

MAR 9 2005  
APPROPRIATIONS

HOUSE FILE 671  
BY COMMITTEE ON JUDICIARY

(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, 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:

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HF 671

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 e- 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.

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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.

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Maddox-cg  
Van Fossen  
OLSON

Succeeds  
SF/HF 671

HSB 196  
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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## 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.