

February 1, 1963.

Passed on File.

*Revised 2/12/63*

Senate File 114  
By COMMITTEE ON JUDICIARY 1.

Passed Senate, Date *2-7-63*.....

Passed House, Date *2-28-63*.....

Vote: Ayes *44*..... Nays *0*.....

Vote: Ayes *99*..... Nays *1*.....

Approved..... *3-13-63*.....

*Note as amended 2/28  
ayes 48 Nays 0*

## A BILL FOR

An Act relating to voluntary retirement of judges and retirement for cause.

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

1 Section 1. Chapter six hundred five A (605A), Code 1962, is  
2 amended by adding the following new section:

3 "Voluntary retirement for disability. Any judge of the su-  
4 preme or district court who shall have served as a judge of one  
5 or both of such courts for a period of six years in the aggregate  
6 and who believes he has become permanently incapacitated, physi-  
7 cally or mentally, to perform the duties of his office may per-  
8 sonally or by his next friend or guardian file with the state  
9 comptroller a written application for retirement. The appli-  
10 cation shall be filed in duplicate and accompanied by an affi-  
11 davit as to the duration and particulars of his service and the  
12 nature of his incapacity. The state comptroller shall forthwith  
13 transmit one copy of the application and affidavit to the chief  
14 justice who shall request the attorney general in writing to  
15 cause an investigation to be made relative to the claimed  
16 incapacity and report back the results thereof in writing. If  
17 the chief justice finds from the report of the attorney general  
18 that the applicant is permanently incapacitated, physically or  
19 mentally, to perform the duties of his office he shall by his  
20 endorsement thereon declare the applicant retired, and the office

21 vacant, and shall file the report in the office of the state  
22 comptroller, and a copy in the office of the secretary of state.  
23 From the date of such filing the applicant shall be deemed re-  
24 tired from his office and entitled to the benefits of this chap-  
25 ter to the same extent as if he had retired under the provisions  
26 of section six hundred five A point six (605A.6) of the Code.”

1 Sec. 2. Chapter six hundred five (605), Code 1962, is amended  
2 by adding the following new sections:

3 A. “Removal for cause. In addition to impeachment a judge  
4 of the supreme or district court may be removed from office for  
5 any of the following reasons:

6 1. Dishonesty, persistent neglect, or refusal to perform the  
7 duties of his office;

8 2. Permanent physical or mental disability rendering him in-  
9 capable of properly performing his duties, or

10 3. Conviction of a felony or misdemeanor involving moral  
11 turpitude.”

12 B. “Petition. A petition for the removal of a judge of the  
13 supreme or district court may be filed in the office of the  
14 clerk of the supreme court by the chief justice, the attorney  
15 general, or twenty-five members of the bar of the state or dis-  
16 trict.”

17 C. “Special court. Upon the filing of such petition, the  
18 chief justice shall appoint an associate justice of the supreme  
19 court and two judges of the district court as a special court to  
20 hear the matter. Such court shall fix the time and place of  
21 hearing and prescribe notice thereof to be served on the subject  
22 judge and on the attorney general who shall prosecute such ac-  
23 tion.”

24 D. "Attendance of witnesses and appointment of physicians.  
25 The special court shall have power to compel the attendance of  
26 witnesses and the giving of testimony, may require a physical or  
27 mental examination of the judge under investigation, and may  
28 appoint one or more physicians to make such examination."

29 E. "Conducting hearing. The supreme court may provide rules  
30 for such hearing. Ample opportunity shall be afforded the judge  
31 under investigation to subpoena witnesses, present evidence and  
32 be heard in person and by counsel."

33 F. "Order and appeal. If upon hearing the special court  
34 finds that grounds for removal have been established it shall  
35 order such judge removed from office and declare the office va-  
36 cant. Appeal may be taken to the supreme court under the rules  
37 applicable to civil cases but no justice who served on the spe-  
38 cial court shall participate in determination of the appeal. An  
39 appeal shall stay operation of an order of removal. Copies of  
40 an order of removal which has become final in the special court  
41 or on appeal shall be filed in the offices of the state comptrol-  
42 ler and secretary of state."

43 G. "Substitute for chief justice. When the removal or volun-  
44 tary retirement of the chief justice is involved in any proceeding  
45 all duties imposed upon him by this Act shall be performed by the  
46 justice of the supreme court, other than the chief justice, who  
47 is senior in length of service; if two or more of the justices  
48 of such court are of equal length of service, the eldest of them  
49 shall perform such duties."

1 Sec. 3. Chapter six hundred five A (605A), Code 1962, is  
2 amended by adding the following new sections.

3 A. "Retirement benefits for disability. An adjudication as

4 to permanent physical or mental disability under the provisions  
5 of chapter six hundred five (605) of the Code shall entitle the  
6 judge to the same retirement benefits as provided for voluntary  
7 retirement for such cause.”

8 B. “Forfeiture of benefits—refund. In the event a judge of  
9 the supreme or district court is removed for cause other than  
10 permanent disability he shall forfeit the right to any retirement  
11 benefits under the system but the total amount of his contribu-  
12 tion to the fund shall be returned to him or his legal representa-  
13 tive.”

1 Sec. 4. Severability clause. If any provision of this Act  
2 or the application thereof to any person or circumstances is held  
3 invalid, the invalidity shall not affect other provisions or ap-  
4 plications of the Act which can be given effect without the in-  
5 valid provision or application, and to this end the provisions  
6 of this Act are severable.

- 1 Amend Senate File 114, section 2, by striking all of lines
- 2 3 through 11 and inserting in lieu thereof the following:
- 3 A. Retirement for cause: A judge of the supreme court
- 4 or district court may be retired from office for any of the
- 5 following reasons:
- 6 1. Permanent physical or mental disability rendering
- 7 him incapable of properly performing his duties, or
- 8 2. When he ceases to have the qualifications required
- 9 for the office of judge.

Filed *adoption*  
February 5, 1963.

By BENEKE.

- 1 Amend Senate File 114 as follows:
- 2 1. Amend line 5 of Sec. 3 by inserting after the word
- 3 "Code" the following ", as amended by this Act,".
- 4 2. By adding a new sub-section to Sec. 2, as follows:
- 5 "Section six hundred five A point seven (605A.7), Code
- 6 1962, be amended by striking all of line four (4) and insert
- 7 in lieu thereof: 'basic salary for his last three (3) years
- 8 as a judge of one (1) or more of the'."

Filed and adopted  
February 5, 1963.

By NOLAN.

- 1 Amend Senate File 114 as follows:
- 2 1. Amend section 1 by striking from lines 3 and 4 the words
- 3 "supreme or district" and inserting in lieu thereof the words
- 4 "municipal, superior, district, or supreme".
- 5 2. Further amend section 1 by striking from line 5 the word
- 6 "both" and inserting in lieu thereof the word "more".
- 7 3. Amend section 2 by striking from line 4 the words
- 8 "supreme or district" and inserting in lieu thereof the words
- 9 "municipal, superior, district, or supreme".
- 10 4. Further amend section 2 by striking from line 13 the
- 11 words "supreme or district" and inserting in lieu thereof the
- 12 words "municipal, superior, district, or supreme".
- 13 5. Amend section 3 by striking from line 9 the words
- 14 "supreme or district" and inserting in lieu thereof the words
- 15 "municipal, superior, district, or supreme".

Filed  
February 27, 1963.

ELY of Linn.

#### SENATE FILE 114

- 1 Amend Senate File 114, section 3, by striking all of sub-
- 2 section "c".

Filed and lost  
February 28, 1963.

GOODE of Davis.

#### SENATE FILE 114

- 1 Amend Senate File 114 by adding the following new section:
- 2 "This Act, being deemed of immediate importance, shall be in
- 3 full force and effect from and after its passage and publication
- 4 in The Tipton Conservative, a newspaper published at Tipton, Iowa,
- 5 and in The Parkersburg Eclipse, a newspaper published at Parkers-
- 6 burg, Iowa."

Filed and adopted  
February 28, 1963.

MOWRY of Marshall.