HOUSE FILE 2481
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 636)

(As Amended and Passed by the House March 10, 2022)

[= New Language by the House

* = Language Stricken by the House

A BILL FOR

An Act relating to judicial selection, including the nominees to the court of appeals, and the appointments, resignations, and residency requirements of district judges, district associate judges, associate juvenile judges, and associate probate judges.

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

Section 1. Section 46.14, subsection 1, Code 2022, is amended to read as follows:

1. Each judicial nominating commission shall carefully consider the individuals available for judge, and within sixty days after receiving notice of a vacancy shall certify to the governor and the chief justice the proper number of nominees, in alphabetical order. Such nominees shall be chosen by the affirmative vote of a majority of the full statutory number of commissioners upon the basis of their qualifications and without regard to political affiliation. Nominees shall be members of the bar of Iowa, shall be residents of the state [or district of the court or a county contiguous with the district to which they are nominated], and shall be of such age that they will be able to serve an initial and one regular term of office to which they are nominated before reaching the age of seventy-two years. ~~Nominees for district judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the district judicial nominating commission.~~ Absence of a commissioner or vacancy upon the commission shall not invalidate a nomination. The chairperson of the commission shall promptly certify the names of the nominees, in alphabetical order, to the governor and the chief justice by sending by electronic mail the certification to the governor and chief justice or the governor's and chief justice's designees on the day of the nomination.

Sec. 2. Section 46.14A, Code 2022, is amended to read as follows:

46.14A Court of appeals — nominees.

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

Sec. 3. Section 602.2301, subsection 2, Code 2022, is

amended to read as follows:

2. Notwithstanding sections 602.6304, 602.7103B, and 633.20B, the chief justice may order ~~any county magistrate appointing commission~~ the state commissioner of elections to delay, for budgetary reasons, ~~publicizing the notice~~ the sending of a notification to the governor that a vacancy in the office of ~~a vacancy for a~~ district associate ~~judgeship~~ judge, associate juvenile ~~judgeship~~ judge, or associate probate ~~judgeship~~ judge has occurred or will occur.

Sec. 4. Section 602.6201, subsection 2, Code 2022, is amended to read as follows:

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

Sec. 5. Section 602.6302, subsection 2, Code 2022, is amended to read as follows:

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

Sec. 6. Section 602.6303, subsection 2, Code 2022, is amended to read as follows:

2. An order of substitution shall not take effect unless a copy of the order is received by the chairperson of the county magistrate appointing commission or commissions and the governor no later than May 31 of the year in which the

substitution is to take effect. The order shall designate the county of appointment for each magistrate. A copy of the order shall also be sent to the state court administrator.

Sec. 7. Section 602.6304, Code 2022, is amended by striking the section and inserting in lieu thereof the following:

602.6304 Appointment and resignation of district associate judges.

1. The district associate judges authorized by sections 602.6301 and 602.6302 shall be appointed by the governor from persons nominated by the district judicial nominating commission in the same manner as district judges under chapter 46.

2. A district associate judge who seeks to resign from the office of district associate judge shall notify in writing the governor, the chief judge of the judicial district, and the state commissioner of elections as to the district associate judge's intention to resign and the effective date of the resignation.

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

Sec. 8. Section 602.6305, subsections 2 and 3, Code 2022, are amended to read as follows:

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

~~magistrate appointing commission.~~ A nominee to the office of district associate judge must reside in the judicial election district to which the nominee is nominated or in a contiguous county to the judicial election district to which the nominee is nominated.

3. A district associate judge must be a resident of the judicial election district in which the office is held before assuming office and during the entire term of office. A district associate judge shall serve within the judicial district in which appointed, as directed by the chief judge, and is subject to reassignment under section 602.6108.

Sec. 9. Section 602.6502, Code 2022, is amended to read as follows:

602.6502 Prohibitions to appointment.

A member of a county magistrate appointing commission shall not be appointed to the office of magistrate~~, and shall not be nominated for or appointed to the office of district associate judge, office of associate juvenile judge, or office of associate probate judge~~. A member of the commission shall not be eligible to vote for the appointment or nomination of a family member, current law partner, or current business partner. For purposes of this section, "*family member*" means a spouse, son, daughter, brother, sister, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, father, mother, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

Sec. 10. Section 602.7103B, Code 2022, is amended by striking the section and inserting in lieu thereof the following:

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

1. Full-time associate juvenile judges shall be appointed by the governor from persons nominated by the district judicial nominating commission in the same manner as district judges

under chapter 46.

2. A full-time associate juvenile judge who seeks to resign from the office of full-time associate juvenile judge shall notify in writing the governor, the chief judge of the judicial district, and the state commissioner of elections as to the full-time associate judge's intention to resign and the effective date of the resignation.

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

Sec. 11. Section 602.7103C, subsections 2 and 3, Code 2022, are amended to read as follows:

2. A person does not qualify for appointment to the office of full-time associate juvenile judge unless the person is at the time of appointment ~~a resident of the county in which the vacancy exists,~~ licensed to practice law in Iowa~~,~~ and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-two. ~~An applicant for full-time associate juvenile judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission~~ A nominee to the office of full-time associate juvenile judge must reside in the judicial election district to which the nominee is nominated [or in a contiguous county to the judicial election district to which the nominee is nominated.]

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

602.6108.

Sec. 12. Section 633.20B, Code 2022, is amended by striking the section and inserting in lieu thereof the following:

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

1. Full-time associate probate judges shall be appointed by the governor from persons nominated by the district judicial nominating commission in the same manner as district judges under chapter 46.

2. A full-time associate probate judge who seeks to resign from the office of full-time associate probate judge shall notify in writing the governor, the chief judge of the judicial district, and the state commissioner of elections as to the full-time associate probate judge's intention to resign and the effective date of the resignation.

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

Sec. 13. Section 633.20C, subsections 2 and 3, Code 2022, are amended to read as follows:

2. A person does not qualify for appointment to the office of full-time associate probate judge unless the person is at the time of appointment ~~a resident of the county in which the vacancy exists,~~ licensed to practice law in Iowa~~,~~ and will be able, measured by the person's age at the time of appointment, to complete the initial term of office prior to reaching age seventy-two. ~~An applicant for full-time associate probate judge shall file a certified application form, to be provided by the supreme court, with the chairperson of the county magistrate appointing commission~~ A nominee to the office of full-time associate probate judge must reside in the judicial election district to which the nominee is nominated or in a

contiguous county to the judicial election district to which the nominee is nominated.]

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