

CHAPTER 78

JUDICIAL NOMINATING COMMISSIONERS AND JUDICIAL OFFICERS — APPOINTMENT AND QUALIFICATION

S.F. 326

AN ACT relating to the appointment of district judicial nominating commissioners, judicial officers, and senior judges.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 46.3, Code 2011, is amended to read as follows:

46.3 Appointment of district judicial nominating commissioners.

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

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

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

4. Beginning with terms commencing February 1, 2012, there shall not be more than one appointed commissioner from a county within a judicial election district unless each county within the judicial election district has an appointed or elected commissioner or the number of appointed commissioners exceeds the number of counties within the judicial election district. This subsection shall not be used to remove an appointed commissioner from office prior to the expiration of the commissioner's term.

Sec. 2. **NEW SECTION. 602.2301 Judicial officer appointment — delay.**

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

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

3. Notwithstanding section 602.6403, subsection 3, if a magistrate position is vacant due to a death, resignation, retirement, an increase in the number of positions authorized, or to the removal of a magistrate, the chief justice may order any county magistrate appointing commission to delay, for budgetary reasons, the appointment of a magistrate to serve the remainder of an unexpired term.

4. Any delay authorized by the chief justice pursuant to this section shall not exceed one year in duration, and not more than eight delays authorized by the chief justice shall be in effect at any one time.

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

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

Sec. 4. Section 602.6305, subsections 2 and 3, Code 2011, 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 ~~county~~ 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.

3. A district associate judge must be a resident of ~~a county~~ the judicial election district in which the office is held 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. 5. Section 602.6404, subsection 1, Code 2011, is amended to read as follows:

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

Sec. 6. Section 602.9203, subsection 1, Code 2011, is amended to read as follows:

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

Sec. 7. Section 602.9203, subsection 2, paragraph c, Code 2011, is amended to read as follows:

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

Sec. 8. Section 602.9203, subsection 5, paragraph b, Code 2011, is amended to read as follows:

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

Approved April 20, 2011