

Senate File 237 - Reprinted

SENATE FILE 237
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1101)

(As Amended and Passed by the Senate March 12, 2019)

A BILL FOR

1 An Act relating to the membership and procedures of the
2 state judicial nominating commission and district
3 judicial nominating commission and to the selection and
4 qualifications of judges, associate judges, and the chief
5 justice, and including effective date provisions.
6 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

DIVISION I

JUDICIAL NOMINATING COMMISSION MODERNIZATION

1
2 Section 1. Section 46.1, Code 2019, is amended to read as
3 follows:
4

5 **46.1 Appointment of state judicial nominating commissioners**
6 **by the governor.**

7 1. The governor shall appoint, ~~subject to confirmation by~~
8 ~~the senate, one eligible elector of each congressional district~~
9 eight eligible electors to the state judicial nominating
10 commission for a six-year term beginning and ending as provided
11 in ~~section 69.19.~~

12 2. The appointments made by the governor shall be staggered
13 terms of six years each and shall be made in the month of
14 January for terms commencing February 1 of odd-numbered years.
15 The terms of no more than three nor less than two of the ~~members~~
16 commissioners shall expire within the same two-year period.

17 3. No more than a ~~simple majority~~ half of the members
18 commissioners appointed by the governor shall be of the same
19 gender.

20 4. At least half of the commissioners appointed by the
21 governor shall be admitted to practice law in Iowa.

22 5. All commissioners shall be chosen without reference to
23 political affiliation.

24 6. There shall be at least one commissioner appointed by
25 the governor from each congressional district and there shall
26 not be more than two commissioners appointed by the governor
27 from a single congressional district unless each congressional
28 district has at least two commissioners appointed by the
29 governor.

30 7. A commissioner who has served a full six-year term on the
31 state judicial nominating commission, whether the commissioner
32 was appointed or elected, shall be ineligible to be appointed
33 to a second six-year term.

34 8. No person may be appointed who holds an office of
35 profit of the United States or of the state at the time of

1 appointment.

2 Sec. 2. NEW SECTION. **46.1A Appointment of state judicial**
3 **nominating commissioner by supreme court.**

4 1. The supreme court, by majority vote, shall appoint one
5 eligible elector to the state judicial nominating commission.

6 2. The appointment made by the supreme court shall be for a
7 term of six years and shall be made in the month of January for
8 a term commencing February 1.

9 3. The commissioner shall be chosen without reference to
10 political affiliation.

11 4. The supreme court shall give due consideration to area
12 representation on the commission when making an appointment.

13 5. A person appointed to replace a commissioner in the
14 middle of a term must be of the same gender as the commissioner
15 being replaced. A person appointed to replace a commissioner
16 upon the end of a term shall be of a different gender than the
17 commissioner being replaced.

18 6. A commissioner who has served a full six-year term on the
19 state judicial nominating commission, whether the commissioner
20 was appointed or elected, shall be ineligible to be appointed
21 to a second six-year term.

22 7. No person may be appointed who holds an office of
23 profit of the United States or of the state at the time of
24 appointment.

25 Sec. 3. Section 46.2, Code 2019, is amended by striking the
26 section and inserting in lieu thereof the following:

27 **46.2 Appointment of state judicial nominating commissioners**
28 **by legislative leaders.**

29 1. The speaker of the house, house minority leader, senate
30 majority leader, and senate minority leader shall each appoint
31 two eligible electors of different genders to the state
32 judicial nominating commission.

33 2. The appointments made by the legislative leaders
34 shall be staggered terms of six years each and shall be made
35 in the month of January for terms commencing February 1 of

1 odd-numbered years. The terms of no more than four nor less
2 than two of the members shall expire within the same two-year
3 period.

4 3. At least one of the commissioners appointed by each
5 legislative leader shall be admitted to practice law in Iowa.

6 4. All commissioners shall be chosen without reference to
7 political affiliation.

8 5. A legislative leader shall give due consideration to area
9 representation on the commission when making an appointment and
10 shall not make an appointment that results in two commissioners
11 serving from the same congressional district who were appointed
12 by a leader of the same party in the same chamber.

13 6. An appointment made to replace a commissioner, whether in
14 the middle of a term or upon the expiration of the term, shall
15 be made by the person holding the same legislative leadership
16 position that made the original appointment.

17 7. A person appointed to replace a commissioner, whether in
18 the middle of a term or upon the expiration of the term, must be
19 of the same gender as the commissioner being replaced.

20 8. A commissioner who has served a full six-year term on the
21 state judicial nominating commission, whether the commissioner
22 was appointed or elected, shall be ineligible to be appointed
23 to a second six-year term.

24 9. No person may be appointed who holds an office of
25 profit of the United States or of the state at the time of
26 appointment.

27 Sec. 4. Section 46.2A, Code 2019, is amended to read as
28 follows:

29 **46.2A Special appointment ~~or election~~ of state judicial**
30 **nominating ~~commission members~~ commissioners.**

31 1. As used in [this section](#), "*congressional district*"
32 means those districts established following the 2010 federal
33 decennial census and described in [chapter 40](#).

34 2. Notwithstanding [sections 46.1](#) and [46.2](#), the terms of
35 the appointed and elected ~~members~~ commissioners of the state

1 judicial nominating commission serving on ~~December 31, 2012,~~
2 the effective date of this Act shall expire at 11:59 p.m. on
3 that date. Notwithstanding section 69.1A, commissioners of
4 the state judicial nominating commission serving on that date
5 shall not hold over until the appointment of the successor
6 commissioners under this section.

7 3. The terms of newly appointed ~~and elected members~~
8 commissioners of the state judicial nominating commission
9 shall commence ~~on January 1, 2013, based upon the number of~~
10 ~~congressional districts as enacted pursuant to [chapter 42](#) at~~
11 12:00 a.m. on the day after the effective date of this Act.

12 4. The initial term of the ~~appointed members~~ commissioners
13 appointed by the governor shall be as follows:

14 a. In the congressional district described as the first
15 district, there shall be one ~~member~~ male commissioner with
16 a term ~~of two years~~ expiring on January 31, 2021, and one
17 ~~member~~ female commissioner with a term ~~of six years~~ expiring on
18 January 31, 2025.

19 b. In the congressional district described as the second
20 district, there shall be one ~~member~~ female commissioner with a
21 term ~~of two years~~ expiring on January 31, 2021, and one ~~member~~
22 male commissioner with a term ~~of four years~~ expiring on January
23 31, 2023.

24 c. In the congressional district described as the third
25 district, there shall be one ~~member~~ female commissioner with a
26 term ~~of four years~~ expiring on January 31, 2023, and one ~~member~~
27 male commissioner with a term ~~of six years~~ expiring on January
28 31, 2025.

29 d. In the congressional district described as the fourth
30 district, there shall be one ~~member~~ male commissioner with a
31 term ~~of two years~~ expiring on January 31, 2021, and one ~~member~~
32 female commissioner with a term ~~of four years~~ expiring on
33 January 31, 2025.

34 5. The supreme court shall appoint one commissioner of any
35 gender with an initial term expiring on January 31, 2021.

1 ~~5.~~ 6. The initial term of the ~~elected members~~ commissioners
2 appointed by the speaker of the house, the house minority
3 leader, the senate majority leader, and the senate minority
4 leader shall be as follows:

5 ~~a. In the congressional district described as the first~~
6 ~~district, there shall be~~ The speaker of the house shall appoint
7 one member male commissioner with a term of two years expiring
8 on January 31, 2023, and one member female commissioner with a
9 term of four years expiring on January 31, 2025.

10 ~~b. In the congressional district described as the second~~
11 ~~district, there shall be~~ The house minority leader shall
12 appoint one member male commissioner with a term of four
13 years expiring on January 31, 2023, and one member female
14 commissioner with a term of six years expiring on January 31,
15 2025.

16 ~~c. In the congressional district described as the third~~
17 ~~district, there shall be~~ The senate majority leader shall
18 appoint one member male commissioner with a term of two
19 years expiring on January 31, 2021, and one member female
20 commissioner with a term of six years expiring on January 31,
21 2023.

22 ~~d. In the congressional district described as the fourth~~
23 ~~district, there shall be~~ The senate minority leader shall
24 appoint one member male commissioner with a term of four
25 years expiring on January 31, 2021, and one member female
26 commissioner with a term of six years expiring on January 31,
27 2023.

28 ~~6. The appointed and elected members from each~~
29 ~~congressional district shall be gender balanced as provided in~~
30 ~~section 69.16A.~~

31 7. After the initial term is served pursuant to this
32 section, the appointed members new commissioners shall be
33 appointed to six-year terms by the governor as provided in
34 section 46.1, and the elected members shall be elected to
35 six-year terms, by the supreme court as provided in section

1 46.1A, and by the legislative leaders as provided in section
2 46.2.

3 8. If the state judicial nominating commission has received
4 notice of a vacancy and has not yet submitted nominees to the
5 governor prior to the effective date of this Act, any scheduled
6 meeting of the commission shall be postponed until the newly
7 appointed commission holds its first organizational meeting
8 properly noticed under section 46.13. The newly appointed
9 commission may choose to extend its nomination process or
10 conduct a new nomination process. In any such pending vacancy,
11 notwithstanding section 46.14, subsection 1, the commission
12 must certify to the governor and the chief justice the proper
13 number of nominees within sixty days of the effective date of
14 this Act.

15 Sec. 5. Section 46.3, Code 2019, is amended to read as
16 follows:

17 **46.3 Appointment of district judicial nominating**
18 **commissioners by the governor.**

19 1. The governor shall appoint five eligible electors of each
20 judicial election district to the district judicial nominating
21 commission.

22 2. The appointments made by the governor shall be to
23 staggered terms of six years each and shall be made in
24 the month of January for terms commencing February 1 of
25 ~~even-numbered~~ odd-numbered years.

26 3. No more than a simple majority of the commissioners
27 appointed by the governor shall be of the same gender.

28 4. All commissioners shall be chosen without reference to
29 political affiliation.

30 ~~4. 5. Beginning with terms commencing February 1, 2012,~~
31 ~~there~~ There shall not be more than one appointed commissioner
32 from a county within a judicial election district unless
33 each county within the judicial election district has an
34 appointed or elected commissioner or the number of appointed
35 commissioners exceeds the number of counties within the

1 judicial election district. **This subsection** shall not be used
2 to remove an appointed commissioner from office prior to the
3 expiration of the commissioner's term.

4 6. No person may be appointed who holds an office of
5 profit of the United States or of the state at the time of
6 appointment.

7 **Sec. 6. NEW SECTION. 46.3A Appointment of district judicial**
8 **nominating commissioner by supreme court.**

9 1. The supreme court, by majority vote, shall appoint one
10 eligible elector of each judicial election district to the
11 district judicial nominating commission.

12 2. The appointments made by the supreme court shall be for
13 terms of six years and shall be made in the month of January for
14 terms commencing February 1 of odd-numbered years.

15 3. The commissioners shall be chosen without reference to
16 political affiliation.

17 4. The supreme court shall give due consideration to area
18 representation on the commission when making an appointment.

19 5. A person appointed to replace a commissioner in the
20 middle of a term must be of the same gender as the commissioner
21 being replaced. A person appointed to replace a commissioner
22 upon the end of a term shall be of a different gender than the
23 commissioner being replaced.

24 6. A commissioner who has served a full six-year term
25 on the district judicial nominating commission, whether the
26 commissioner was appointed or elected, shall be ineligible to
27 be appointed to a second six-year term.

28 7. No person may be appointed who holds an office of
29 profit of the United States or of the state at the time of
30 appointment.

31 **Sec. 7. Section 46.4, Code 2019, is amended by adding the**
32 **following new subsections:**

33 NEW SUBSECTION. 3. A commissioner who has served a full
34 six-year term on the district judicial nominating commission,
35 whether the commissioner was appointed or elected, shall be

1 ineligible to be elected to a second six-year term.

2 NEW SUBSECTION. 4. No person may be elected who holds an
3 office of profit of the United States or of the state at the
4 time of appointment.

5 Sec. 8. NEW SECTION. **46.4A Special appointment of district**
6 **judicial nominating commissioners.**

7 1. The initial term of the commissioners appointed by the
8 supreme court shall be as follows:

9 a. In judicial election districts 1A, 2A, 3A, 5A, 5C, 8A,
10 and the seventh judicial district, the supreme court shall
11 appoint one male commissioner with a term expiring on January
12 31, 2021.

13 b. In judicial election district 1B, 2B, 3B, 5B, 8B, and the
14 fourth and sixth judicial districts, the supreme court shall
15 appoint one female commissioner with a term expiring on January
16 31, 2025.

17 2. After the initial term is served pursuant to subsection
18 1, new commissioners shall be appointed to six-year terms by
19 the supreme court as provided in section 46.3A.

20 3. If a district judicial nominating commission has
21 received notice of a vacancy and has not yet submitted nominees
22 to the governor prior to the effective date of this Act, any
23 scheduled meeting of the commission shall be postponed until
24 any new commissioner is appointed pursuant to this section and
25 the commission holds a new organizational meeting properly
26 noticed under section 46.13. The commission may choose to
27 continue with its currently scheduled nomination process,
28 extend its nomination process, or conduct a new nomination
29 process. In any such pending vacancy, notwithstanding section
30 46.14, subsection 1, the commission must certify to the
31 governor and the chief justice the proper number of nominees
32 within sixty days of the effective date of this Act.

33 Sec. 9. Section 46.5, Code 2019, is amended to read as
34 follows:

35 **46.5 Vacancies.**

1 1. When a vacancy occurs in the office of an appointive
 2 judicial nominating commissioner, the chairperson of
 3 the particular commission or the governor shall promptly
 4 notify the ~~governor~~ appointing authority in writing of such
 5 fact. Vacancies in the office of an appointive judicial
 6 nominating commissioner shall be filled by appointment by
 7 the ~~governor~~ same appointing authority that appointed the
 8 previous commissioner where the vacancy occurred, consistent
 9 with eligibility requirements. ~~The term of state judicial~~
 10 ~~nominating commissioners so appointed shall commence upon~~
 11 ~~their appointment pending confirmation by the senate at the~~
 12 ~~then session of the general assembly or at its next session~~
 13 ~~if it is not then in session. The term of district judicial~~
 14 nominating commissioners so appointed shall commence upon their
 15 appointment.

16 2. ~~Except where the term has less than ninety days~~
 17 ~~remaining, vacancies in the office of elective member of the~~
 18 ~~state judicial nominating commission shall be filled consistent~~
 19 ~~with eligibility requirements by a special election within the~~
 20 ~~congressional district where the vacancy occurs, such election~~
 21 ~~to be conducted as provided in sections 46.9 and 46.10. An~~
 22 appointive commissioner shall be deemed to have submitted a
 23 resignation if the commissioner fails to attend a meeting of
 24 the commission that is properly noticed under section 46.13
 25 and at which the commission conducts interviews or selects
 26 nominees for judicial office. The appointing authority of
 27 the commissioner in the appointing authority's discretion may
 28 accept or reject the resignation. If the appointing authority
 29 accepts the resignation, the appointing authority shall notify
 30 the commissioner and the chairperson of the commission in
 31 writing and shall then make another appointment.

32 3. Vacancies in the office of elective district judicial
 33 nominating commissioner of ~~district judicial nominating~~
 34 ~~commissions~~ shall be filled consistent with eligibility
 35 requirements and ~~by majority vote of the authorized number of~~

1 ~~elective members of the particular commission, at a meeting of~~
2 ~~such members called in the manner provided in section 46.13.~~
3 ~~The term of judicial nominating commissioners so chosen shall~~
4 ~~commence upon their selection by a special election within the~~
5 ~~judicial election district where the vacancy occurs unless the~~
6 ~~term has less than ninety days remaining, in which case the~~
7 ~~office shall remain vacant. The special election shall be~~
8 ~~completed within ninety days of the vacancy arising and shall~~
9 ~~be conducted as provided in sections 46.9, 46.9A, and 46.10.~~

10 4. If a vacancy occurs in the office of chairperson of
11 a judicial nominating commission, ~~or in the members of the~~
12 ~~particular commission shall elect a new chairperson as provided~~
13 ~~in section 46.6. In the absence of the chairperson, the~~
14 ~~members of the particular commission shall elect a temporary~~
15 ~~chairperson from their own number.~~

16 5. ~~When a vacancy in an office of an elective judicial~~
17 ~~nominating commissioner occurs, the state court administrator~~
18 ~~shall cause to be mailed to each member of the bar whose name~~
19 ~~appears on the certified list prepared pursuant to section 46.8~~
20 ~~for the district or districts affected, a notice stating the~~
21 ~~existence of the vacancy, the requirements for eligibility,~~
22 ~~and the manner in which the vacancy will be filled. Other~~
23 ~~items may be included in the same mailing if they are on sheets~~
24 ~~separate from the notice. The election of a district judicial~~
25 ~~nominating commissioner or the close of nominations for a state~~
26 ~~judicial nominating commissioner shall not occur until thirty~~
27 ~~days after the mailing of the notice. Notwithstanding section~~
28 ~~69.1A, appointed and elected commissioners on the state and~~
29 ~~district judicial nominating commissions shall not hold over~~
30 ~~until their successor is elected and qualified.~~

31 Sec. 10. Section 46.6, Code 2019, is amended to read as
32 follows:

33 **46.6 Equal seniority Chairperson.**

34 ~~If the judges of longest service, other than the chief~~
35 ~~justice, of the supreme court or of the district court in~~

1 ~~a district are of equal service, the eldest of such judges~~
2 ~~shall be chairperson of the particular judicial nominating~~
3 ~~commission. The commissioners of a particular judicial~~
4 nominating commission shall elect a chairperson from their
5 own number. The chairperson shall serve a two-year term that
6 expires on January 31 of odd-numbered years. A commissioner
7 may be reelected for a second or third term as chairperson.
8 If a chairperson of a judicial nominating commission desires
9 to be relieved of the duties of chairperson while retaining
10 the status of commissioner, the chairperson shall notify the
11 governor and the other commissioners of the commission. At the
12 next meeting of the commission, the commissioners shall elect a
13 new chairperson for the remainder of the two-year term.

14 Sec. 11. Section 46.7, Code 2019, is amended to read as
15 follows:

16 **46.7 Eligibility to vote.**

17 To be eligible to vote in elections of district judicial
18 nominating commissioners, a member of the bar must be eligible
19 to practice and must be a resident of the state of Iowa and of
20 the appropriate ~~congressional district or judicial election~~
21 ~~district as shown by the member's most recent filing with the~~
22 ~~supreme court for the purposes of showing compliance with~~
23 ~~the court's continuing legal education requirements, or for~~
24 ~~members of the bar eligible to practice who are not required~~
25 ~~to file such compliance, any paper on file by July 1 with the~~
26 ~~state court administrator, for the purpose of establishing~~
27 ~~eligibility to vote under [this section](#), which the court~~
28 ~~determines to show the requisite residency requirements at the~~
29 time the member votes in the election. The member's residency
30 shall be determined by the home address shown on the member's
31 most recent electronic or paper submission to the commission
32 on continuing education and the client security commission or
33 on the member's bar admission records. A judge who has been
34 admitted to the bar of the state of Iowa shall be considered a
35 member of the bar.

1 Sec. 12. Section 46.8, Code 2019, is amended to read as
2 follows:

3 **46.8 Certified list.**

4 ~~Each year the~~ The state court administrator shall ~~certify a~~
5 maintain a certified list of the names, addresses, and years
6 of admission of members of the bar who are eligible to vote for
7 ~~state and~~ district judicial nominating commissioners.

8 Sec. 13. Section 46.9, Code 2019, is amended to read as
9 follows:

10 **46.9 Conduct of elections.**

11 When an election of judicial nominating commissioners is
12 to be held, the state court administrator shall administer
13 the voting. The state court administrator may administer
14 the voting by electronic notification and voting or by paper
15 ballot mailed to each eligible attorney. The state court
16 administrator shall mail paper ballots to eligible attorneys or
17 electronically notify and enable eligible attorneys to vote.
18 The elector receiving the most votes shall be elected. When
19 more than one commissioner is to be elected, the electors
20 receiving the most votes shall be elected, in the same number
21 as the offices to be filled. The election results, including
22 the number of votes cast for each elector and the total number
23 of members of the bar eligible to vote in each election, shall
24 be made publicly available on the judicial branch internet
25 site and shall be reported to the governor and to the general
26 assembly within ten days after the conclusion of the election.

27 Sec. 14. Section 46.9A, Code 2019, is amended to read as
28 follows:

29 **46.9A Notice preceding nomination of elective district**
30 **judicial nominating commissioners.**

31 At least sixty days prior to the expiration of the term of an
32 elective ~~state or~~ district judicial nominating commissioner or
33 the expiration of the period within which a special election
34 must be held, the state court administrator shall ~~mail paper~~
35 ~~ballots to eligible attorneys or electronically notify and~~

1 ~~enable eligible attorneys to vote. An eligible attorney is~~
2 ~~a member of the bar whose name appears on the certified list~~
3 ~~prepared pursuant to section 46.8 for the district or districts~~
4 ~~affected provide notice of the current or upcoming vacancy~~
5 ~~and the nomination and election process by making the notice~~
6 ~~publicly available on the judicial branch internet site,~~
7 ~~issuing a press release, and electronically notifying members~~
8 ~~of the bar. The election shall not commence until at least~~
9 ~~thirty days after the issuance of the notice required by this~~
10 ~~section.~~

11 Sec. 15. Section 46.10, Code 2019, is amended to read as
12 follows:

13 **46.10 Nomination of elective district judicial nominating**
14 **commissioners.**

15 1. In order to have an eligible elector's name printed
16 on the ballot for ~~state or~~ district judicial nominating
17 commissioner, the eligible elector must file in the office of
18 the state court administrator at least thirty days prior to
19 expiration of the period within which the election must be
20 held a nominating petition signed by ~~at least fifty resident~~
21 ~~members of the bar of the congressional district in case of a~~
22 ~~candidate for state judicial nominating commissioner, or at~~
23 ~~least ten resident members of the bar~~ eligible electors of the
24 judicial district in case of a candidate for district judicial
25 nominating commissioner. ~~No member of the bar may sign more~~
26 ~~nominating petitions for state or district judicial nominating~~
27 ~~commissioner than there are such commissioners to be elected.~~

28 2. Ballots or electronic voting forms for state and district
29 judicial nominating commissioners shall contain blank lines
30 equal to the number of such commissioners to be elected, where
31 names may be written in. Any electronic voting form must
32 permit a voter to write in the name of any eligible elector.

33 Sec. 16. Section 46.11, Code 2019, is amended to read as
34 follows:

35 **46.11 Certification of commissioners.**

1 ~~The~~ Upon making an appointment, the governor and the
2 ~~state court administrator respectively,~~ the supreme court,
3 or legislative leader shall promptly certify the names and
4 addresses of appointive and elective judicial nominating
5 commissioners to the state commissioner of elections and
6 the chairperson of the respective nominating commissions
7 governor. Upon the completion of an election, the state
8 court administrator shall certify the names and addresses of
9 the elected judicial nominating commissioners to the state
10 commissioner of elections and the governor.

11 Sec. 17. Section 46.12, subsection 1, Code 2019, is amended
12 to read as follows:

13 1. When a vacancy occurs or will occur within one hundred
14 twenty days in the supreme court, the court of appeals, or
15 district court, the state commissioner of elections shall
16 forthwith so notify the ~~chairperson of the proper judicial~~
17 ~~nominating commission~~ governor. The ~~chairperson~~ governor shall
18 call a meeting of the proper judicial nominating commission
19 within ten days after such notice; if the ~~chairperson~~ governor
20 fails to do so, the chief justice shall call such meeting.

21 Sec. 18. Section 46.13, Code 2019, is amended to read as
22 follows:

23 **46.13 Notice of meetings and application process.**

24 1. The governor or chairperson of each judicial nominating
25 commission shall give the members of the commission at least
26 five days' written notice by mail or electronic mail of the
27 time and place of every meeting, except as to members who
28 execute written waivers of notice at or before the meeting or
29 unless the commission at its next previous meeting designated
30 the time and place of the meeting.

31 2. Each commission, with the technical support of the
32 judicial branch, shall publish all of the following on the
33 judicial branch website:

34 a. Notice that the commission is accepting applications
35 for judge or justice along with a copy of the application form

1 at least two weeks before applications are required to be
2 submitted to the commission.

3 b. Copies of nonconfidential application materials submitted
4 by applicants.

5 c. The schedule of applicant interviews before the
6 commission.

7 d. The list of nominees submitted by the commission to the
8 governor and the chief justice.

9 3. Commissioners shall be permitted to conduct individual
10 interviews with applicants in advance of the commission's
11 meetings to choose the nominees.

12 4. The state judicial nominating commission shall adopt
13 uniform rules for the state and district judicial nominating
14 commissions that shall be consistent with this chapter
15 and shall provide for a uniform and fair process for the
16 commissions to consider applicants and select nominees. The
17 state judicial nominating commission shall provide for a public
18 comment period of at least thirty days on its proposed uniform
19 rules prior to adopting the rules and shall adopt the rules
20 within six months of the effective date of this Act. Such
21 rules shall be made publicly available on the judicial branch
22 internet site.

23 Sec. 19. Section 46.14, subsection 1, Code 2019, is amended
24 to read as follows:

25 1. Each judicial nominating commission shall carefully
26 consider the individuals available for judge, and within sixty
27 days after receiving notice of a vacancy shall certify to the
28 governor and the chief justice the proper number of nominees,
29 in alphabetical order. Such nominees shall be chosen by the
30 affirmative vote of a majority of the full statutory number
31 of commissioners upon the basis of their qualifications and
32 without regard to political affiliation. Nominees shall be
33 members of the bar of Iowa, shall be residents of the state ~~or~~
34 ~~district of the court to which they are nominated,~~ and shall
35 be of such age that they will be able to serve an initial and

1 one regular term of office to which they are nominated before
2 reaching the age of seventy-two years. ~~Nominees for district~~
3 ~~judge shall file a certified application form, to be provided~~
4 ~~by the supreme court, with the chairperson of the district~~
5 ~~judicial nominating commission.~~ Nominees to the district court
6 must reside in the judicial election district to which they
7 are nominated or in another judicial election district in the
8 same judicial district as the judicial election district to
9 which they are nominated. Absence of a commissioner or vacancy
10 upon the commission shall not invalidate a nomination. The
11 chairperson of the commission shall promptly certify the names
12 of the nominees, in alphabetical order, to the governor and the
13 chief justice by sending by electronic mail the certification
14 to the governor and chief justice or their designees on the day
15 of nomination.

16 Sec. 20. Section 46.14A, Code 2019, is amended to read as
17 follows:

18 **46.14A Court of appeals — nominees.**

19 Vacancies in the court of appeals shall be filled by
20 appointment by the governor from a list of nominees submitted
21 by the state judicial nominating commission. ~~Three~~ Five
22 nominees shall be submitted for each vacancy. Nominees to the
23 court of appeals shall have the qualifications prescribed for
24 nominees to the supreme court.

25 Sec. 21. Section 602.6201, subsection 2, Code 2019, is
26 amended to read as follows:

27 2. A district judge must be a resident of the judicial
28 election district in which appointed ~~and retained~~ before
29 assuming office and during the entire term of office. Subject
30 to the provision for reassignment of judges under section
31 602.6108, a district judge shall serve in the district of the
32 judge's residence while in office, regardless of the number of
33 judgeships to which the district is entitled under the formula
34 prescribed by the supreme court in **subsection 3.**

35 Sec. 22. NEW SECTION. **46.15A Severability and judicial**

1 review.

2 1. If any provision or clause of this chapter or any
3 application of this chapter to any person or circumstances
4 is held invalid, such invalidity shall not affect other
5 provisions, clauses, or applications of this chapter which can
6 be given effect without the invalid provision or application,
7 and to this end the provisions and clauses of this chapter are
8 declared to be severable.

9 2. Notwithstanding any provision of law to the contrary, if
10 section 46.2A, subsection 2, as amended by this Act, is held
11 invalid, the appointed and elected commissioners currently
12 serving six-year terms on the state judicial nominating
13 commission on the effective date of this Act shall continue to
14 serve until the expiration of their six-year terms, in addition
15 to the new members appointed pursuant to section 46.2A, as
16 amended by this Act. Upon the expiration of the currently
17 serving commissioners or upon their office becoming vacant
18 prior to the expiration of their terms, the offices shall not
19 be filled.

20 3. Notwithstanding any provision of law to the contrary,
21 if any provision of this chapter is preliminarily enjoined,
22 no judicial nominating commission shall meet to nominate
23 persons to serve as a judge or justice while the preliminary
24 injunction is in effect or while any appeal of the preliminary
25 injunction or a related permanent injunction is pending unless
26 the injunction is subsequently stayed or otherwise lifted.

27 Sec. 23. REPEAL. Section 602.11111, Code 2019, is repealed.

28 Sec. 24. EFFECTIVE UPON ENACTMENT. This division of this
29 Act, being deemed of immediate importance, takes effect upon
30 enactment.

31 DIVISION II

32 ASSOCIATE JUDGE SELECTION

33 Sec. 25. Section 602.2301, subsection 2, Code 2019, is
34 amended to read as follows:

35 2. Notwithstanding [sections 602.6304](#), [602.7103B](#), and

1 633.20B, the chief justice may order ~~any county magistrate~~
2 ~~appointing commission~~ the state commissioner of elections
3 to delay, for budgetary reasons, ~~publicizing the notice the~~
4 sending of a notification to the governor that a vacancy in
5 the office of a vacancy for a district associate judgeship
6 judge, associate juvenile judgeship judge, or associate probate
7 judgeship judge has occurred or will occur.

8 Sec. 26. Section 602.6302, subsection 2, Code 2019, is
9 amended to read as follows:

10 2. An order of substitution shall not take effect unless
11 a copy of the order is received by the chairperson of the
12 county magistrate appointing commission or commissions and
13 the governor no later than May 31 of the year in which the
14 substitution is to take effect. A copy of the order shall also
15 be sent to the state court administrator.

16 Sec. 27. Section 602.6303, subsection 2, Code 2019, is
17 amended to read as follows:

18 2. An order of substitution shall not take effect unless
19 a copy of the order is received by the chairperson of the
20 county magistrate appointing commission or commissions and
21 the governor no later than May 31 of the year in which the
22 substitution is to take effect. The order shall designate the
23 county of appointment for each magistrate. A copy of the order
24 shall also be sent to the state court administrator.

25 Sec. 28. Section 602.6304, Code 2019, is amended to read as
26 follows:

27 **602.6304 Appointment and resignation of district associate**
28 **judges.**

29 1. The district associate judges authorized by sections
30 602.6301 and **602.6302** shall be appointed by the ~~district~~
31 ~~judges of the judicial election district~~ governor from persons
32 nominated by the ~~county magistrate appointing~~ district judicial
33 nominating commission in the same manner as district judges
34 under chapter 46. In the case of a district associate judge
35 ~~to be appointed to more than one county, the appointment~~

1 ~~shall be from persons nominated by the county magistrate~~
2 ~~appointing commissions acting jointly and in the case of a~~
3 ~~district associate judge to be appointed to more than one~~
4 ~~judicial election district of the same judicial district, the~~
5 ~~appointment shall be by a majority of the district judges in~~
6 ~~each judicial election district.~~

7 2. ~~In November of any year in which an impending vacancy is~~
8 ~~created because a district associate judge is not retained in~~
9 ~~office pursuant to a judicial election, the county magistrate~~
10 ~~appointing commission shall publicize notice of the vacancy in~~
11 ~~at least two publications in the official county newspaper.~~
12 ~~The commission shall accept applications for consideration~~
13 ~~for nomination as district associate judge for a minimum of~~
14 ~~fifteen days prior to certifying nominations. The commission~~
15 ~~shall consider the applications and shall, by majority vote,~~
16 ~~certify to the chief judge of the judicial district not later~~
17 ~~than December 15 of that year the names of three applicants~~
18 ~~who are nominated by the commission for the vacancy. If there~~
19 ~~are three or fewer applicants the commission shall certify all~~
20 ~~applicants who meet the statutory qualifications. Nominees~~
21 ~~shall be chosen solely on the basis of the qualifications~~
22 ~~of the applicants, and political affiliation shall not be~~
23 ~~considered.~~

24 3. ~~Within thirty days after a county magistrate appointing~~
25 ~~commission receives notification of an actual or impending~~
26 ~~vacancy in the office of district associate judge, other than~~
27 ~~a vacancy referred to in [subsection 2](#), the commission shall~~
28 ~~certify to the chief judge of the judicial district the names~~
29 ~~of three applicants who are nominated by the commission for~~
30 ~~the vacancy. The commission shall publicize notice of the~~
31 ~~vacancy in at least two publications in the official county~~
32 ~~newspaper. The commission shall accept applications for~~
33 ~~consideration for nomination as district associate judge for~~
34 ~~a minimum of fifteen days prior to certifying nominations.~~
35 ~~The commission shall consider the applications and shall, by~~

1 majority vote, certify to the chief judge of the judicial
2 district the names of three applicants who are nominated by
3 the commission for the vacancy. If there are three or fewer
4 applicants the commission shall certify all applicants who
5 meet the statutory qualifications. Nominees shall be chosen
6 solely on the basis of the qualifications of the applicants,
7 and political affiliation shall not be considered. As used in
8 ~~this subsection~~, a vacancy is created by the death, retirement,
9 resignation, or removal of a district associate judge, or by an
10 increase in the number of positions authorized.

11 4. Within fifteen days after the chief judge of a judicial
12 district has received the list of nominees to fill a vacancy in
13 the office of district associate judge, the district judges in
14 the judicial election district shall, by majority vote, appoint
15 one of those nominees to fill the vacancy.

16 5. 2. A district associate judge who seeks to resign
17 from the office of district associate judge shall notify in
18 writing the governor, the chief judge of the judicial district,
19 and the state commissioner of elections as to the district
20 associate judge's intention to resign and the effective date
21 of the resignation. ~~The chief judge of the judicial district,~~
22 ~~upon receipt of the notice, shall notify the county magistrate~~
23 ~~appointing commission and the state court administrator of the~~
24 ~~actual or impending vacancy in the office of district associate~~
25 ~~judge due to resignation.~~

26 6. ~~The supreme court may prescribe rules of procedure~~
27 ~~to be used by county magistrate appointing commissions when~~
28 ~~exercising the duties specified in ~~this section~~.~~

29 3. When a vacancy occurs or will occur within one hundred
30 twenty days in the office of district associate judge, the
31 state commissioner of elections shall forthwith so notify the
32 governor. The governor shall call a meeting of the commission
33 within ten days after such notice. If the governor fails to do
34 so, the chief justice shall call such meeting.

35 Sec. 29. Section 602.6305, subsections 2 and 3, Code 2019,

1 are amended to read as follows:

2 2. A person does not qualify for appointment to the office
3 of district associate judge unless the person is at the time
4 of appointment ~~a resident of the judicial election district in~~
5 ~~which the vacancy exists,~~ licensed to practice law in Iowa,
6 and will be able, measured by the person's age at the time of
7 appointment, to complete the initial term of office prior to
8 reaching age seventy-two. ~~An applicant for district associate~~
9 ~~judge shall file a certified application form, to be provided~~
10 ~~by the supreme court, with the chairperson of the county~~
11 ~~magistrate appointing commission.~~ Nominees to the office of
12 district associate judge must reside in the judicial election
13 district to which they are nominated or in another judicial
14 election district in the same judicial district as the judicial
15 election district to which they are nominated.

16 3. A district associate judge must be a resident of the
17 judicial election district in which the office is held before
18 assuming office and during the entire term of office. A
19 district associate judge shall serve within the judicial
20 district in which appointed, as directed by the chief judge,
21 and is subject to reassignment under [section 602.6108](#).

22 Sec. 30. Section 602.6502, Code 2019, is amended to read as
23 follows:

24 **602.6502 Prohibitions to appointment.**

25 A member of a county magistrate appointing commission
26 shall not be appointed to the office of magistrate, ~~and shall~~
27 ~~not be nominated for or appointed to the office of district~~
28 ~~associate judge, office of associate juvenile judge, or office~~
29 ~~of associate probate judge.~~ A member of the commission shall
30 not be eligible to vote for the appointment or nomination of
31 a family member, current law partner, or current business
32 partner. For purposes of [this section](#), "*family member*"
33 means a spouse, son, daughter, brother, sister, uncle, aunt,
34 first cousin, nephew, niece, father-in-law, mother-in-law,
35 son-in-law, daughter-in-law, brother-in-law, sister-in-law,

1 father, mother, stepfather, stepmother, stepson, stepdaughter,
2 stepbrother, stepsister, half brother, or half sister.

3 Sec. 31. Section 602.7103B, Code 2019, is amended to read
4 as follows:

5 **602.7103B Appointment and resignation of full-time associate**
6 **juvenile judges.**

7 1. Full-time associate juvenile judges shall be appointed
8 by the ~~district judges of the judicial election district~~
9 governor from persons nominated by the ~~county magistrate~~
10 appointing district judicial nominating commission in the same
11 manner as district judges under chapter 46. ~~In the case of a~~
12 ~~full-time associate juvenile judge to be appointed to more than~~
13 ~~one county, the appointment shall be from persons nominated by~~
14 ~~the county magistrate appointing commissions acting jointly~~
15 ~~and in the case of a full-time associate juvenile judge to be~~
16 ~~appointed to more than one judicial election district of the~~
17 ~~same judicial district, the appointment shall be by a majority~~
18 ~~of the district judges in each judicial election district.~~

19 2. ~~In November of any year in which an impending vacancy~~
20 ~~is created because a full-time associate juvenile judge is~~
21 ~~not retained in office pursuant to a judicial election, the~~
22 ~~county magistrate appointing commission shall publicize notice~~
23 ~~of the vacancy in at least two publications in the official~~
24 ~~county newspaper. The commission shall accept applications for~~
25 ~~consideration for nomination as full-time associate juvenile~~
26 ~~judge for a minimum of fifteen days prior to certifying~~
27 ~~nominations. The commission shall consider the applications~~
28 ~~and shall, by majority vote, certify to the chief judge of the~~
29 ~~judicial district not later than December 15 of that year the~~
30 ~~names of three applicants who are nominated by the commission~~
31 ~~for the vacancy. If there are three or fewer applicants, the~~
32 ~~commission shall certify all applicants who meet the statutory~~
33 ~~qualifications. Nominees shall be chosen solely on the~~
34 ~~basis of the qualifications of the applicants, and political~~
35 ~~affiliation shall not be considered.~~

~~1 3. Within thirty days after a county magistrate appointing
 2 commission receives notification of an actual or impending
 3 vacancy in the office of full-time associate juvenile
 4 judge, other than a vacancy referred to in subsection 2, the
 5 commission shall certify to the chief judge of the judicial
 6 district the names of three applicants who are nominated
 7 by the commission for the vacancy. The commission shall
 8 publicize notice of the vacancy in at least two publications
 9 in the official county newspaper. The commission shall accept
 10 applications for consideration for nomination as full-time
 11 associate juvenile judge for a minimum of fifteen days prior
 12 to certifying nominations. The commission shall consider the
 13 applications and shall, by majority vote, certify to the chief
 14 judge of the judicial district the names of three applicants
 15 who are nominated by the commission for the vacancy. If there
 16 are three or fewer applicants, the commission shall certify all
 17 applicants who meet the statutory qualifications. Nominees
 18 shall be chosen solely on the basis of the qualifications
 19 of the applicants, and political affiliation shall not be
 20 considered. As used in this subsection, a vacancy is created
 21 by the death, retirement, resignation, or removal of a
 22 full-time associate juvenile judge, or by an increase in the
 23 number of positions authorized.~~

~~24 4. Within fifteen days after the chief judge of a judicial
 25 district has received the list of nominees to fill a vacancy in
 26 the office of full-time associate juvenile judge, the district
 27 judges in the judicial election district shall, by majority
 28 vote, appoint one of those nominees to fill the vacancy.~~

~~29 5. 2. A full-time associate juvenile judge who seeks to
 30 resign from the office of full-time associate juvenile judge
 31 shall notify in writing the governor, the chief judge of the
 32 judicial district, and the state commissioner of elections as
 33 to the full-time associate juvenile judge's intention to resign
 34 and the effective date of the resignation. The chief judge of
 35 the judicial district, upon receipt of the notice, shall notify~~

1 ~~the county magistrate appointing commission and the state court~~
2 ~~administrator of the actual or impending vacancy in the office~~
3 ~~of full-time associate juvenile judge due to resignation.~~

4 ~~6. The supreme court may prescribe rules of procedure~~
5 ~~to be used by county magistrate appointing commissions when~~
6 ~~exercising the duties specified in this section.~~

7 3. When a vacancy occurs or will occur within one hundred
8 twenty days in the office of full-time associate juvenile
9 judge, the state commissioner of elections shall forthwith so
10 notify the governor. The governor shall call a meeting of the
11 commission within ten days after such notice. If the governor
12 fails to do so, the chief justice shall call such meeting.

13 Sec. 32. Section 602.7103C, subsections 2 and 3, Code 2019,
14 are amended to read as follows:

15 2. A person does not qualify for appointment to the office
16 of full-time associate juvenile judge unless the person is at
17 the time of appointment ~~a resident of the county in which the~~
18 ~~vacancy exists,~~ licensed to practice law in Iowa, and will be
19 able, measured by the person's age at the time of appointment,
20 to complete the initial term of office prior to reaching age
21 seventy-two. ~~An applicant for full-time associate juvenile~~
22 ~~judge shall file a certified application form, to be provided~~
23 ~~by the supreme court, with the chairperson of the county~~
24 ~~magistrate appointing commission. Nominees to the office of~~
25 full-time associate juvenile judge must reside in the judicial
26 election district to which they are nominated or in another
27 judicial election district in the same judicial district as the
28 judicial election district to which they are nominated.

29 3. A full-time associate juvenile judge must be a resident
30 of ~~a county~~ the judicial election district in which the office
31 is held before assuming office and during the entire term of
32 office. A full-time associate juvenile judge shall serve
33 within the judicial district in which appointed, as directed by
34 the chief judge, and is subject to reassignment under section
35 602.6108.

1 Sec. 33. Section 633.20B, Code 2019, is amended to read as
2 follows:

3 **633.20B Appointment and resignation of full-time associate**
4 **probate judges.**

5 1. Full-time associate probate judges shall be appointed by
6 ~~the district judges of the judicial election district governor~~
7 from persons nominated by the county magistrate appointing
8 district judicial nominating commission in the same manner as
9 district judges under chapter 46. ~~In the case of a full-time~~
10 ~~associate probate judge to be appointed to more than one~~
11 ~~county, the appointment shall be from persons nominated by~~
12 ~~the county magistrate appointing commissions acting jointly~~
13 ~~and in the case of a full-time associate probate judge to be~~
14 ~~appointed to more than one judicial election district of the~~
15 ~~same judicial district, the appointment shall be by a majority~~
16 ~~of the district judges in each judicial election district.~~

17 2. ~~In November of any year in which an impending vacancy~~
18 ~~is created because a full-time associate probate judge is~~
19 ~~not retained in office pursuant to a judicial election, the~~
20 ~~county magistrate appointing commission shall publicize notice~~
21 ~~of the vacancy in at least two publications in the official~~
22 ~~county newspaper. The commission shall accept applications~~
23 ~~for consideration for nomination as full-time associate~~
24 ~~probate judge for a minimum of fifteen days prior to certifying~~
25 ~~nominations. The commission shall consider the applications~~
26 ~~and shall, by majority vote, certify to the chief judge of the~~
27 ~~judicial district not later than December 15 of that year the~~
28 ~~names of three applicants who are nominated by the commission~~
29 ~~for the vacancy. If there are three or fewer applicants, the~~
30 ~~commission shall certify all applicants who meet the statutory~~
31 ~~qualifications. Nominees shall be chosen solely on the~~
32 ~~basis of the qualifications of the applicants, and political~~
33 ~~affiliation shall not be considered.~~

34 3. ~~Within thirty days after a county magistrate appointing~~
35 ~~commission receives notification of an actual or impending~~

~~1 vacancy in the office of full-time associate probate judge,
 2 other than a vacancy referred to in [subsection 2](#), the
 3 commission shall certify to the chief judge of the judicial
 4 district the names of three applicants who are nominated
 5 by the commission for the vacancy. The commission shall
 6 publicize notice of the vacancy in at least two publications
 7 in the official county newspaper. The commission shall accept
 8 applications for consideration for nomination as full-time
 9 associate probate judge for a minimum of fifteen days prior
 10 to certifying nominations. The commission shall consider the
 11 applications and shall, by majority vote, certify to the chief
 12 judge of the judicial district the names of three applicants
 13 who are nominated by the commission for the vacancy. If there
 14 are three or fewer applicants, the commission shall certify all
 15 applicants who meet the statutory qualifications. Nominees
 16 shall be chosen solely on the basis of the qualifications
 17 of the applicants, and political affiliation shall not be
 18 considered. As used in [this subsection](#), a vacancy is created
 19 by the death, retirement, resignation, or removal of a
 20 full-time associate probate judge, or by an increase in the
 21 number of positions authorized.~~

~~22 4. Within fifteen days after the chief judge of a judicial
 23 district has received the list of nominees to fill a vacancy in
 24 the office of full-time associate probate judge, the district
 25 judges in the judicial election district shall, by majority
 26 vote, appoint one of those nominees to fill the vacancy.~~

~~27 5. 2. A full-time associate probate judge who seeks to
 28 resign from the office of full-time associate probate judge
 29 shall notify in writing the governor, the chief judge of the
 30 judicial district, and the state commissioner of elections as
 31 to the full-time associate probate judge's intention to resign
 32 and the effective date of the resignation. The chief judge of
 33 the judicial district, upon receipt of the notice, shall notify
 34 the county magistrate appointing commission and the state court
 35 administrator of the actual or impending vacancy in the office~~

1 ~~of full-time associate probate judge due to resignation.~~

2 ~~6. The supreme court may prescribe rules of procedure~~
3 ~~to be used by county magistrate appointing commissions when~~
4 ~~exercising the duties specified in this section.~~

5 3. When a vacancy occurs or will occur within one hundred
6 twenty days in the office of full-time associate probate
7 judge, the state commissioner of elections shall forthwith so
8 notify the governor. The governor shall call a meeting of the
9 commission within ten days after such notice. If the governor
10 fails to do so, the chief justice shall call such meeting.

11 Sec. 34. Section 633.20C, subsections 2 and 3, Code 2019,
12 are amended to read as follows:

13 2. A person does not qualify for appointment to the office
14 of full-time associate probate judge unless the person is at
15 the time of appointment ~~a resident of the county in which the~~
16 ~~vacancy exists,~~ licensed to practice law in Iowa, and will be
17 able, measured by the person's age at the time of appointment,
18 to complete the initial term of office prior to reaching age
19 seventy-two. ~~An applicant for full-time associate probate~~
20 ~~judge shall file a certified application form, to be provided~~
21 ~~by the supreme court, with the chairperson of the county~~
22 ~~magistrate appointing commission. Nominees to the office of~~
23 full-time associate probate judge must reside in the judicial
24 election district to which they are nominated or in another
25 judicial election district in the same judicial district as the
26 judicial election district to which they are nominated.

27 3. A full-time associate probate judge must be a resident
28 of ~~a county~~ the judicial election district in which the office
29 is held before assuming office and during the entire term of
30 office. A full-time associate probate judge shall serve within
31 the judicial district in which appointed, as directed by the
32 chief judge, and is subject to reassignment under section
33 602.6108.

34 Sec. 35. EFFECTIVE UPON ENACTMENT. This division of this
35 Act, being deemed of immediate importance, takes effect upon

1 enactment.

2

DIVISION III

3

CHIEF JUSTICE SELECTION

4

Sec. 36. Section 602.4103, Code 2019, is amended to read as

5

follows:

6

602.4103 Chief justice.

7

~~The justices of the supreme court shall select one justice as chief justice, to serve during that justice's term of office.~~

8

9

1. At the first meeting in each odd-numbered year, the

10

justices of the supreme court by majority vote shall designate

11

one justice as chief justice, to serve for a two-year term.

12

A vacancy in the office of chief justice shall be filled for

13

the remainder of the unexpired term by majority vote of the

14

justices of the supreme court, after any vacancy on the court

15

has been filled.

16

2. If the chief justice desires to be relieved of the duties

17

of chief justice while retaining the status of justice of the

18

supreme court, the chief justice shall notify the governor and

19

the other justices of the supreme court. The office of chief

20

justice shall be deemed vacant, and shall be filled as provided

21

in this section.

22

3. The chief justice is eligible for reselection.

23

4. The chief justice shall appoint one of the other justices

24

to act during the absence or inability of the chief justice

25

to act, and when so acting the appointee has all the rights,

26

duties, and powers of the chief justice.

27

Sec. 37. NEW SECTION. 602.4103A Transition provisions.

28

1. The term of the chief justice serving on the effective

29

date of this Act shall expire on January 15, 2021, or upon the

30

conclusion of the first meeting of the justices of the supreme

31

court in January 2021, whichever occurs earlier.

32

2. If the office of chief justice becomes vacant prior to

33

the expiration of the term in January 2021, the office shall be

34

filled for the remainder of the unexpired term as provided for

35

in section 602.4103.

S.F. 237

1 3. This section is repealed July 1, 2021.