

RECEIVED

FILED MAR 19 11

SENATE FILE 485
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 281)

Passed Senate, (p. 896) Date 3/28/01 Passed House, Date _____
Vote: Ayes 48 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to jurisdiction in criminal forfeiture
2 proceedings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

SF 485

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

1 Section 1. Section 602.6306, subsection 2, Code 2001, is
2 amended to read as follows:

3 2. District associate judges also have jurisdiction in
4 civil actions for money judgment where the amount in
5 controversy does not exceed ten thousand dollars, jurisdiction
6 over involuntary commitment, treatment, or hospitalization
7 proceedings under chapters 125 and 229, jurisdiction of
8 indictable misdemeanors, and felony violations of section
9 321J.2, jurisdiction to enter a temporary or emergency order
10 of protection under chapter 236, and to make court
11 appointments and set hearings in criminal matters,
12 jurisdiction to enter orders in probate which do not require
13 notice and hearing and to set hearings in actions under
14 chapter 633, and the jurisdiction provided in section 602.7101
15 when designated as a judge of the juvenile court, and
16 jurisdiction in forfeiture proceedings as provided in section
17 809A.2. While presiding in these subject matters a district
18 associate judge shall employ district judges' practice and
19 procedure.

20 Sec. 2. Section 602.6405, subsection 1, Code 2001, is
21 amended to read as follows:

22 1. Magistrates have jurisdiction of simple misdemeanors,
23 including traffic and ordinance violations, and preliminary
24 hearings, search warrant proceedings, county and municipal
25 infractions, and small claims. Magistrates have jurisdiction
26 to determine the disposition of livestock or another animal,
27 as provided in sections 717.5 and 717B.4, if the magistrate
28 determines the value of the livestock or animal is less than
29 ten thousand dollars. Magistrates have jurisdiction to
30 exercise the powers specified in sections 556F.2 and 556F.12,
31 and to hear complaints or preliminary informations, issue
32 warrants, order arrests, make commitments, and take bail.
33 Magistrates have jurisdiction over violations of section
34 123.49, subsection 2, paragraph "h". Magistrates who are
35 admitted to the practice of law in this state have

1 jurisdiction over all proceedings for the involuntary
2 commitment, treatment, or hospitalization of individuals under
3 chapters 125 and 229, except as otherwise provided under
4 section 229.6A; nonlawyer magistrates have jurisdiction over
5 emergency detention and hospitalization proceedings under
6 sections 125.91 and 229.22. Magistrates have jurisdiction to
7 conduct hearings authorized under section 809.4, and in
8 forfeiture proceedings as provided in section 809A.2.

9 Sec. 3. Section 809A.2, Code 2001, is amended by adding
10 the following new subsection:

11 NEW SUBSECTION. 1A. A magistrate or district associate
12 judge may exercise jurisdiction under this chapter if the
13 total value of the interest in the property is less than five
14 thousand dollars, with appeal to be as in the case of small
15 claims.

16 EXPLANATION

17 This bill relates to a magistrate or district associate
18 judge exercising jurisdiction in criminal forfeiture
19 proceedings.

20 The bill provides that a magistrate or district associate
21 judge may exercise jurisdiction in a forfeiture proceeding
22 under Code chapter 809A if the value of the interest in the
23 property is less than \$5,000. Current law states that the
24 district court has jurisdiction of criminal forfeiture
25 proceedings.

26

27

28

29

30

31

32

33

34

35

SENATE FILE 485

S-3260

1 Amend Senate File 485 as follows:

2 1. By striking page 1, line 20, through page 2,
3 line 8.

4 2. Page 2, line 11, by striking the words
5 "magistrate or".

By JEFF LAMBERTI

Adopted 3/28/01 p. 896

S-3260 FILED MARCH 27, 2001

**SENATE FILE 485
FISCAL NOTE**

A fiscal note for **Senate File 485** 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 485 provides that a Magistrate or District Associate Judge may exercise jurisdiction in a forfeiture proceeding under Chapter 809A, Code of Iowa, if the value of the interest in the property is less than \$5,000.

ASSUMPTIONS

1. Current law states that the District Court has jurisdiction in criminal forfeiture proceedings.
2. Senate File 485 would shift some District Court cases dealing with forfeiture to District Associate Judges and Magistrates. District Associate Judge and Magistrate dockets are currently at capacity.
3. The increased caseload will result in delays on the District Associate Judge and Magistrate dockets.

FISCAL IMPACT

The fiscal impact of Senate File 485 cannot be determined. Shifting cases to District Associate Judges and Magistrates will result in delays on these dockets.

SOURCE

Judicial Branch

(LSB 2567SV, JDD)

FILED MARCH 26, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR

H. 3/29/01 Judiciary
H. 4/9/01 Amend/Do Pass
W/H-1459

H. 4/12/01

SENATE BUSINESS CALENDAR

SENATE FILE 485

BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SF 281)

(AS AMENDED AND PASSED BY THE SENATE MARCH 28, 2001)

* - Language Stricken by the Senate

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

A BILL FOR

1 An Act relating to jurisdiction in criminal forfeiture
2 proceedings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

S.F. 485

4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21

SF 485

jm/cc/26

1 Section 1. Section 602.6306, subsection 2, Code 2001, is
2 amended to read as follows:

3 2. District associate judges also have jurisdiction in
4 civil actions for money judgment where the amount in
5 controversy does not exceed ten thousand dollars, jurisdiction
6 over involuntary commitment, treatment, or hospitalization
7 proceedings under chapters 125 and 229, jurisdiction of
8 indictable misdemeanors, and felony violations of section
9 321J.2, jurisdiction to enter a temporary or emergency order
10 of protection under chapter 236, and to make court
11 appointments and set hearings in criminal matters,
12 jurisdiction to enter orders in probate which do not require
13 notice and hearing and to set hearings in actions under
14 chapter 633, and the jurisdiction provided in section 602.7101
15 when designated as a judge of the juvenile court, and
16 jurisdiction in forfeiture proceedings as provided in section
17 809A.2. While presiding in these subject matters a district
18 associate judge shall employ district judges' practice and
19 procedure.

* 20 Sec. 2. Section 809A.2, Code 2001, is amended by adding
21 the following new subsection:

* 22 NEW SUBSECTION. 1A. A district associate judge may
23 exercise jurisdiction under this chapter if the total value of
24 the interest in the property is less than five thousand
25 dollars, with appeal to be as in the case of small claims.

26
27
28
29
30
31
32
33
34
35

SENATE FILE 485

H-1459

1 Amend Senate File 485, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, line 15, by inserting before the word
4 "and" the following: "jurisdiction in return of
5 seized property proceedings as provided in section
6 809.4,".

7 2. Page 1, by inserting after line 19 the
8 following:

9 "Sec. _____. Section 809.4, Code 2001, is amended to
10 read as follows:

11 809.4 HEARING -- APPEAL.

12 An application for the return of seized property
13 shall be set for hearing not less than five nor more
14 than thirty days after the filing of the application
15 and shall be tried to the court. All claims to the
16 same property shall be heard in one proceeding unless
17 it is shown that the proceeding would result in
18 prejudice to one or more of the parties. If the total
19 value of the property sought to be returned is less
20 than five thousand dollars, the proceeding may be
21 conducted by a magistrate ~~or a district associate~~
22 ~~judge~~ with appeal to be as in the case of small
23 claims. If the total value of the property sought to
24 be returned is less than ten thousand dollars, the
25 proceeding may be conducted by a district associate
26 judge with appeal to be as in the case of small
27 claims. In all other cases, the hearing shall be
28 conducted by a district judge, with appeal as provided
29 in section 809.12A."

30 3. Page 1, line 24, by striking the word "five"
31 and inserting the following: "ten".

32 4. Page 1, by inserting after line 25, the
33 following:

34 "Sec. _____. Section 902.4, Code 2001, is amended to
35 read as follows:

36 902.4 RECONSIDERATION OF FELON'S SENTENCE.

37 For a period of ~~ninety days~~ one year from the date
38 when a person convicted of a felony, other than a
39 class "A" felony or a felony for which a minimum
40 sentence of confinement is imposed, begins to serve a
41 sentence of confinement, the court, on its own motion
42 or on the recommendation of the director of the Iowa
43 department of corrections, may order the person to be
44 returned to the court, at which time the court may
45 review its previous action and reaffirm it or
46 substitute for it any sentence permitted by law.
47 Copies of the order to return the person to the court
48 shall be provided to the attorney for the state, the
49 defendant's attorney, and the defendant. Upon a
50 request of the attorney for the state, the defendant's

H-1459

H-1459

Page 2

1 attorney, or the defendant if the defendant has no
2 attorney, the court may, but is not required to,
3 conduct a hearing on the issue of reconsideration of
4 sentence. The court shall not disclose its decision
5 to reconsider or not to reconsider the sentence of
6 confinement until the date reconsideration is ordered
7 or the date the ~~ninety-day~~ one-year period expires,
8 whichever occurs first. The district court retains
9 jurisdiction for the limited purposes of conducting
10 such review and entering an appropriate order
11 notwithstanding the timely filing of a notice of
12 appeal. The court's final order in the proceeding
13 shall be delivered to the defendant personally or by
14 certified mail. The court's decision to take the
15 action or not to take the action is not subject to
16 appeal. However, for the purposes of appeal, a
17 judgment of conviction of a felony is a final judgment
18 when pronounced."

19 5. Title page, line 1, by inserting after the
20 word "forfeiture" the following: "and seized
21 property".

22 6. Title page, line 2, by inserting after the
23 word "proceedings" the following: ", and providing
24 for reconsideration of a felon's sentence".

25 7. By renumbering, relettering, or redesignating
26 and correcting internal references as necessary.

By COMMITTEE ON JUDICIARY

LARSON of Linn, Chairperson

H-1459 FILED APRIL 9, 2001

**SENATE FILE 485
FISCAL NOTE**

A fiscal note for **Senate File 485** 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 485 provides that a District Associate Judge may exercise jurisdiction in a forfeiture proceeding under Chapter 809A, Code of Iowa, if the value of the interest in the property is less than \$5,000.

ASSUMPTIONS

1. Current law states that the District Court has jurisdiction in criminal forfeiture proceedings.
2. Senate File 485 would shift some District Court cases dealing with forfeiture to District Associate Judges. District Associate Judge dockets are currently at capacity.
3. The increased caseload will result in delays on the District Associate Judge dockets.

FISCAL IMPACT

The fiscal impact of Senate File 485 cannot be determined. Shifting cases to District Associate Judges will result in delays on these dockets.

SOURCE

Judicial Branch

(LSB 2567SV.2, JDD)

FILED APRIL 2, 2001

BY DENNIS PROUTY, FISCAL DIRECTOR