

MAR 4 2004
WAYS AND MEANS

HOUSE FILE 2442
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 667)

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

A BILL FOR

1 An Act relating to the procedures and duties of the clerk of the
2 district court and the judicial branch, and providing for a
3 fee.

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

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HF 2442

1 Section 1. Section 305.2, subsection 1, Code Supplement
2 2003, is amended to read as follows:

3 1. "Agency" means any executive or legislative branch
4 department, office, commission, board, or other unit of state
5 government except as otherwise provided by law.

6 Sec. 2. Section 321.174, subsection 3, Code 2003, is
7 amended to read as follows:

8 3. A licensee shall have the licensee's driver's license
9 in immediate possession at all times when operating a motor
10 vehicle and shall display the same, upon demand of a judicial
11 magistrate, district associate judge, district judge, peace
12 officer, or examiner of the department. However, a person
13 charged with violating this subsection shall not be convicted
14 if the person produces in-court, within-a-reasonable-time, to
15 the clerk of the district court, prior to the licensee's court
16 date indicated on the citation, a driver's license issued to
17 that person and valid for the vehicle operated at the time of
18 the person's arrest or at the time the person was charged with
19 a violation of this section.

20 Sec. 3. Section 602.8101, subsection 3, Code 2003, is
21 amended to read as follows:

22 3. The clerk may employ deputies, assistants, and clerks
23 staff when authorized under section 602.1402 and when
24 authorized by the chief judge of the judicial district. The
25 clerk is responsible for the acts of these employees. Each
26 first-deputy The clerk shall designate one or more employees
27 who shall give bond as provided in chapter 64.

28 Sec. 4. Section 602.8102, subsections 13 and 57, Code
29 Supplement 2003, are amended by striking the subsections.

30 Sec. 5. Section 602.8104, subsection 2, paragraph j, Code
31 2003, is amended by striking the paragraph.

32 Sec. 6. Section 602.8106, subsection 1, Code Supplement
33 2003, is amended by adding the following new paragraph:

34 NEW PARAGRAPH. g. For a motion to show cause in a
35 criminal case, the fee shall be the same amount as the fee for

1 filing and docketing a complaint, information, or citation for
2 the underlying criminal case from which the motion arises.

3 Sec. 7. Section 633.31, subsection 2, paragraph i, Code
4 2003, is amended to read as follows:

5 i. For certifying change of title ~~10.00~~
6 20.00

7 Sec. 8. Section 635.7, Code Supplement 2003, is amended to
8 read as follows:

9 635.7 REPORT AND INVENTORY -- EXCESS VALUE AND
10 TERMINATION.

11 The executor or administrator is required to file the
12 report and inventory for which provision is made in section
13 633.361. Nothing in sections 635.1 to 635.3 shall exempt the
14 executor or administrator from complying with the requirements
15 of section 422.27, 450.22, 450.58, or 633.480, or 633.481. If
16 the inventory and report shows assets subject to the
17 jurisdiction of this state which exceed the total gross value
18 of the amount permitted the small estate under the applicable
19 provision of section 635.1, the clerk shall terminate the
20 letters issued under section 635.1 without prejudice to the
21 rights of persons who delivered property as permitted under
22 section 635.3. The executor or administrator shall then be
23 required to petition for administration of the estate as
24 provided in chapter 633.

25 Sec. 9. Section 636.13, Code 2003, is repealed.

26 EXPLANATION

27 This bill relates to the procedures and duties of the clerk
28 of the district court and the judicial branch.

29 The bill makes the state records and archives Act in Code
30 chapter 305 applicable to the executive and legislative
31 branches exclusively.

32 The bill provides that a person issued a citation for
33 failing to carry their driver's license while operating a
34 motor vehicle shall not be convicted of this offense if the
35 person produces their driver's license to the clerk of the

1 district court prior to going to court. Current law provides
2 that a person shall not be convicted of failing to carry their
3 driver's license while operating a motor vehicle if the person
4 presents their license at the time of the person's arrest or
5 at the time the person is charged with failing to carry a
6 driver's license while operating a motor vehicle.

7 The bill equalizes the fee for certifying a change of title
8 in an estate with other change of title certifications
9 pursuant to Code section 602.8105 by increasing the change of
10 title certification fee in an estate from \$10 to \$20. The
11 distribution of the fee is governed by Code section 602.8108.

12 The bill creates a fee for filing a motion to show cause in
13 a criminal case. The fee shall be the same as the fee for
14 filing and docketing a complaint, information, or citation for
15 the underlying criminal case from which the motion arises.

16 The bill provides that the clerk of the district court may
17 have employees when authorized. Current law provides that the
18 clerk of the district court may employ deputies, assistants,
19 and clerks.

20 The bill provides the executor or administrator of an
21 estate shall comply with the requirements of Code section
22 633.480, which require the executor or administrator to
23 deliver certificates pertaining to each parcel of real estate
24 to the county recorder.

25 The bill repeals Code section 636.13, which requires the
26 clerk of the district court to keep a book of surety company
27 certificates and revocations.

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HOUSE FILE 2442**H-8193**

1 Amend House File 2442 as follows:

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

4 "Sec. _____. Section 602.1304, subsection 2,
5 paragraph a, Code Supplement 2003, is amended to read
6 as follows:

7 a. The enhanced court collections fund is created
8 in the state treasury under the authority of the
9 supreme court. The fund shall be separate from the
10 general fund of the state and the balance in the fund
11 shall not be considered part of the balance of the
12 general fund of the state. Notwithstanding section
13 8.33, moneys in the fund shall not revert to the
14 general fund, unless and to the extent the total
15 amount of moneys deposited into the fund in a fiscal
16 year would exceed the maximum annual deposit amount
17 established for the collections fund by the general
18 assembly. The initial maximum annual deposit amount
19 for a fiscal year is ~~four~~ six million dollars.
20 Notwithstanding section 12C.7, subsection 2, interest
21 or earnings on moneys in the collections fund shall
22 remain in the collections fund and any interest and
23 earnings shall be in addition to the maximum annual
24 deposit amount."

25 2. Title page, line 2, by inserting after the
26 word "branch," the following: "increasing an
27 appropriation,".

By WINCKLER of Scott
JOCHUM of Dubuque

LENSING of Johnson
BERRY of Black Hawk

H-8193 FILED MARCH 8, 2004

**Fiscal Services Division
Legislative Services Agency
Fiscal Note**

HF 2442 - Clerks of Court (LSB 5284 HV)

Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)

Fiscal Note Version - New

Description

House File 2442 relates to the procedures and duties of the Clerk of District Court and the Judicial Branch and provides for a fee.

Assumptions

1. In calendar year 2003, there were approximately 10,500 full estates opened. (This number excludes conservatorships, guardianships, or estates that do not require administration.) The Judicial Branch does not keep track of the number of certificates issued for change of title in probate. This analysis will assume that one change of title certificate was issued for each estate opened.
2. House File 2442 increases the fee from \$10 to \$20 for this action. The amount of revenue generated from this increase is estimated to be approximately \$105,000.
3. Creates a filing fee for criminal motion to show cause. Under current law, there is a filing fee for motion to show cause in a civil procedure but not for a criminal case. The filing fee for contempts arising out of simple misdemeanors would be \$17 and for all other criminal cases, the fee would be \$30.
4. In calendar year 2003, there were 2,469 motions to show cause filed in simple misdemeanor cases and 4,663 motions to show cause for all other indictable cases. The revenue generated from this increase is estimated to be \$42,000 for simple misdemeanors and \$140,000 for all other indictable offenses. The collection rates for these cases will vary.

Fiscal Impact

House File 2442 would increase revenue to the General Fund by approximately \$287,000 annually.

Source

Judicial Branch

Dennis C Prouty

March 15, 2004

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Maddox, Ch
Hutter
Swaim

Supreme Court
S: 02442

HSB 667
JUDICIARY

SENATE/HOUSE FILE _____
BY (PROPOSED JUDICIAL
BRANCH BILL)

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
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26 balance of the general fund of the state. Notwithstanding
27 section 8.33, moneys in the fund shall not revert to the
28 general fund, unless and to the extent the total amount of
29 moneys deposited into the fund in a fiscal year would exceed
30 the maximum annual deposit amount established for the
31 collections fund by the general assembly. The ~~initial~~ maximum
32 annual deposit amount for a fiscal year is ~~four~~ six million
33 dollars. Notwithstanding section 12C.7, subsection 2,
34 interest or earnings on moneys in the collections fund shall
35 remain in the collections fund and any interest and earnings

1 shall be in addition to the maximum annual deposit amount.

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25 executor or administrator from complying with the requirements
26 of section 422.27, 450.22, 450.58, ~~or 633.480, or 633.481~~. If
27 the inventory and report shows assets subject to the
28 jurisdiction of this state which exceed the total gross value
29 of the amount permitted the small estate under the applicable
30 provision of section 635.1, the clerk shall terminate the
31 letters issued under section 635.1 without prejudice to the
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12 district court prior to going to court. Current law provides
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18 The bill equalizes the fee for certifying a change of title
19 in an estate with other change of title certifications
20 pursuant to Code section 602.8105 by increasing the change of
21 title certification fee in an estate from \$10 to \$20. The
22 distribution of the fee is governed by Code section 602.8108.

23 The bill increases the annual deposit into the enhanced
24 court collections fund from \$4 million to \$6 million. The
25 moneys deposited into the fund are from fees and other revenue
26 collected by the judicial branch. The fund is to be used by
27 the judicial branch for the Iowa court information system and
28 other technological improvements related to administering the
29 judicial branch.

30 The bill provides that the clerk of the district court may
31 have employees when authorized. Current law provides that the
32 clerk of the district court may employ deputies, assistants,
33 and clerks.

34 The bill provides the executor or administrator of an
35 estate shall comply with the requirements of Code section

1 633.480, which require the executor or administrator to
2 deliver certificates pertaining to each parcel of real estate
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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: FEBRUARY 13, 2004

RE: LSB 5284DP

The purpose of the proposed bill is to streamline and clarify certain court practices and procedures used in the clerk of district court offices.

Recent changes to the state archives management act were drafted broadly enough to apply to the legislative and judicial branches of government. In the case of the judicial branch, the new law is redundant and unnecessary because Iowa Code section 602.8103 and Court Rules 22.36 – 22.38 address the retention, management and destruction of court records. The proposed amendment to Code section 305.2(1) would return the definition to its previous meaning under Chapter 304B, Code of Iowa (2003) and avoid this unnecessary duplication.

The amendment to Code section 321.174(3) would limit the time for producing proof of a valid driver's license to the clerk of court by persons who are charged with failing to have the license in their possession. A fixed period of time, as opposed to the current standard of "within a reasonable time," provides predictability and eliminates subjective application of the law.

The Court recommends increasing the cap on the Enhanced Court Collections Fund, which is used to support court technology and invest in new technologies that will improve court services. The proposed amendment would increase the cap from \$4 million to \$6 million.

The amendment Code section 602.1402 simply eliminates use of the term "deputy," which is no longer used in reference to clerks' offices, and revises the sentence to conform to current personnel policies.

Code sections 602.8102(13) and (57) reference duties no longer performed by clerks of the district court. The proposed amendment eliminates the sections.

Current law requires the clerk of the district court to keep an index of corporate sureties, a function also performed by the insurance commissioner who makes the list available on the Internet. The amendments to Code sections 602.8104(2)(j) and 636.13 eliminate this duplication of efforts.

The amendment to section 633.31(2)(i) raises the fee for certifying change of title in real estate from ten dollars to twenty dollars in probate cases. The change would make the fee the same as the amount charged for certifying change of title in real estate in other types of actions.

The amendment to Code section 635.7 requires the executor or administrator of a small estate to comply with the requirements of Code section 633.480 by delivering certificates pertaining to each parcel of real estate to the county recorder.