



[SF 2234](#) – Probate and Conservatorship Court Fees (LSB5194SV)
Analyst: Laura Book (515.205.9275) laura.book@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 2234](#) makes several changes to court costs charged and collected by a clerk of court in connection with probate matters under Iowa Code section [633.31](#). The Bill replaces the current fees under Iowa Code section [633.31](#) and increases or decreases fees for various services related to probate matters.

The Bill sets an administration fee for services performed in estates administered by the clerk of court under Iowa Code chapters [633](#) and [635](#). The clerk must charge and collect an administration fee in the amount of 0.25% of the value of the gross assets of the decedent's estate minus the value of joint tenancy property, transfers during a person's lifetime, and nonprobate assets. This administration fee must not exceed \$2,500.

For other services performed in conservatorship, the Bill sets an administrative fee of 0.25% of the value of the gross assets of the conservatorship listed in the inventory. The fee must not exceed \$2,500. The Bill also provides that an administrative fee must not be charged on any property transferred to an estate from a conservatorship that has been administered in this State and for which an administration fee has been assessed and paid.

The Bill applies to estates of decedents dying on or after July 1, 2018.

Background

Under current law, Iowa Code section [633.31\(2\)\(k\)](#) provides a sliding fee scale for services performed in connection with the settlement of an estate. The probate fees collected by clerks of court are deposited in the State General Fund pursuant to Iowa Code section [602.8108](#).

Assumptions

- From FY 2014 to FY 2017, fee revenue from gross estate values declined by an average of 1.0% per year. It is assumed that the fee revenue will continue to decline by 1.0% each year.
- Small estate filings increased by 0.3% from FY 2015 to FY 2016. It is assumed there will be a 0.3% increase per year from FY 2017 to FY 2022.
- It is assumed that the removal of nonprobate assets from the calculation of the gross estate value and the \$2,500 administrative fee cap will reduce the revenue from those fees by an average of 52.0%.
- The Bill will increase the fee for filing a short form probate and filing a petition for probate of will without administration from \$15 to \$20, increase the fee for preparing a certificate and seal from \$10 to \$20, and increase the fee for issuing a clerk's commission to appraisers from \$2 to \$20. During FY 2017, the courts collected a total of \$60,731 from these types of fees. If the new fee amounts had been applied in FY 2017, the total fees collected would have been \$137,375, an increase of \$76,644. It is assumed that the same increase will occur in FY 2019, but the amount will decrease by 1.0% each subsequent year because it is assumed that filings will decline by 1.0% each year.

Fiscal Impact

[Senate File 2234](#) is estimated to result in a negative impact of approximately \$4.5 million per year to the State General Fund, beginning in FY 2019. The removal of nonprobate assets from the calculation of gross estate values and the \$2,500 cap placed on the administrative fee will result in an estimated revenue decrease of 52.0% each year. Although [SF 2234](#) raises several probate fees under Iowa Code section [633.31](#), the increased fees would not offset the modifications to the administrative fee. The following table shows the estimated probate fees to be paid between FY 2019 and FY 2022 under current law and the proposed law, and the estimated impact on the State General Fund.

SF 2234 — Estimated Probate Fee Revenue

Fiscal Year	Current Law	Proposed Law	Difference
2019	\$11,831,000	\$7,322,000	(\$4,509,000)
2020	\$11,712,000	\$7,262,000	(\$4,451,000)
2021	\$11,595,000	\$7,203,000	(\$4,393,000)
2022	\$11,479,000	\$7,144,000	(\$4,335,000)

Source

Judicial Branch

/s/ Holly M. Lyons

February 21, 2018

The fiscal note for this Bill was prepared pursuant to Joint Rule 17 and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
