

APR 5 2005
APPROPRIATIONS CALENDAR

HOUSE FILE 838
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HF 671)
(SUCCESSOR TO HSB 196)

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 judicial
2 branch, including sending notices, and providing for fees.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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

HF 838

1 Section 1. NEW SECTION. 602.8102A NOTICES RETURNED FOR
2 UNKNOWN ADDRESS -- RESENDING.

3 Notwithstanding any other provision of the Code to the
4 contrary, and subject to rules prescribed by the supreme
5 court, if the clerk of the district court sends a mailing or
6 notice to a person or party and the mailing or notice is
7 returned by the postal service to the clerk of the district
8 court as undeliverable, the clerk is not required to send a
9 repeat or subsequent mailing or notice unless the clerk
10 receives an updated mailing address.

11 Sec. 2. Section 602.8105, subsection 2, Code 2005, is
12 amended to read as follows:

13 2. The clerk of the district court shall collect the
14 following fees for miscellaneous services:

15 a. For filing, entering, and endorsing a mechanic's lien,
16 twenty dollars, and if a suit is brought, the fee is taxable
17 as other costs in the action.

18 b. For filing and entering an agricultural supply dealer's
19 lien and any other statutory lien, twenty dollars.

20 c. For a certificate and seal, ten dollars. However,
21 there shall be no charge for a certificate and seal to an
22 application to procure a pension, bounty, or back pay for a
23 member of the armed services or other person.

24 d. For certifying a change in title of real estate, twenty
25 dollars.

26 e. For filing a praecipe to issue execution under chapter
27 626, twenty-five dollars.

28 f. For filing a praecipe to issue execution under chapter
29 654, fifty dollars.

30 g. For filing a confession of judgment under chapter 676,
31 fifty dollars if the judgment is five thousand dollars or
32 less, and one hundred dollars if the judgment exceeds five
33 thousand dollars.

34 e- h. Other fees provided by law.

35 Sec. 3. Section 901.4, Code 2005, is amended to read as

1 follows:

2 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL --
3 DISTRIBUTION.

4 The presentence investigation report is confidential and
5 the court shall provide safeguards to ensure its
6 confidentiality, including but not limited to sealing the
7 report, which may be opened only by further court order. At
8 least three days prior to the date set for sentencing, the
9 court shall serve send a copy of all of the presentence
10 investigation report upon by ordinary or electronic mail, to
11 the defendant's attorney and the attorney for the state, and
12 the report shall remain confidential except upon court order.
13 However, the court may conceal the identity of the person who
14 provided confidential information. The report of a medical
15 examination or psychological or psychiatric evaluation shall
16 be made available to the attorney for the state and to the
17 defendant upon request. The reports are part of the record
18 but shall be sealed and opened only on order of the court. If
19 the defendant is committed to the custody of the Iowa
20 department of corrections and is not a class "A" felon, a copy
21 of the presentence investigation report shall be forwarded by
22 ordinary or electronic mail to the director with the order of
23 commitment by the clerk of the district court and to the board
24 of parole at the time of commitment. Pursuant to section
25 904.602, the presentence investigation report may also be
26 released by ordinary or electronic mail by the department of
27 corrections or a judicial district department of correctional
28 services to another jurisdiction for the purpose of providing
29 interstate probation and parole compact or interstate compact
30 for adult offender supervision services or evaluations, or to
31 a substance abuse or mental health services provider when
32 referring a defendant for services. The defendant or the
33 defendant's attorney may file with the presentence
34 investigation report, a denial or refutation of the
35 allegations, or both, contained in the report. The denial or

1 refutation shall be included in the report. If the person is
2 sentenced for an offense which requires registration under
3 chapter 692A, the court shall release the report by ordinary
4 or electronic mail to the department.

5 Sec. 4. STUDY OF COURT RULE RELATED TO TRIBAL COURTS. The
6 general assembly acknowledges that contact and interaction
7 between the Iowa court system and federally recognized tribal
8 courts are ever increasing and the general assembly urges the
9 Iowa supreme court to consider developing and prescribing a
10 rule that recognizes the tribal court system and enforces
11 tribal court orders, judgments, and decrees.

12 EXPLANATION

13 This bill relates to procedures and duties of the judicial
14 branch.

15 The bill creates new Code section 602.8102A relating to the
16 clerk of the district court sending a mailing or notice. The
17 bill provides that subject to rules prescribed by the supreme
18 court, if the clerk of the district court sends a mailing or
19 notice to a person or party and the notice or mailing is
20 returned to the clerk of the district court as undeliverable,
21 the clerk is not required to send a subsequent mailing or
22 notice, unless the clerk receives updated address information.

23 The amendment to Code section 602.8105 relates to the
24 collection of fees by the clerk of the district court. The
25 bill establishes a \$25 fee for filing a praecipe to issue
26 execution under Code chapter 626 (enforcement of a judgment);
27 a \$50 fee for filing a praecipe to issue execution under Code
28 chapter 654 (foreclosure of real estate mortgages); and a \$50
29 fee for filing a confession of judgment if the judgment is
30 \$5,000 or less and a \$100 fee if the amount of the judgment
31 exceeds \$5,000 under Code chapter 676 (judgment by
32 confession). A "praecipe" means an order commanding the
33 debtor to do the thing required by the order. A "judgment by
34 confession" means an act by the debtor permitting a judgment
35 to be entered against the debtor.

1 The amendment to Code section 901.4 permits the court to
2 send a copy of a presentence investigation report to the
3 defense attorney and county attorney by ordinary mail or
4 electronic mail. The presentence investigation report
5 contains a detailed personal history of a criminal defendant.
6 Current law does not permit the court to send a copy of the
7 report by electronic mail to the defense attorney or county
8 attorney.

9 The bill also urges the supreme court to develop and
10 prescribe a rule which recognizes the tribal court system and
11 enforces tribal court orders, judgments, and decrees.

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

HOUSE FILE 838

H-1352

1 Amend House File 838 as follows:

2 1. By striking page 1, line 1, through page 3,
3 line 11, and inserting the following:

4 "Section 1. NEW SECTION. 602.8102A NOTICES
5 RETURNED FOR UNKNOWN ADDRESS -- RESENDING.

6 Notwithstanding any other provision of the Code to
7 the contrary, and subject to rules prescribed by the
8 supreme court, if the clerk of the district court
9 sends a mailing or notice to a person or party and the
10 mailing or notice is returned by the postal service to
11 the clerk of the district court as undeliverable, the
12 clerk is not required to send a repeat or subsequent
13 mailing or notice unless the clerk receives an updated
14 mailing address.

15 Sec. 2. Section 901.4, Code 2005, is amended to
16 read as follows:

17 901.4 PRESENTENCE INVESTIGATION REPORT
18 CONFIDENTIAL -- DISTRIBUTION.

19 The presentence investigation report is
20 confidential and the court shall provide safeguards to
21 ensure its confidentiality, including but not limited
22 to sealing the report, which may be opened only by
23 further court order. At least three days prior to the
24 date set for sentencing, the court shall ~~serve~~ send a
25 copy of all of the presentence investigation report
26 upon by ordinary or electronic mail, to the
27 defendant's attorney and the attorney for the state,
28 and the report shall remain confidential except upon
29 court order. However, the court may conceal the
30 identity of the person who provided confidential
31 information. The report of a medical examination or
32 psychological or psychiatric evaluation shall be made
33 available to the attorney for the state and to the
34 defendant upon request. The reports are part of the
35 record but shall be sealed and opened only on order of
36 the court. If the defendant is committed to the
37 custody of the Iowa department of corrections and is
38 not a class "A" felon, a copy of the presentence
39 investigation report shall be forwarded by ordinary or
40 electronic mail to the director with the order of
41 commitment by the clerk of the district court and to
42 the board of parole at the time of commitment.
43 Pursuant to section 904.602, the presentence
44 investigation report may also be released by ordinary
45 or electronic mail by the department of corrections or
46 a judicial district department of correctional
47 services to another jurisdiction for the purpose of
48 providing interstate probation and parole compact or
49 interstate compact for adult offender supervision
50 services or evaluations, or to a substance abuse or

H-1352

1 mental health services provider when referring a
2 defendant for services. The defendant or the
3 defendant's attorney may file with the presentence
4 investigation report, a denial or refutation of the
5 allegations, or both, contained in the report. The
6 denial or refutation shall be included in the report.
7 If the person is sentenced for an offense which
8 requires registration under chapter 692A, the court
9 shall release the report by ordinary or electronic
10 mail to the department.

11 Sec. 3. ADOPTION OF COURT RULE RELATED TO TRIBAL
12 COURTS. The general assembly acknowledges that
13 contact and interaction between the Iowa court system
14 and federally recognized tribal courts are ever
15 increasing and the general assembly urges the Iowa
16 supreme court to consider developing and prescribing
17 rules that recognize the tribal court system and
18 enforces tribal court orders, judgments, and decrees.

19 Sec. 4. EFFECTIVE DATE. The section of this Act
20 enacting section 602.8102A, being deemed of immediate
21 importance, takes effect upon enactment."

22 2. Title page, by striking lines 1 and 2 and
23 inserting the following: "An Act relating to the
24 procedures and duties of the judicial branch,
25 including sending notices and reports, and providing
26 an effective date."

By HORBACH of Tama

Maddox-ch
Van Fossen
OLSON

Succeeded By
SF 838

HSB 196
JUDICIARY

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

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

A BILL FOR

1 An Act relating to the procedures and duties of the judicial
2 branch, making an appropriation to the enhanced court
3 collections fund, and providing for fees.

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

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

1 Section 1. Section 602.1304, subsection 2, paragraph a,
2 Code 2005, is amended to read as follows:

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

18 Sec. 2. NEW SECTION. 602.8102A NOTICES RETURNED FOR
19 UNKNOWN ADDRESS -- RESENDING.

20 Notwithstanding any other provision of the Code to the
21 contrary, if the clerk of the district court sends a mailing
22 or notice to a person or party and the notice or mailing is
23 returned to the clerk of the district court because the
24 address is unknown, the clerk is not required to send a
25 subsequent notice or mailing unless the clerk receives updated
26 address information. This section does not apply to notices
27 for a hearing, or judgments, or other notices or mailings that
28 would be considered a violation of the due process rights of
29 the person or party if the notice or mailing were not
30 received.

31 Sec. 3. Section 602.8105, subsection 2, Code 2005, is
32 amended to read as follows:

33 2. The clerk of the district court shall collect the
34 following fees for miscellaneous services:

35 a. For filing, entering, and endorsing a mechanic's lien,

1 twenty dollars, and if a suit is brought, the fee is taxable
2 as other costs in the action.

3 b. For filing and entering an agricultural supply dealer's
4 lien and any other statutory lien, twenty dollars.

5 c. For a certificate and seal, ten dollars. However,
6 there shall be no charge for a certificate and seal to an
7 application to procure a pension, bounty, or back pay for a
8 member of the armed services or other person.

9 d. For certifying a change in title of real estate, twenty
10 dollars.

11 e. For filing a praecipe to issue execution under chapter
12 626, twenty-five dollars.

13 f. For filing a praecipe to issue execution under chapter
14 654, fifty dollars.

15 g. For filing a confession of judgment under chapter 676,
16 one hundred dollars.

17 h. Other fees provided by law.

18 Sec. 4. Section 901.4, Code 2005, is amended to read as
19 follows:

20 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL --
21 DISTRIBUTION.

22 The presentence investigation report is confidential and
23 the court shall provide safeguards to ensure its
24 confidentiality, including but not limited to sealing the
25 report, which may be opened only by further court order. At
26 least three days prior to the date set for sentencing, the
27 court shall serve send a copy of all of the presentence
28 investigation report upon by ordinary or electronic mail, to
29 the defendant's attorney and the attorney for the state, and
30 the report shall remain confidential except upon court order.
31 However, the court may conceal the identity of the person who
32 provided confidential information. The report of a medical
33 examination or psychological or psychiatric evaluation shall
34 be made available to the attorney for the state and to the
35 defendant upon request. The reports are part of the record

1 but shall be sealed and opened only on order of the court. If
2 the defendant is committed to the custody of the Iowa
3 department of corrections and is not a class "A" felon, a copy
4 of the presentence investigation report shall be forwarded by
5 ordinary or electronic mail to the director with the order of
6 commitment by the clerk of the district court and to the board
7 of parole at the time of commitment. Pursuant to section
8 904.602, the presentence investigation report may also be
9 released by ordinary or electronic mail by the department of
10 corrections or a judicial district department of correctional
11 services to another jurisdiction for the purpose of providing
12 interstate probation and parole compact or interstate compact
13 for adult offender supervision services or evaluations, or to
14 a substance abuse or mental health services provider when
15 referring a defendant for services. The defendant or the
16 defendant's attorney may file with the presentence
17 investigation report, a denial or refutation of the
18 allegations, or both, contained in the report. The denial or
19 refutation shall be included in the report. If the person is
20 sentenced for an offense which requires registration under
21 chapter 692A, the court shall release the report by ordinary
22 or electronic mail to the department.

23

EXPLANATION

24 This bill relates to procedures and duties of the judicial
25 branch.

26 The bill amends Code section 602.1304 by increasing the
27 maximum annual deposit into the enhanced court collections
28 fund from \$4 million to \$6 million. Certain moneys collected
29 by the judicial branch are deposited into the fund and the
30 moneys are used for the Iowa court information system, for
31 records management equipment, services, projects, and for
32 other court technological improvements.

33 The bill creates new Code section 602.8102A relating to the
34 clerk of the district court sending a mailing or notice. The
35 bill provides that if the clerk of the district court sends a

1 mailing or notice to a person or party and the notice or
2 mailing is returned to the clerk of the district court because
3 the address is unknown, the clerk is not required to send a
4 subsequent mailing or notice, unless the clerk receives
5 updated address information. However, this Code section does
6 not apply to notices for a hearing, or judgments, or other
7 mailings or notices that would be considered a violation of
8 the due process rights of the person or party if the mailing
9 or notice were not received.

10 The amendment to Code section 602.8105 relates to the
11 collection of fees by the clerk of the district court. The
12 bill establishes a \$25 fee for filing a praecipe to issue
13 execution under Code chapter 626 (enforcement of a judgment);
14 a \$50 fee for filing a praecipe to issue execution under Code
15 chapter 654 (foreclosure of real estate mortgages); and a \$100
16 fee for filing a confession of judgment under Code chapter 676
17 (judgment by confession). A "praecipe" means an order
18 commanding the debtor to do the thing required by the order.
19 A "judgment by confession" means an act by the debtor
20 permitting a judgment to be entered against the debtor.

21 The amendment to Code section 901.4 permits the court to
22 send a copy of a presentence investigation report to the
23 defense attorney and county attorney by ordinary mail or
24 electronic mail. The presentence investigation report
25 contains a detailed personal history of a criminal defendant.
26 Current law does not permit the court to send a copy of the
27 report by electronic mail to the defense attorney or county
28 attorney.

29
30
31
32
33
34
35

MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: February 3, 2005

RE: TLSB 1241DP

Over the years the Judicial Branch has used information technology to achieve substantial operational efficiencies for itself and state and local government, expand public access to the courts, and improve court services. The Judicial Branch is ready to revolutionize the way it gathers, stores, and retrieves information through electronic filing and data management. But a project of this magnitude requires a substantial investment of resources. A significant portion of the Enhanced Court Collections Fund and the Court Technology Fund, are now devoted to on-going operations leaving little for new innovations and programs. For this reason, the Judicial Branch recommends the legislature raise the current cap on the Enhanced Court Technology Fund to provide sufficient funds for electronic filing and data management as well as other innovations to come.

The Code contains numerous requirements for clerks of court to send copies of case documents and notices of case events. It is not unusual for litigants and others to fail to provide clerks with up-to-date address information and leave no forwarding address. In addition, clerks often send copies of court documents to people who are transients. Even after the clerk's office is made aware of an inaccurate address in their records, they must continue to send out the notices to the same address because state law allows no exceptions. This costs the state postage, paper and staff time. The change proposed in section 2 of the bill would reduce the number of notices clerks must send when they encounter these situations.

Confession of judgments and executions of judgments are time consuming and labor intensive procedures for clerk of court offices, which amounts to expenses for the state. The state requires fees for many types of court services, but not for procedures for execution of judgment. The proposed fees in section 3 of the bill would be in line with other court fees.

Last year, the General Assembly amended the Code to allow the department of corrections to receive electronic copies of pre-sentence investigation reports. This saves the state time and money. Section 4 of the bill would increase savings by authorizing the same delivery method for reports to county attorneys, public defenders, and court-appointed attorneys.