

*record, and a copy furnished the sheriff, in accordance with the provisions of Section 9648, General Statutes 1923, and the provisions of said section shall apply thereto.*

Sec. 2. This act shall take effect and be in force from and after its passage.

Approved April 20, 1925.

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#### CHAPTER 281—S. F. No. 1102.

*An act providing for the retirement of any judge of the district court of the state who is, or may become, incapacitated from performing his judicial duties.*

Be it enacted by the Legislature of the State of Minnesota:

Sec. 1. **District judges to be retired in certain cases.**—That whenever any judge of the district court of the state becomes mentally or physically incapacitated from performing his official duties and such incapacity shall have continued for at least six months, and the public service is and will continue to suffer by reason thereof, and no application has been made by such judge or his legally appointed guardian to the governor for his retirement under and pursuant to Section 210, General Statutes 1923, any 25 or more freeholders and electors of the judicial district of such judge may petition the governor to have the question of the incapacity of such judge judicially determined as hereinafter provided.

Sec. 2. **Petition—contents.**—The said petition shall be in writing, duly verified, and shall allege said incapacity and set forth the nature and extent thereof, that such incapacity has existed for at least six months before the presentation thereof, and that the public service is suffering and will continue to suffer on account thereof unless such judge be suspended and retired from his said office.

Sec. 3. **Governor to suspend judge pending hearing.**—Upon receiving such petition, the governor shall forthwith deliver a certified copy thereof to the attorney general of the state, and shall file another certified copy thereof in the office of the clerk of the district court of the county in which such judge resides, together with an order suspending said judge from office until the final determination of the question of his incapacity, and shall also forthwith make and file in said clerk's office an order appointing a special term of the district court of said county, to be held at a time and place specified therein, for a hearing upon said petition, which said order shall designate and assign three judges of the district court of the state to sit en banc to try and determine the question of the incapacity of such judge to perform his judicial duties, at which hearing the district judge longest in judicial service shall preside. Such hearing

shall be commenced not less than 30 days nor more than 60 days after the filing of said order, and certified copies of said petition and of said order shall be personally served upon said judge, upon his legally appointed guardian, if there be one, and upon the attorney general, not less than 20 days before the day set for the commencement of such hearing. After the filing of said petition, the same shall not be withdrawn nor abandoned without full hearing, and said judges may, if necessary, appoint counsel at the expense of the state to conduct said hearing and to prepare and present evidence, and may, for cause continue said hearing a reasonable length of time on application of said judge, his legally appointed guardian, if there be one, the petitioners, or any attorney duly appearing in said proceedings.

**Sec. 4. Conduct of hearing.**—At such hearing, the petitioners, the said judge, and his guardian, if there be one, may appear and be heard, personally or by counsel, and may offer any competent evidence upon the issues involved. The attorney general, if in his judgment the public interest so requires, may, in person or by any reputable attorney or attorneys of the state appointed by him as special assistant attorney or attorneys general for such hearing, appear and be heard, participate in said hearing, and produce evidence thereat.

The said proceedings, including all evidence offered or received, all rulings, and all orders made, shall be taken down in shorthand by some competent shorthand reporter appointed by the presiding judge, as upon other trials in the district court, but such judge shall not appoint the court reporter of such district. The said judge sitting en banc shall determine all issues of law and fact, and particularly whether such judge is, or is not, incapacitated from performing his judicial duties, and shall make and file with the clerk of the district court of such county their findings of fact upon the issues involved in said proceedings. The reporter shall forthwith, upon the completion of said hearing, transcribe his shorthand notes of said proceedings and file a certified copy thereof with said clerk.

Upon the filing of said findings of fact, the clerk shall forthwith transmit to the governor a certified copy thereof.

**Sec. 5. Governor to direct retirement and appoint successor.**—If the said judges shall find that such judge is incapacitated from the performance of his judicial duties, the governor shall, upon the expiration of the time for appeal, if no appeal is taken, and upon the final determination of such appeal, if taken, sustaining such findings, by written order, direct his retirement for the unexpired portion of his term, a certified copy of which said order shall be forthwith served upon such judge and upon his legally appointed guardian, if there be one, and a copy thereof shall be filed in the office of the clerk of the county in which such hearing was had.

The filing of said order, with proof of service upon such judge and his legally appointed guardian, if there be one, shall create a vacancy in said office, which shall be filled by appointment as provided by law; and such appointee shall, upon qualifying, become the judge of said district and hold such office until a successor is elected and qualified.

**Sec. 6. Appeal.**—Within twenty days after the filing of such findings of fact, such judge, or his legally appointed guardian, the petitioners, or anyone or more of them, or the attorney general may appeal from said findings to the supreme court of the state by filing a notice of such appeal with the clerk in whose office said findings are filed. Such clerk shall forthwith transmit a certified copy of such notice to the clerk of the supreme court, and said supreme court shall place such matter upon the calendar for hearing at the earliest time conveniently possible, giving preference to such matter over general matters pending. The court shall also make such order in regard to printing, filing, and serving of briefs and record as shall seem proper in the premises. The clerk of the district court shall transmit to the clerk of the supreme court all records and files in said proceedings, including the reporter's transcript.

**Sec. 7. Compensation of suspended judge.**—Whenever any judge shall be retired under the provisions of this act, he shall receive the compensation to which he would have been entitled had he served out the remainder of his term, which compensation shall be paid at the time and in the manner provided by law.

Approved April 20, 1925.

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#### CHAPTER 282—S. F. No. 1107.

*An act to amend Section 3026 of the General Statutes of Minnesota 1923, relating to the classification and definitions of public schools.*

Be it enacted by the Legislature of the State of Minnesota:

**Section 1. Classification and definitions.**—That Section 3026 of the General Statutes of Minnesota for 1923 be and the same is hereby amended so as to read as follows:

"3026. Classification and definitions.—For the purposes of this act all public schools shall be classified under the following heads:

**Classification.** (1) Graded Elementary Schools, (2) Ungraded Elementary Schools, (3) Four Year High Schools, (4) High School Departments, (5) Junior High Schools, (6) Senior High Schools and (7) Consolidated Schools.

**Definitions.** (1) A graded elementary school shall be a school giving instruction in at least the first six years of the elementary