a book
11 entitled "Roster of Senior Magistrates", and shall enter in the
12 book the name of each magistrate who files a timely election
13 under subsection 1 and qualifies under subsection 2. A person
14 shall be a senior magistrate upon entry of the person's name in
15 the roster of senior magistrates and until the person becomes
16 a retired senior magistrate as provided in section 602.9307,
17 or until the person's name is stricken from the roster of
18 senior magistrates as provided in section 602.9308, or until
19 the person dies.

20 4. The supreme court shall cause each senior magistrate
21 on the roster to actually perform judicial duties during each
22 successive twelve-month period.

23 5. *a.* A senior magistrate may be reappointed to additional
24 two-year terms, at the discretion of the supreme court, if the
25 judicial officer meets the requirements of subsection 2.

26 *b.* A senior magistrate may be reappointed to a one-year term
27 upon attaining seventy-eight years of age and to a succeeding
28 one-year term, at the discretion of the supreme court, if the
29 judicial officer meets the requirements of subsection 2.

30 **Sec. 7. NEW SECTION. 602.9305 Senior magistrate salaries.**

31 1. A magistrate who retires on or after July 1, 2022, and
32 who is appointed a senior magistrate under section 602.9304
33 shall be paid a per diem rate as determined by the general
34 assembly. Except as provided in subsection 2, such per
35 diem pay shall be the only compensation paid to the senior

1 magistrate.

2 2. The senior magistrate shall be reimbursed for costs for
3 which actively serving magistrates are reimbursed at the same
4 rate.

5 3. The state shall provide, regardless of age, to an active
6 senior magistrate, and pay for, medical insurance until the
7 magistrate attains senior magistrate retirement age at the
8 same rate as is applicable to actively serving magistrates.
9 A senior magistrate who elects to participate in medical
10 insurance through the judicial branch shall make appropriate
11 arrangements for the payment of the senior magistrate's share
12 of medical insurance costs.

13 Sec. 8. NEW SECTION. 602.9306 Practice of law.

14 A senior magistrate may practice law as provided under the
15 Iowa code of judicial conduct.

16 Sec. 9. NEW SECTION. 602.9307 Retirement of senior
17 magistrate.

18 A senior magistrate shall cease to be a senior magistrate
19 upon completion of the twelve-month period during which the
20 magistrate attains senior magistrate retirement age. The clerk
21 of the supreme court shall make a notation of the retirement
22 of a senior magistrate in the roster of senior magistrates, at
23 which time the senior magistrate shall become a retired senior
24 magistrate.

25 Sec. 10. NEW SECTION. 602.9308 Relinquishment of status as
26 senior magistrate — removal for cause.

27 1. A senior magistrate, at any time prior to the end of
28 the twelve-month period during which the magistrate attains
29 senior magistrate retirement age, may submit to the clerk of
30 the supreme court a written request that the magistrate's name
31 be stricken from the roster of senior magistrates. Upon the
32 receipt of the request, the clerk shall strike the name of the
33 person from the roster of senior magistrates, at which time the
34 person shall cease to be a senior magistrate.

35 2. A senior magistrate is subject to removal under article

1 2, part 1, for persistent failure to perform duties, habitual
2 intemperance, willful misconduct in office, conduct which
3 brings the judicial office into disrepute, or substantial
4 violation of the canons of judicial ethics. When a person is
5 removed as a senior magistrate as provided in this subsection,
6 the clerk of the supreme court shall strike the name of the
7 person from the roster of senior magistrates, at which time the
8 person shall cease to be a senior magistrate.

9

EXPLANATION

10 The inclusion of this explanation does not constitute agreement with
11 the explanation's substance by the members of the general assembly.

12 This bill relates to senior magistrates. The bill requires
13 a senior magistrate to reside in the judicial district of
14 appointment during the senior magistrate's term of office. The
15 bill provides that a senior magistrate shall serve only in one
16 judicial district, shall serve on a per diem basis, and shall
17 not serve more than 60 days each 12-month period.

18 The bill provides for requirements, appointment, and terms
19 of senior magistrates. A magistrate may be appointed at
20 the discretion of the supreme court, within six months of
21 retirement, after filing the appropriate form and meeting
22 the following requirements: (1) retires from office on or
23 after July 1, 2022; (2) agrees in writing to be available to
24 perform judicial duties as assigned by the supreme court or
25 chief judge of the senior magistrate's judicial district; (3)
26 submits evidence to the satisfaction of the supreme court that,
27 as of the date of retirement, the magistrate does not suffer
28 from a permanent physical or mental disability which would
29 substantially interfere with the performance of duties.

30 The bill requires the clerk of the supreme court to maintain
31 a book entitled "Roster of Senior Magistrates". The bill
32 provides that a senior magistrate may be reappointed to
33 additional two-year terms at the discretion of the supreme
34 court and may be reappointed to a one-year term upon attaining
35 78 years of age and to a succeeding one-year term, at the

1 discretion of the supreme court.

2 The bill provides for salaries of senior magistrates on a
3 per diem rate as determine by the general assembly, as well as
4 medical insurance through the judicial branch.

5 The bill provides that a person acting as a senior magistrate
6 may also practice law pursuant to the Iowa code of judicial
7 conduct.

8 The bill allows for a senior magistrate to retire upon the
9 completion of the 12-month period during which the magistrate
10 attains 78 years of age. The bill requires the clerk of the
11 supreme court to make a notation of the retirement of a senior
12 magistrate in the roster of senior magistrates.

13 The bill provides procedures for relinquishment of status as
14 a senior magistrate and for the removal for cause of a senior
15 magistrate.