

FEB 14 2006
Place On Calendar

HOUSE FILE 2367
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 549)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to judicial branch and court practices concerning
2 criminal disposition options and the appointment of a judicial
3 officer, a clerk of the district court, or a chief juvenile
4 court officer.

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

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HF 2367

1 Section 1. Section 46.12, Code 2005, is amended to read as
2 follows:

3 46.12 NOTIFICATION OF VACANCY AND RESIGNATION.

4 1. When a vacancy occurs or will occur within one hundred
5 twenty days in the supreme court, or the court of appeals, or
6 district court, the state commissioner of elections shall
7 forthwith so notify the chairperson of the proper judicial
8 nominating commission, ~~unless the chief justice has ordered~~
9 ~~the state commissioner of elections to delay sending the~~
10 ~~notification. The chief justice may order the delay for up to~~
11 ~~one hundred eighty days for budgetary reasons.~~ The
12 chairperson shall call a meeting of the commission within ten
13 days after such notice; if the chairperson fails to do so, the
14 chief justice shall call such meeting.

15 2. When a vacancy occurs or will occur within one hundred
16 twenty days in district court, the state commissioner of
17 elections shall forthwith so notify the chairperson of the
18 proper judicial nominating commission, unless the chief
19 justice has ordered the state commissioner of elections to
20 delay sending the notification. The chief justice may order
21 the delay for budgetary reasons. The chairperson shall call a
22 meeting of the commission within ten days after such notice;
23 if the chairperson fails to do so, the chief justice shall
24 call such meeting.

25 3. When a judge of the supreme court, court of appeals, or
26 district court resigns, the judge shall submit a copy of the
27 resignation to the state commissioner of elections at the time
28 the judge submits the resignation to the governor; and when a
29 judge of the supreme court, court of appeals, or district
30 court dies, the clerk of district court of the county of the
31 judge's residence shall in writing forthwith notify the state
32 commissioner of elections of such fact.

33 Sec. 2. Section 602.1215, subsection 1, Code Supplement
34 2005, is amended to read as follows:

35 1. Subject to the provisions of section 602.1209,

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

16 Sec. 3. Section 602.1217, subsection 1, Code 2005, is
17 amended to read as follows:

18 1. The ~~district-judges-within-a~~ chief judge of each
19 judicial district, ~~by-majority-vote,~~ after consultation with
20 the judges of the judicial district, shall appoint a chief
21 juvenile court officer and may remove the officer for cause.

22 Sec. 4. Section 602.6304, subsections 2 and 3, Code 2005,
23 are amended to read as follows:

24 2. In November of any year in which an impending vacancy
25 is created because a district associate judge is not retained
26 in office pursuant to a judicial election, the county
27 magistrate appointing commission shall publicize notice of the
28 vacancy in at least two publications in the official county
29 newspaper. The commission shall accept applications for
30 consideration for nomination as district associate judge for a
31 minimum of fifteen days prior to certifying nominations. The
32 commission shall consider the applications and shall, by
33 majority vote, certify to the chief judge of the judicial
34 district not later than December 15 of that year the names of
35 three applicants who are nominated by the commission for the

1 vacancy, unless the chief justice has ordered the commission
2 to delay the certification of the nominees to the chief judge.
3 The chief justice may order the delay of the certification for
4 ~~up-to-one-hundred-eighty-days~~ for budgetary reasons. If there
5 are three or fewer applicants the commission shall certify all
6 applicants who meet the statutory qualifications. Nominees
7 shall be chosen solely on the basis of the qualifications of
8 the applicants, and political affiliation shall not be
9 considered.

10 3. Within thirty days after a county magistrate appointing
11 commission receives notification of an actual or impending
12 vacancy in the office of district associate judge, other than
13 a vacancy referred to in subsection 2, the commission shall
14 certify to the chief judge of the judicial district the names
15 of three applicants who are nominated by the commission for
16 the vacancy, unless the chief justice has ordered the
17 commission to delay the certification of the nominees to the
18 chief judge. The chief justice may order the delay of the
19 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
20 reasons. The commission shall publicize notice of the vacancy
21 in at least two publications in the official county newspaper.
22 The commission shall accept applications for consideration for
23 nomination as district associate judge for a minimum of
24 fifteen days prior to certifying nominations. The commission
25 shall consider the applications and shall, by majority vote,
26 certify to the chief judge of the judicial district the names
27 of three applicants who are nominated by the commission for
28 the vacancy. If there are three or fewer applicants the
29 commission shall certify all applicants who meet the statutory
30 qualifications. Nominees shall be chosen solely on the basis
31 of the qualifications of the applicants, and political
32 affiliation shall not be considered. As used in this
33 subsection, a vacancy is created by the death, retirement,
34 resignation, or removal of a district associate judge, or by
35 an increase in the number of positions authorized.

1 Sec. 5. Section 602.6403, subsection 3, Code 2005, is
2 amended to read as follows:

3 3. Within thirty days following receipt of notification of
4 a vacancy in the office of magistrate, the commission shall
5 appoint a person to the office to serve the remainder of the
6 unexpired term, unless the chief justice has ordered the
7 commission to delay the appointment ~~for-up-to-one-hundred~~
8 ~~eighty-days~~ for budgetary reasons. For purposes of this
9 section, vacancy means a death, resignation, retirement, or
10 removal of a magistrate, or an increase in the number of
11 positions authorized.

12 Sec. 6. Section 602.7103B, subsections 2 and 3, Code 2005,
13 are amended to read as follows:

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

35 3. Within thirty days after a county magistrate appointing

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

27 Sec. 7. Section 633.20B, subsections 2 and 3, Code 2005,
28 are amended to read as follows:

29 2. In November of any year in which an impending vacancy
30 is created because a full-time associate probate judge is not
31 retained in office pursuant to a judicial election, the county
32 magistrate appointing commission shall publicize notice of the
33 vacancy in at least two publications in the official county
34 newspaper. The commission shall accept applications for
35 consideration for nomination as full-time associate probate

1 judge for a minimum of fifteen days prior to certifying
2 nominations. The commission shall consider the applications
3 and shall, by majority vote, certify to the chief judge of the
4 judicial district not later than December 15 of that year the
5 names of three applicants who are nominated by the commission
6 for the vacancy, unless the chief justice has ordered the
7 commission to delay the certification of the nominees to the
8 chief judge. The chief justice may order the delay of the
9 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
10 reasons. If there are three or fewer applicants, the
11 commission shall certify all applicants who meet the statutory
12 qualifications. Nominees shall be chosen solely on the basis
13 of the qualifications of the applicants, and political
14 affiliation shall not be considered.

15 3. Within thirty days after a county magistrate appointing
16 commission receives notification of an actual or impending
17 vacancy in the office of full-time associate probate judge,
18 other than a vacancy referred to in subsection 2, the
19 commission shall certify to the chief judge of the judicial
20 district the names of three applicants who are nominated by
21 the commission for the vacancy, unless the chief justice has
22 ordered the commission to delay the certification of the
23 nominees to the chief judge. The chief justice may order the
24 delay of the certification ~~for-up-to-one-hundred-eighty-days~~
25 for budgetary reasons. The commission shall publicize notice
26 of the vacancy in at least two publications in the official
27 county newspaper. The commission shall accept applications
28 for consideration for nomination as full-time associate
29 probate judge for a minimum of fifteen days prior to
30 certifying nominations. The commission shall consider the
31 applications and shall, by majority vote, certify to the chief
32 judge of the judicial district the names of three applicants
33 who are nominated by the commission for the vacancy. If there
34 are three or fewer applicants, the commission shall certify
35 all applicants who meet the statutory qualifications.

1 Nominees shall be chosen solely on the basis of the
2 qualifications of the applicants, and political affiliation
3 shall not be considered. As used in this subsection, a
4 vacancy is created by the death, retirement, resignation, or
5 removal of a full-time associate probate judge, or by an
6 increase in the number of positions authorized.

7 Sec. 8. Section 907.13, subsection 2, Code 2005, is
8 amended to read as follows:

9 2. The defendant's plan of community service, the comments
10 of the defendant's probation officer, and the comments of the
11 representative of the judicial district department of
12 correctional services responsible for the unpaid community
13 service program, shall be submitted promptly to the court.
14 The court shall promptly enter an order approving the plan or
15 modifying it. Compliance with the plan of community service
16 as approved or modified by the court shall be a condition of
17 the defendant's probation. The court thereafter may modify
18 the plan at any time upon the defendant's request, upon the
19 request of the judicial district department of correctional
20 services, or upon the court's own motion. As an option for
21 modification of a plan, the court may allow a defendant to
22 complete some part or all of the defendant's community service
23 obligation through the donation of property to a ~~charitable~~
24 ~~organization-other-than-a-governmental-subdivision~~ statewide
25 nonprofit legal aid organization. A donation of property to a
26 ~~charitable-organization~~ statewide nonprofit legal aid
27 organization offered in satisfaction of some part or all of a
28 community service obligation under this subsection is not a
29 deductible contribution for the purposes of federal or state
30 income taxes.

31 Sec. 9. Section 910.1, subsection 2, Code 2005, is amended
32 by striking the subsection.

33 Sec. 10. Section 910.1, subsection 4, Code 2005, is
34 amended to read as follows:

35 4. "Restitution" means payment of pecuniary damages to a

1 victim in an amount and in the manner provided by the
2 offender's plan of restitution. "Restitution" also includes
3 fines, penalties, and surcharges, the contribution of funds to
4 ~~a local anticrime organization which provided assistance to~~
5 ~~law enforcement in an offender's case,~~ a statewide nonprofit
6 legal aid organization, the payment of crime victim
7 compensation program reimbursements, payment of restitution to
8 public agencies pursuant to section 321J.2, subsection 9,
9 paragraph "b", court costs including correctional fees
10 approved pursuant to section 356.7, court-appointed attorney
11 fees ordered pursuant to section 815.9, including the expense
12 of a public defender, and the performance of a public service
13 by an offender in an amount set by the court when the offender
14 cannot reasonably pay all or part of the court costs including
15 correctional fees approved pursuant to section 356.7, or
16 court-appointed attorney fees ordered pursuant to section
17 815.9, including the expense of a public defender.

18 Sec. 11. Section 910.2, Code 2005, is amended to read as
19 follows:

20 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY
21 SENTENCING COURT.

22 In all criminal cases in which there is a plea of guilty,
23 verdict of guilty, or special verdict upon which a judgment of
24 conviction is rendered, the sentencing court shall order that
25 restitution be made by each offender to the victims of the
26 offender's criminal activities, to the clerk of court for
27 fines, penalties, surcharges, and, to the extent that the
28 offender is reasonably able to pay, for crime victim
29 assistance reimbursement, restitution to public agencies
30 pursuant to section 321J.2, subsection 9, paragraph "b", court
31 costs including correctional fees approved pursuant to section
32 356.7, court-appointed attorney fees ordered pursuant to
33 section 815.9, including the expense of a public defender,
34 when applicable, or contribution to a ~~local anticrime~~
35 organization statewide nonprofit legal aid organization.

1 However, victims shall be paid in full before fines,
2 penalties, and surcharges, crime victim compensation program
3 reimbursement, public agencies, court costs including
4 correctional fees approved pursuant to section 356.7, court-
5 appointed attorney fees ordered pursuant to section 815.9,
6 including the expenses of a public defender, or contributions
7 to a ~~local-antirime-organization~~ statewide nonprofit legal
8 aid organization are paid. In structuring a plan of
9 restitution, the court shall provide for payments in the
10 following order of priority: victim, fines, penalties, and
11 surcharges, crime victim compensation program reimbursement,
12 public agencies, court costs including correctional fees
13 approved pursuant to section 356.7, court-appointed attorney
14 fees ordered pursuant to section 815.9, including the expense
15 of a public defender, and contribution to a ~~local-antirime~~
16 organization statewide nonprofit legal aid organization.

17 When the offender is not reasonably able to pay all or a
18 part of the crime victim compensation program reimbursement,
19 public agency restitution, court costs including correctional
20 fees approved pursuant to section 356.7, court-appointed
21 attorney fees ordered pursuant to section 815.9, including the
22 expense of a public defender, or contribution to a ~~local~~
23 antirime-organization statewide nonprofit legal aid
24 organization, the court may require the offender in lieu of
25 that portion of the crime victim compensation program
26 reimbursement, public agency restitution, court costs
27 including correctional fees approved pursuant to section
28 356.7, court-appointed attorney fees ordered pursuant to
29 section 815.9, including the expense of a public defender, or
30 contribution to a ~~local-antirime-organization~~ statewide
31 nonprofit legal aid organization for which the offender is not
32 reasonably able to pay, to perform a needed public service for
33 a governmental agency or for a private nonprofit agency which
34 provides a service to the youth, elderly, or poor of the
35 community. When community service is ordered, the court shall

1 set a specific number of hours of service to be performed by
2 the offender which, for payment of court-appointed attorney
3 fees ordered pursuant to section 815.9, including the expenses
4 of a public defender, shall be approximately equivalent in
5 value to those costs. The judicial district department of
6 correctional services shall provide for the assignment of the
7 offender to a public agency or private nonprofit agency to
8 perform the required service.

9 Sec. 12. Section 915.100, subsection 2, paragraph e, Code
10 2005, is amended to read as follows:

11 e. Victims shall be paid in full pursuant to an order of
12 restitution, before fines, penalties, surcharges, crime victim
13 compensation program reimbursement, public agency
14 reimbursement, court costs, correctional fees, court-appointed
15 attorney fees, expenses of a public defender, or contributions
16 to ~~local-antirime-organizations~~ a statewide nonprofit legal
17 aid organization are paid.

18 Sec. 13. 2003 Iowa Acts, chapter 151, section 64, is
19 repealed.

20 EXPLANATION

21 This bill relates to practices and procedures of the
22 judicial branch.

23 The bill provides the chief justice may indefinitely delay
24 the appointment of a judge or magistrate for budgetary
25 reasons. Current law provides only through July 1, 2006, that
26 the chief justice may delay the appointment of a judge or
27 magistrate for up to 180 days for budgetary reasons.

28 The bill changes current law regarding the chief justice
29 delaying the appointment of a supreme court justice or court
30 of appeals judge for up to 180 days for budgetary reasons.
31 Under the bill, the chief justice will no longer be able to
32 delay the appointment of a supreme court justice or court of
33 appeals judge for budgetary reasons.

34 The bill provides that the chief judge of a judicial
35 district shall, after consultation with the judges of the

1 judicial election district, appoint to or remove from office
2 the clerk of the district court. Current law provides that
3 the clerk of the district court is appointed or removed from
4 office by a majority vote of the district judges within the
5 judicial election district.

6 The bill also provides the chief judge of a judicial
7 district shall, after consultation with the judges of the
8 judicial district, appoint to or remove from office the chief
9 juvenile court officer. Current law provides that the
10 juvenile court officer shall be appointed to or removed from
11 office by a majority vote of the district judges of the
12 judicial district.

13 The bill also permits a criminal offender to make a
14 donation to a statewide nonprofit legal aid organization in
15 lieu of performing community service. The bill also permits a
16 criminal offender to make a contribution to such an
17 organization as part of the offender's restitution plan. The
18 bill eliminates provisions allowing a contribution by a
19 criminal offender to a local anticrime organization as part of
20 the offender's restitution plan.

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Proposed By
SF (H) 2367

HSB 549
JUDICIARY

Anderson - ch
Boal
Lensing

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

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the appointment of a judicial officer, a clerk
2 of the district court, or a chief juvenile court officer.

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

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4 1. When a vacancy occurs or will occur within one hundred
5 twenty days in the supreme court, or the court of appeals, or
6 ~~district court,~~ the state commissioner of elections shall
7 forthwith so notify the chairperson of the proper judicial
8 nominating commission, ~~unless the chief justice has ordered~~
9 ~~the state commissioner of elections to delay sending the~~
10 ~~notification. The chief justice may order the delay for up to~~
11 ~~one hundred eighty days for budgetary reasons.~~ The
12 chairperson shall call a meeting of the commission within ten
13 days after such notice; if the chairperson fails to do so, the
14 chief justice shall call such meeting.

15 2. When a vacancy occurs or will occur within one hundred
16 twenty days in district court, the state commissioner of
17 elections shall forthwith so notify the chairperson of the
18 proper judicial nominating commission, unless the chief
19 justice has ordered the state commissioner of elections to
20 delay sending the notification. The chief justice may order
21 the delay for budgetary reasons. The chairperson shall call a
22 meeting of the commission within ten days after such notice;
23 if the chairperson fails to do so, the chief justice shall
24 call such meeting.

25 3. When a judge of the supreme court, court of appeals, or
26 district court resigns, the judge shall submit a copy of the
27 resignation to the state commissioner of elections at the time
28 the judge submits the resignation to the governor; and when a
29 judge of the supreme court, court of appeals, or district
30 court dies, the clerk of district court of the county of the
31 judge's residence shall in writing forthwith notify the state
32 commissioner of elections of such fact.

33 Sec. 2. Section 602.1215, subsection 1, Code Supplement
34 2005, is amended to read as follows:

35 1. Subject to the provisions of section 602.1209,

1 subsection 3, the ~~district-judges~~ chief judge of each judicial
2 ~~election~~ district, after consultation with the judges of the
3 appropriate judicial election district, shall ~~by-majority-vote~~
4 appoint persons to serve as clerks of the district court
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9 judicial district. A person does not qualify for appointment
10 to the office of clerk of the district court unless the person
11 is at the time of application a resident of the state. A
12 clerk of the district court may be removed from office for
13 cause by ~~a-majority-vote-of~~ the ~~district-judges~~ chief judge of
14 the judicial ~~election~~ district. Before removal, the clerk of
15 the district court shall be notified of the cause for removal.

16 Sec. 3. Section 602.1217, subsection 1, Code 2005, is
17 amended to read as follows:

18 1. The ~~district-judges-within-a~~ chief judge of each
19 judicial district, ~~by-majority-vote,~~ after consultation with
20 the judges of the judicial district, shall appoint a chief
21 juvenile court officer and may remove the officer for cause.

22 Sec. 4. Section 602.6304, subsections 2 and 3, Code 2005,
23 are amended to read as follows:

24 2. In November of any year in which an impending vacancy
25 is created because a district associate judge is not retained
26 in office pursuant to a judicial election, the county
27 magistrate appointing commission shall publicize notice of the
28 vacancy in at least two publications in the official county
29 newspaper. The commission shall accept applications for
30 consideration for nomination as district associate judge for a
31 minimum of fifteen days prior to certifying nominations. The
32 commission shall consider the applications and shall, by
33 majority vote, certify to the chief judge of the judicial
34 district not later than December 15 of that year the names of
35 three applicants who are nominated by the commission for the

1 vacancy, unless the chief justice has ordered the commission
2 to delay the certification of the nominees to the chief judge.
3 The chief justice may order the delay of the certification for
4 ~~up-to-one-hundred-eighty-days~~ for budgetary reasons. If there
5 are three or fewer applicants the commission shall certify all
6 applicants who meet the statutory qualifications. Nominees
7 shall be chosen solely on the basis of the qualifications of
8 the applicants, and political affiliation shall not be
9 considered.

10 3. Within thirty days after a county magistrate appointing
11 commission receives notification of an actual or impending
12 vacancy in the office of district associate judge, other than
13 a vacancy referred to in subsection 2, the commission shall
14 certify to the chief judge of the judicial district the names
15 of three applicants who are nominated by the commission for
16 the vacancy, unless the chief justice has ordered the
17 commission to delay the certification of the nominees to the
18 chief judge. The chief justice may order the delay of the
19 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
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33 subsection, a vacancy is created by the death, retirement,
34 resignation, or removal of a district associate judge, or by
35 an increase in the number of positions authorized.

1 Sec. 5. Section 602.6403, subsection 3, Code 2005, is
2 amended to read as follows:

3 3. Within thirty days following receipt of notification of
4 a vacancy in the office of magistrate, the commission shall
5 appoint a person to the office to serve the remainder of the
6 unexpired term, unless the chief justice has ordered the
7 commission to delay the appointment ~~for-up-to-one-hundred~~
8 ~~eighty-days~~ for budgetary reasons. For purposes of this
9 section, vacancy means a death, resignation, retirement, or
10 removal of a magistrate, or an increase in the number of
11 positions authorized.

12 Sec. 6. Section 602.7103B, subsections 2 and 3, Code 2005,
13 are amended to read as follows:

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

35 3. Within thirty days after a county magistrate appointing

1 commission receives notification of an actual or impending
2 vacancy in the office of full-time associate juvenile judge,
3 other than a vacancy referred to in subsection 2, the
4 commission shall certify to the chief judge of the judicial
5 district the names of three applicants who are nominated by
6 the commission for the vacancy, unless the chief justice has
7 ordered the commission to delay the certification of the
8 nominees to the chief judge. The chief justice may order the
9 delay of the certification ~~for-up-to-one-hundred-eighty-days~~
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25 removal of a full-time associate juvenile judge, or by an
26 increase in the number of positions authorized.

27 Sec. 7. Section 633.20B, subsections 2 and 3, Code 2005,
28 are amended to read as follows:

29 2. In November of any year in which an impending vacancy
30 is created because a full-time associate probate judge is not
31 retained in office pursuant to a judicial election, the county
32 magistrate appointing commission shall publicize notice of the
33 vacancy in at least two publications in the official county
34 newspaper. The commission shall accept applications for
35 consideration for nomination as full-time associate probate

1 judge for a minimum of fifteen days prior to certifying
2 nominations. The commission shall consider the applications
3 and shall, by majority vote, certify to the chief judge of the
4 judicial district not later than December 15 of that year the
5 names of three applicants who are nominated by the commission
6 for the vacancy, unless the chief justice has ordered the
7 commission to delay the certification of the nominees to the
8 chief judge. The chief justice may order the delay of the
9 certification ~~for-up-to-one-hundred-eighty-days~~ for budgetary
10 reasons. If there are three or fewer applicants, the
11 commission shall certify all applicants who meet the statutory
12 qualifications. Nominees shall be chosen solely on the basis
13 of the qualifications of the applicants, and political
14 affiliation shall not be considered.

15 3. Within thirty days after a county magistrate appointing
16 commission receives notification of an actual or impending
17 vacancy in the office of full-time associate probate judge,
18 other than a vacancy referred to in subsection 2, the
19 commission shall certify to the chief judge of the judicial
20 district the names of three applicants who are nominated by
21 the commission for the vacancy, unless the chief justice has
22 ordered the commission to delay the certification of the
23 nominees to the chief judge. The chief justice may order the
24 delay of the certification ~~for-up-to-one-hundred-eighty-days~~
25 for budgetary reasons. The commission shall publicize notice
26 of the vacancy in at least two publications in the official
27 county newspaper. The commission shall accept applications
28 for consideration for nomination as full-time associate
29 probate judge for a minimum of fifteen days prior to
30 certifying nominations. The commission shall consider the
31 applications and shall, by majority vote, certify to the chief
32 judge of the judicial district the names of three applicants
33 who are nominated by the commission for the vacancy. If there
34 are three or fewer applicants, the commission shall certify
35 all applicants who meet the statutory qualifications.

1 Nominees shall be chosen solely on the basis of the
2 qualifications of the applicants, and political affiliation
3 shall not be considered. As used in this subsection, a
4 vacancy is created by the death, retirement, resignation, or
5 removal of a full-time associate probate judge, or by an
6 increase in the number of positions authorized.

7 Sec. 8. 2003 Iowa Acts, chapter 151, section 64, is
8 repealed.

9 EXPLANATION

10 This bill relates to practices and procedures of the
11 judicial branch.

12 The bill provides the chief justice may indefinitely delay
13 the appointment of a judge or magistrate for budgetary
14 reasons. Current law provides only through July 1, 2006, that
15 the chief justice may delay the appointment of a judge or
16 magistrate for up to 180 days for budgetary reasons.

17 The bill changes current law regarding the chief justice
18 delaying the appointment of a supreme court justice or court
19 of appeals judge for up to 180 days for budgetary reasons.
20 Under the bill, the chief justice will no longer be able to
21 delay the appointment of a supreme court justice or court of
22 appeals judge for budgetary reasons.

23 The bill provides that the chief judge of a judicial
24 district shall, after consultation with the judges of the
25 judicial election district, appoint to or remove from office
26 the clerk of the district court. Current law provides that
27 the clerk of the district court is appointed or removed from
28 office by a majority vote of the district judges within the
29 judicial election district.

30 The bill also provides the chief judge of a judicial
31 district shall, after consultation with the judges of the
32 judicial district, appoint to or remove from office the chief
33 juvenile court officer. Current law provides that the
34 juvenile court officer shall be appointed to or removed from
35 office by a majority vote of the district judges of the

1 judicial district.

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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: January 12, 2006

RE: TLSB 5297DP

This bill proposes statutory changes regarding the appointment process for certain judicial officers and employees of the judicial branch.

Currently, the district judges sitting en banc in each judicial district are responsible for the hiring and removal of the clerk of the district court in each county and the district's chief juvenile court officer. The current system results in multiple bosses to whom an employee is answerable, which can lead to conflicting directions and confusion concerning procedures. This also weakens employee accountability and undermines the efficacy of disciplinary procedures. Sections 2 and 3 of the proposed bill would authorize the chief judge of each judicial district, after consultation with the judges of the district, to hire and remove these employees. Giving the power to hire and remove an employee to a single supervisor, in this case the chief judge of the district would improve uniformity in practices and procedures. This would in turn enhance productivity. The change would also enhance employee accountability.

In 2003, legislation passed authorizing the chief justice to direct the state commissioner of elections to delay sending the notification of a district court judgeship vacancy to the appropriate nominating commission for up to 180 days for budgetary reasons. The same legislation also allowed for a similar delay in filling vacant district associate, associate juvenile, and associate probate judgeships, as well as vacant judicial magistrate positions. This new procedure expands the types of cost cutting measures available to the judicial branch. More importantly, it enables the Supreme Court to more equitably balance budget cuts across all court components with no exceptions by law. These statutory changes are scheduled to sunset July 1, 2006. Lifting the sunset provision and making this procedure permanent would provide the branch with crucial management flexibility tough fiscal times demand.