

reprinted

FILED MAR 14 1989
Sen. Ways & Means
DOPASS 331-89 (p. 1117)

SENATE FILE 434
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 74)

Passed Senate, Date 4-5-89 (p. 1188) Passed House, Date 4-13-89 (p. 1583)
Vote: Ayes 45 Nays 3 Vote: Ayes 84 Nays 10
Approved May 22, 1989

A BILL FOR

3530-1 An Act relating to elimination of the filing and docketing fee
2 for a petition for modification of a dissolution decree and
3546-3 reduction of the fee for a certificate and seal.

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

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SF 434

3546 amends all-

3530
3337, 3360

-1 Section 1. Section 602.8105, subsection 1, paragraphs a
 2 and b, Code 1989, are amended to read as follows:
 3 a. For filing and docketing a petition other than for
 4 modification of a dissolution decree ~~filed within one hundred~~
 5 ~~eighty days of the date of the entering of the dissolution~~
 6 ~~decree~~, or an appeal or writ of error, forty-five dollars.
 7 Four dollars of the fee shall be deposited in the court
 8 revenue distribution account established under section
 9 602.8108, and forty-one dollars of the fee shall be paid into
 10 the state treasury. Of the amount paid to the state treasury,
 11 one dollar shall be deposited in the judicial retirement fund
 12 established in section 602.9104 to be used to pay retirement
 13 benefits of the judicial retirement system, and the remainder
 14 shall be deposited in the general fund of the state. In
 15 counties having a population of one hundred thousand or over,
 16 an additional five dollars shall be charged and collected, to
 17 be known as the journal publication fee and used for the
 18 purposes provided for in section 618.13.

3337,
3300

19 b. For payment in advance of various services and
 20 docketing procedures, excluding those for modification of a
 21 dissolution decree and for small claims actions and small
 22 claims actions on appeal and simple misdemeanor actions and
 23 simple misdemeanor actions on appeal, twenty-five dollars.

24 Sec. 2. Section 633.31, subsection 2, paragraph f, Code
 25 1989, is amended to read as follows:

3337, 3274

26 f. For certificate and seal 20.00
 27 2.00

EXPLANATION

29 This bill eliminates the \$45 filing and docketing fee as
 30 well as the \$25 services fee for all petitions for the
 31 modification of a dissolution decree. The bill also decreases
 32 the fee for certificate and seal from \$20 to \$2.00.

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SENATE FILE 434
FISCAL NOTE

A fiscal note for SENATE FILE 434 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 434 eliminates the \$45 filing and docketing fee as well as the \$25 services fee for all petitions for the modification of a dissolution decree. The bill also reduces the certificate and seal probate fee from \$20 to \$2.00.

Assumptions:

1. Rates for dissolutions and modifications in Calendar Year 1987 will remain constant throughout FY 1991.
2. The number of modifications filed within 180 calendar days of the date of the original dissolution is negligible.
3. The number of cases in which the filing fee is waived for reasons of indigency is negligible.
4. The number of estates filed in FY 1990 will be similar to the number of estates filed in calendar year 1987.
5. The number of certificates and seals issued will remain constant (approximately 27,574).
6. The total number of dissolutions and modifications in 1987 was 16,880. Of this amount, 10,527 are dissolutions and 6,353 are modifications.

Fiscal Effect:

In regard to the filing and docketing fee, there would be a negative fiscal impact to the General Fund of \$444,680. This represents the amount of revenue that will be foregone in the absence of both the administrative fee and the filing and docketing fee. 6,353 cases times the \$25 administrative fee equals \$158,825; and 6,353 cases times the \$45 filing fee equals \$285,855. Please note that the latter figure does not distinguish between modifications filed within the 180 exemption period and those filed after the 180 days. Therefore, \$444,680 is a high estimate.

In regard to the certificate and seal fee, a loss in revenue totaling \$496,332 would result in lowering the fee from \$20.00 to \$2.00. The total estimated decrease in revenue to the General Fund is, including the filing and docketing fee and the certificate and seal fee, \$941,012.

Source: Judicial Department
Department of Public Health

(LSB 1422sv, VYW)

-2-

FILED MARCH 22, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

**SENATE FILE 434
FISCAL NOTE**

A fiscal note for **Amendment S-3300 TO SENATE FILE 434** is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

S-3300 amends Senate File 434 by eliminating the administrative and filing fees on a modification of a dissolution if a written stipulation is attached. The amendment also nullifies the 180 day period which exempts the filing fee.

Assumptions:

1. Rates for dissolutions and modifications in Calendar Year 1987 will remain constant throughout FY 1991.
2. The number of modifications filed within 180 calendar days of the date of the original dissolution is negligible.
3. The number of cases in which the filing fee is waived for reasons of indigency is negligible.

Fiscal Effect:

Senate File 434, as amended by S-3300, is revenue neutral. The amendment eliminates the \$45 filing fee for a modification of a dissolution decree if a stipulated resolution of the modification is filed at the same time the action is initiated. In addition, the amendment eliminates the 180 day period after the original dissolution decree is entered during which modification actions are exempt from the \$45 filing fee. Finally, the \$25 administrative fee would continue to be charged in all modification actions.

Source: Judicial Department

(LSB 1422sv.3, VYW)

FILED MARCH 22, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 434
FISCAL NOTE

A fiscal note for Amendment S-3274 TO SENATE FILE 434 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

S-3274 amends Senate File 434 by adding a certificate and seal fee for letters testamentary (\$2.00), and a certificate and seal fee for other probate documentation (\$20.00).

Assumptions:

1. 90% of probate documentation requiring a certificate and seal are letters testamentary.
2. The probate fee is applied to each estate which is filed.
3. The number of estates filed in FY 1990 will be similar to the number of estates filed in calendar year 1987.
4. The number of certificates and seals issued will remain constant (approximately 27,574).

Fiscal Effect:

The Judicial Department estimates a loss in revenue of \$446,706. It is estimated that 90% of certificates and seals are issued for letters testamentary. A \$2.00 fee on letters testamentary would generate \$49,626 and a \$20.00 fee on all other certificates and seals would generate \$55,148, totaling \$104,774.

	(dollars in thousands)					
	<u>Fiscal Year 1990</u>			<u>Fiscal Year 1991</u>		
	<u>Current</u>	<u>Proposed</u>	<u>Increase</u>	<u>Current</u>	<u>Proposed</u>	<u>Increase</u>
	<u>Law</u>	<u>Law</u>	<u>(Decrease)</u>	<u>Law</u>	<u>Law</u>	<u>(Decrease)</u>
REVENUE						
probate fee	\$ 551,480	\$ 104,774	\$(446,706)	\$ 551,480	\$ 104,774	\$(446,706)
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Source: Judicial Department

(LSB 1422sv.2, VYW)

FILED MARCH 22, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 434

S-3546

1 Amend Senate File 434 as follows:
 2 i. By striking everything after the enacting
 3 clause and inserting the following:
 4 "Section 1. Section 602.8105, subsection 1,
 5 paragraph a, Code 1989, is amended to read as follows:
 6 a. For filing and docketing a petition other than
 7 for modification of a dissolution decree ~~filed within~~
 8 ~~one-hundred-eighty-days-of-the-date-of-the-entering-of~~
 9 ~~the-dissolution-decree to which a written stipulation~~
 10 is attached at the time of filing containing the
 11 agreement of the parties to the terms of the
 12 modification, or an appeal or writ of error, forty-
 13 five dollars. Four dollars of the fee shall be
 14 deposited in the court revenue distribution account
 15 established under section 602.8108, and forty-one
 16 dollars of the fee shall be paid into the state
 17 treasury. Of the amount paid to the state treasury,
 18 one dollar shall be deposited in the judicial
 19 retirement fund established in section 602.9104 to be
 20 used to pay retirement benefits of the judicial
 21 retirement system, and the remainder shall be
 22 deposited in the general fund of the state. In
 23 counties having a population of one hundred thousand
 24 or over, an additional five dollars shall be charged
 25 and collected, to be known as the journal publication
 26 fee and used for the purposes provided for in section
 27 618.13.

28 Sec. 2. Section 633.31, subsection 2, paragraphs
 29 a, b, c, f, i, k, and l, Code 1989, are amended to
 30 read as follows:

31	a. For services performed in short form probates pursuant		
32	to sections 450.22 and 450.44	\$10.00	<u>15.00</u>
33	b. For services performed in probate of will without		
34	administration	10.00	<u>15.00</u>
35	c. For filing and indexing a transcript	3.00	<u>5.00</u>
36	f. For certificate and seal	20.00	<u>10.00</u>
37	i. For certifying change of title	2.00	<u>5.00</u>
38	k. For other services performed in the settlement		
39	of the estate of any decedent, minor, insane person,		
40	or other persons laboring under legal disability,		
41	except where actions are brought by the administrator,		
42	guardian, trustee, or person acting in a		
43	representative capacity or against that person, or as		
44	may be otherwise provided herein, where the value of		
45	the personal property and real estate of such a person		
46	falls within the following indicated amounts, the fee		
47	opposite such amount shall be charged.		
48	Up to \$3,000.00		5.00
49	3,000.00 to 5,000.00		10.00
50	5,000.00 to 7,000.00		15.00

S-3546

Page 2

- 1 7,000.00 to 10,000.00 20.00
- 2 10,000.00 to 15,000.00 25.00
- 3 15,000.00 to 25,000.00 30.00
- 4 For each additional \$25,000.00 or major fraction thereof
- 5 ~~20.00~~ 25.00
- 6 1. For services performed in small estate administration
- 7 ~~10.00~~ 15.00"
- 8 2. Title page, line 3, by inserting after the word
- 9 "seal" the following: "and increasing certain other probate
- 10 fees".

By DONALD V. DOYLE

S-3546 FILED APRIL 4, 1989

Adopted 4-5-89 (p. 1188)

SENATE FILE 434

S-3530

- 1 Amend Senate File 434 as follows:
- 2 1. Page 1, by striking lines 1 through 23.
- 3 2. Title page, by striking lines 1 and 2 and
- 4 inserting the following: "An Act relating to the".

By CALVIN O. HULTMAN

S-3530 FILED APRIL 4, 1989

Out of Order 4-5-89 (p. 1188)

SENATE FILE 434
FISCAL NOTE

REQ. BY SENATOR DOYLE

A fiscal note for AMENDMENT S3546 TO Senate File 434 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

S3546 amends Senate File 434 by eliminating the filing and docketing fee on a modification of a dissolution decree if a written stipulation is attached; nullifying the 180 day period which exempts the filing fee on a dissolution decree; and reducing the certificate and seal fee and increasing various other probate fees.

Fiscal Effect:

This amendment has a negative fiscal impact of approximately \$65,197.

Source: Judicial Department

(LSB 1422sv.5, VYW)

FILED APRIL 5, 1989

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 434

S-3337

1 Amend Senate File 434 as follows:

2 1. Page 1, by striking lines 1 through 6 and
3 inserting the following:

4 "Section 1. Section 602.8105, subsection 1,
5 paragraph a, Code 1989, is amended to read as follows:

6 a. For filing and docketing a petition other than
7 for modification of a dissolution decree ~~filed within~~
8 ~~one-hundred-eighty-days-of-the-date-of-the-entering-of~~
9 ~~the-dissolution-decree to which a written stipulation~~
10 is attached at the time of filing containing the
11 agreement of the parties to the terms of the
12 modification, or an appeal or writ of error, forty-
13 five dollars."

14 2. Page 1, by striking lines 19 through 23.

15 3. Page 1, by striking lines 26 and 27, and
16 inserting the following:

17 "f. (1) For certificate and seal, except for
18 letters testamentary 20.00
19 (2) For certificate and seal of letters
20 testamentary 2.00".

21 4. By renumbering as necessary.

By DONALD V. DOYLE

S-3337 FILED MARCH 20, 1989

Out of Order 4-5-89 (p.1188)
SENATE FILE 434

S-3300

1 Amend Senate File 434 as follows:

2 1. Page 1, by striking lines 1 through 6 and
3 inserting the following:

4 "Section 1. Section 602.8105, subsection 1,
5 paragraph a, Code 1989, is amended to read as follows:

6 a. For filing and docketing a petition other than
7 for modification of a dissolution decree ~~filed within~~
8 ~~one-hundred-eighty-days-of-the-date-of-the-entering-of~~
9 ~~the-dissolution-decree to which a written stipulation~~
10 is attached at the time of filing containing the
11 agreement of the parties to the terms of the
12 modification, or an appeal or writ of error, forty-
13 five dollars."

14 2. Page 1, by striking lines 19 through 23.

15 3. Renumber as necessary.

By DONALD V. DOYLE

S-3300 FILED MARCH 17, 1989

Out of Order 4-5-89 (p.1188)

SENATE FILE 434

S-3274

1 Amend Senate File 434 as follows:

2 1. Page 1, by striking lines 26 and 27, and
3 inserting the following:

4 "f. (1) For certificate and seal, except for
5 letters testamentary 20.00
6 (2) For certificate and seal of letters

7 testamentary..... 2.00".

By DONALD V. DOYLE

S-3274 FILED MARCH 15, 1989

Out of Order 4-5-89 (p.1188)

House Jud & Law
DO PASS 4-10-89 (p. 1440)

SENATE FILE 434
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 74)
(AS AMENDED AND PASSED BY THE SENATE APRIL 5, 1989)
ALL New Language by the Senate

Passed Senate, Date 4/5/89 (p. 1188) Passed House, Date 4-13-89 (p. 1583)
Vote: Ayes 45 Nays 3 Vote: Ayes 84 Nays 10
Approved May 22, 1989

*motion to reconsider
4-13-89 (p. 1583) -
withdrawn
5-4-89
(p. 2428)*

A BILL FOR

1 An Act relating to elimination of the filing and docketing fee
2 for a petition for modification of a dissolution decree and
3 reduction of the fee for a certificate and seal and increasing
4 certain other probate fees.

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

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S.F. 434

1 Section 1. Section 602.8105, subsection 1, paragraph a,
2 Code 1989, is amended to read as follows:

3 a. For filing and docketing a petition other than for
4 modification of a dissolution decree ~~filed within one hundred~~
5 ~~eighty days of the date of the entering of the dissolution~~
6 ~~decree to which a written stipulation is attached at the time~~
7 ~~of filing containing the agreement of the parties to the terms~~
8 ~~of the modification~~, or an appeal or writ of error, forty-five
9 dollars. Four dollars of the fee shall be deposited in the
10 court revenue distribution account established under section
11 602.8108, and forty-one dollars of the fee shall be paid into
12 the state treasury. Of the amount paid to the state treasury,
13 one dollar shall be deposited in the judicial retirement fund
14 established in section 602.9104 to be used to pay retirement
15 benefits of the judicial retirement system, and the remainder
16 shall be deposited in the general fund of the state. In
17 counties having a population of one hundred thousand or over,
18 an additional five dollars shall be charged and collected, to
19 be known as the journal publication fee and used for the
20 purposes provided for in section 618.13.

21 Sec. 2. Section 633.31, subsection 2, paragraphs a, b, c,
22 f, i, k, and l, Code 1989, are amended to read as follows:

23 a. For services performed in short form probates pursuant
24 to sections 450.22 and 450.44 ~~\$10.00~~ 15.00

25 b. For services performed in probate of will without
26 administration ~~10.00~~ 15.00

27 c. For filing and indexing a transcript ~~3.00~~ 5.00

28 f. For certificate and seal ~~20.00~~ 10.00

29 i. For certifying change of title ~~2.00~~ 5.00

30 k. For other services performed in the settlement of the
31 estate of any decedent, minor, insane person, or other persons
32 laboring under legal disability, except where actions are
33 brought by the administrator, guardian, trustee, or person
34 acting in a representative capacity or against that person, or
35 as may be otherwise provided herein, where the value of the

1 personal property and real estate of such a person falls
2 within the following indicated amounts, the fee opposite such
3 amount shall be charged.

4	Up to \$3,000.00	.....	5.00
5	3,000.00 to 5,000.00	.....	10.00
6	5,000.00 to 7,000.00	.....	15.00
7	7,000.00 to 10,000.00	.....	20.00
8	10,000.00 to 15,000.00	.....	25.00
9	15,000.00 to 25,000.00	.....	30.00

10 For each additional \$25,000.00 or major fraction thereof
11 ~~20.00~~ 25.00

12 1. For services performed in small estate administration
13 ~~10.00~~ 15.00

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DOYLE, CH.

VARN

LESTER

SSB 74

JUDICIARY

How

SENATE FILE 434

BY (PROPOSED COMMITTEE ON JUDICIARY BILL)

Passed Senate, Date _____ Passed House, Date _____

Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to elimination of the filing and docketing fee
2 for a petition for modification of a dissolution decree.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 602.8105, subsection 1, paragraphs a
2 and b, Code 1989, are amended to read as follows:

3 a. For filing and docketing a petition other than for
4 modification of a dissolution decree ~~filed within one hundred~~
5 ~~eighty days of the date of the entering of the dissolution~~
6 ~~decree~~, or an appeal or writ of error, forty-five dollars.
7 Four dollars of the fee shall be deposited in the court
8 revenue distribution account established under section
9 602.8108, and forty-one dollars of the fee shall be paid into
10 the state treasury. Of the amount paid to the state treasury,
11 one dollar shall be deposited in the judicial retirement fund
12 established in section 602.9104 to be used to pay retirement
13 benefits of the judicial retirement system, and the remainder
14 shall be deposited in the general fund of the state. In
15 counties having a population of one hundred thousand or over,
16 an additional five dollars shall be charged and collected, to
17 be known as the journal publication fee and used for the
18 purposes provided for in section 618.13.

19 b. For payment in advance of various services and
20 docketing procedures, excluding those for modification of a
21 dissolution decree and for small claims actions and small
22 claims actions on appeal and simple misdemeanor actions and
23 simple misdemeanor actions on appeal, twenty-five dollars.

24 EXPLANATION

25 This bill eliminates the \$45 filing and docketing fee as
26 well as the \$25 services fee for all petitions for the
27 modification of a dissolution decree.

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SENATE FILE 434

AN ACT

RELATING TO ELIMINATION OF THE FILING AND DOCKETING FEE FOR A PETITION FOR MODIFICATION OF A DISSOLUTION DECREE AND REDUCTION OF THE FEE FOR A CERTIFICATE AND SEAL AND INCREASING CERTAIN OTHER PROBATE FEES.

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

Section 1. Section 602.8105, subsection 1, paragraph a, Code 1989, is amended to read as follows:

a. For filing and docketing a petition other than for modification of a dissolution decree ~~filed within one hundred eighty days of the date of the entering of the dissolution decree to which a written stipulation is attached at the time of filing containing the agreement of the parties to the terms of the modification~~, or an appeal or writ of error, forty-five dollars. Four dollars of the fee shall be deposited in the

court revenue distribution account established under section 602.8108, and forty-one dollars of the fee shall be paid into the state treasury. Of the amount paid to the state treasury, one dollar shall be deposited in the judicial retirement fund established in section 602.9104 to be used to pay retirement benefits of the judicial retirement system, and the remainder shall be deposited in the general fund of the state. In counties having a population of one hundred thousand or over, an additional five dollars shall be charged and collected, to be known as the journal publication fee and used for the purposes provided for in section 618.13.

Sec. 2. Section 633.31, subsection 2, paragraphs a, b, c, f, i, k, and l, Code 1989, are amended to read as follows:

- a. For services performed in short form probates pursuant to sections 450.22 and 450.44 ~~30.00~~ 15.00
- b. For services performed in probate of will without administration ~~30.00~~ 15.00
- c. For filing and indexing a transcript ~~3.00~~ 5.00
- f. For certificate and seal ~~20.00~~ 10.00
- i. For certifying change of title ~~2.00~~ 5.00
- k. For other services performed in the settlement of the estate of any decedent, minor, insane person, or other persons laboring under legal disability, except where actions are brought by the administrator, guardian, trustee, or person acting in a representative capacity or against that person, or as may be otherwise provided herein, where the value of the personal property and real estate of such a person falls within the following indicated amounts, the fee opposite such amount shall be charged.

Up to \$3,000.00	5.00
3,000.00 to 5,000.00	10.00
5,000.00 to 7,000.00	15.00
7,000.00 to 10,000.00	20.00
10,000.00 to 15,000.00	25.00
15,000.00 to 25,000.00	30.00

For each additional \$25,000.00 or major fraction thereof
..... ~~20.00~~ 25.00
1. For services performed in small estate administration
..... ~~10.00~~ 15.00

JO ANN ZIMMERMAN
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 434, Seventy-third General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved May 22, 1989

TERRY E. BRANSTAD
Governor