

FILED MAR 9 2005

SENATE FILE 325
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1128)

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, and making an appropriation to the enhanced court
3 collections fund.

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

SENATE FILE 325

5 S-3049

6 1 Amend Senate File 325 as follows:

7 2 1. Page 1, by striking lines 20 through 30 and
8 3 inserting the following:

9 4 "Notwithstanding any other provision of the Code to
10 5 the contrary, and subject to rules prescribed by the
11 6 supreme court, if the clerk of the district court
12 7 sends a mailing or notice to a person or party and the
13 8 mailing or notice is returned by the postal service to
14 9 the clerk of the district court as undeliverable, the
15 10 clerk is not required to send a repeat or subsequent
16 11 mailing or notice unless the clerk receives an updated
17 12 mailing address."

18 13 2. Page 2, by inserting after line 35 the
19 14 following:

20 15 "Sec. ____ . EFFECTIVE DATE. The section of this
21 16 Act creating new section 602.8102A, being deemed of
22 17 immediate importance, takes effect upon enactment."

23 18 3. Title page, line 3, by inserting after the
24 19 word "fund" the following: ", and providing an
25 20 effective date".

By CHARLES W. LARSON, JR.

S-3049 FILED MARCH 22, 2005

TLSB 1241SV 81

jm/pj/5

SF 325

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 901.4, Code 2005, is amended to read as
32 follows:

33 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL --
34 DISTRIBUTION.

35 The presentence investigation report is confidential and

1 the court shall provide safeguards to ensure its
2 confidentiality, including but not limited to sealing the
3 report, which may be opened only by further court order. At
4 least three days prior to the date set for sentencing, the
5 court shall serve send a copy of all of the presentence
6 investigation report upon by ordinary or electronic mail, to
7 the defendant's attorney and the attorney for the state, and
8 the report shall remain confidential except upon court order.
9 However, the court may conceal the identity of the person who
10 provided confidential information. The report of a medical
11 examination or psychological or psychiatric evaluation shall
12 be made available to the attorney for the state and to the
13 defendant upon request. The reports are part of the record
14 but shall be sealed and opened only on order of the court. If
15 the defendant is committed to the custody of the Iowa
16 department of corrections and is not a class "A" felon, a copy
17 of the presentence investigation report shall be forwarded by
18 ordinary or electronic mail to the director with the order of
19 commitment by the clerk of the district court and to the board
20 of parole at the time of commitment. Pursuant to section
21 904.602, the presentence investigation report may also be
22 released by ordinary or electronic mail by the department of
23 corrections or a judicial district department of correctional
24 services to another jurisdiction for the purpose of providing
25 interstate probation and parole compact or interstate compact
26 for adult offender supervision services or evaluations, or to
27 a substance abuse or mental health services provider when
28 referring a defendant for services. The defendant or the
29 defendant's attorney may file with the presentence
30 investigation report, a denial or refutation of the
31 allegations, or both, contained in the report. The denial or
32 refutation shall be included in the report. If the person is
33 sentenced for an offense which requires registration under
34 chapter 692A, the court shall release the report by ordinary
35 or electronic mail to the department.

EXPLANATION

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

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

The bill creates new Code section 602.8102A relating to the clerk of the district court sending a mailing or notice. The bill provides that if the clerk of the district court sends a mailing or notice to a person or party and the notice or mailing is returned to the clerk of the district court because the address is unknown, the clerk is not required to send a subsequent mailing or notice, unless the clerk receives updated address information. However, this Code section does not apply to notices for a hearing, or judgments, or other mailings or notices that would be considered a violation of the due process rights of the person or party if the mailing or notice were not received.

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

SENATE FILE 325

S-3074

- 1 Amend Senate File 325 as follows:
2 1. Page 1, by striking lines 1 through 17.
3 2. Page 1, by striking lines 20 through 30 and
4 inserting the following:
5 "Notwithstanding any other provision of the Code to
6 the contrary, and subject to rules prescribed by the
7 supreme court, if the clerk of the district court
8 sends a mailing or notice to a person or party and the
9 mailing or notice is returned by the postal service to
10 the clerk of the district court as undeliverable, the
11 clerk is not required to send a repeat or subsequent
12 mailing or notice unless the clerk receives an updated
13 mailing address."
14 3. Page 2, by inserting after line 35 the
15 following:
16 "Sec. ____ . ADOPTION OF COURT RULE RELATED TO
17 TRIBAL COURTS. The general assembly acknowledges that
18 contact and interaction between the Iowa court system
19 and federally recognized tribal courts are ever
20 increasing and the general assembly urges the Iowa
21 supreme court to consider developing and prescribing a
22 rule that recognizes the tribal court system and
23 enforces tribal court orders, judgments, and decrees."
24 4. Page 2, by inserting after line 35 the
25 following:
26 "Sec. ____ . EFFECTIVE DATE. This section of this
27 Act creating new section 602.8102A, being deemed of
28 immediate importance, takes effect upon enactment."
29 5. Title page, by striking lines 2 and 3 and
30 inserting the following: "branch, including sending
31 notices and reports, and providing an effective date."
32 6. By renumbering as necessary.

COMMITTEE ON APPROPRIATIONS
JEFF ANGELO, CO-CHAIRPERSON
ROBERT E. DVORSKY, CO-CHAIRPERSON

S-3074 FILED MARCH 30, 2005

SENATE FILE 325

S-3078

- 1 Amend the amendment, S-3074, to Senate File 325 as
2 follows:
3 1. Page 1, lines 21 and 22, by striking the words
4 "a rule that recognizes" and inserting the following:
5 "rules that recognize".
6 2. Page 1, line 26, by striking the word "This"
7 and inserting the following: "The".
8 3. Page 1, line 27, by striking the words
9 "creating new" and inserting the following:
10 "enacting".

By JEFF ANGELO
ROBERT E. DVORSKY

S-3078 FILED APRIL 4, 2005
ADOPTED

SENATE FILE 325
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1128)

(AS AMENDED AND PASSED BY THE SENATE APRIL 4, 2005)

- _____ - New Language by the Senate
* - 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 the procedures and duties of the judicial
2 branch, including sending notices and reports, and providing
3 an effective date.

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

S.F. 325

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* 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 901.4, Code 2005, is amended to read as
12 follows:

13 901.4 PRESENTENCE INVESTIGATION REPORT CONFIDENTIAL --
14 DISTRIBUTION.

15 The presentence investigation report is confidential and
16 the court shall provide safeguards to ensure its
17 confidentiality, including but not limited to sealing the
18 report, which may be opened only by further court order. At
19 least three days prior to the date set for sentencing, the
20 court shall ~~serve~~ send a copy of all of the presentence
21 investigation report upon by ordinary or electronic mail, to
22 the defendant's attorney and the attorney for the state, and
23 the report shall remain confidential except upon court order.
24 However, the court may conceal the identity of the person who
25 provided confidential information. The report of a medical
26 examination or psychological or psychiatric evaluation shall
27 be made available to the attorney for the state and to the
28 defendant upon request. The reports are part of the record
29 but shall be sealed and opened only on order of the court. If
30 the defendant is committed to the custody of the Iowa
31 department of corrections and is not a class "A" felon, a copy
32 of the presentence investigation report shall be forwarded by
33 ordinary or electronic mail to the director with the order of
34 commitment by the clerk of the district court and to the board
35 of parole at the time of commitment. Pursuant to section

1 904.602, the presentence investigation report may also be
2 released by ordinary or electronic mail by the department of
3 corrections or a judicial district department of correctional
4 services to another jurisdiction for the purpose of providing
5 interstate probation and parole compact or interstate compact
6 for adult offender supervision services or evaluations, or to
7 a substance abuse or mental health services provider when
8 referring a defendant for services. The defendant or the
9 defendant's attorney may file with the presentence
10 investigation report, a denial or refutation of the
11 allegations, or both, contained in the report. The denial or
12 refutation shall be included in the report. If the person is
13 sentenced for an offense which requires registration under
14 chapter 692A, the court shall release the report by ordinary
15 or electronic mail to the department.

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

23 Sec. 4. EFFECTIVE DATE. The section of this Act enacting
24 section 602.8102A, being deemed of immediate importance, takes
25 effect upon enactment.

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SENATE FILE 325

H-1353

1 Amend Senate File 325, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. By striking page 1, line 1, through page 2,
4 line 25, and inserting the following:

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

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

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

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

20 a. For filing, entering, and endorsing a
21 mechanic's lien, twenty dollars, and if a suit is
22 brought, the fee is taxable as other costs in the
23 action.

24 b. For filing and entering an agricultural supply
25 dealer's lien and any other statutory lien, twenty
26 dollars.

27 c. For a certificate and seal, ten dollars.
28 However, there shall be no charge for a certificate
29 and seal to an application to procure a pension,
30 bounty, or back pay for a member of the armed services
31 or other person.

32 d. For certifying a change in title of real
33 estate, twenty dollars.

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

36 f. For filing a praecipe to issue execution under
37 chapter 654, fifty dollars.

38 g. For filing a confession of judgment under
39 chapter 676, fifty dollars if the judgment is five
40 thousand dollars or less, and one hundred dollars if
41 the judgment exceeds five thousand dollars.

42 ~~e.~~ h. Other fees provided by law.

43 Sec. 3. Section 901.4, Code 2005, is amended to
44 read as follows:

45 901.4 PRESENTENCE INVESTIGATION REPORT
46 CONFIDENTIAL -- DISTRIBUTION.

47 The presentence investigation report is
48 confidential and the court shall provide safeguards to
49 ensure its confidentiality, including but not limited
50 to sealing the report, which may be opened only by

H-1353

1 further court order. At least three days prior to the
2 date set for sentencing, the court shall ~~serve~~ send a
3 copy of all of the presentence investigation report
4 upon by ordinary or electronic mail, to the
5 defendant's attorney and the attorney for the state,
6 and the report shall remain confidential except upon
7 court order. However, the court may conceal the
8 identity of the person who provided confidential
9 information. The report of a medical examination or
10 psychological or psychiatric evaluation shall be made
11 available to the attorney for the state and to the
12 defendant upon request. The reports are part of the
13 record but shall be sealed and opened only on order of
14 the court. If the defendant is committed to the
15 custody of the Iowa department of corrections and is
16 not a class "A" felon, a copy of the presentence
17 investigation report shall be forwarded by ordinary or
18 electronic mail to the director with the order of
19 commitment by the clerk of the district court and to
20 the board of parole at the time of commitment.
21 Pursuant to section 904.602, the presentence
22 investigation report may also be released by ordinary
23 or electronic mail by the department of corrections or
24 a judicial district department of correctional
25 services to another jurisdiction for the purpose of
26 providing interstate probation and parole compact or
27 interstate compact for adult offender supervision
28 services or evaluations, or to a substance abuse or
29 mental health services provider when referring a
30 defendant for services. The defendant or the
31 defendant's attorney may file with the presentence
32 investigation report, a denial or refutation of the
33 allegations, or both, contained in the report. The
34 denial or refutation shall be included in the report.
35 If the person is sentenced for an offense which
36 requires registration under chapter 692A, the court
37 shall release the report by ordinary or electronic
38 mail to the department.

39 Sec. 4. STUDY OF COURT RULE RELATED TO TRIBAL
40 COURTS. The general assembly acknowledges that
41 contact and interaction between the Iowa court system
42 and federally recognized tribal courts are ever
43 increasing and the general assembly urges the Iowa
44 supreme court to consider developing and prescribing
45 rules that recognize the tribal court system and
46 enforce tribal court orders, judgments, and decrees."

47 2. Title page, by striking lines 2 and 3 and
48 inserting the following: "branch, including sending
49 notices, and providing for fees."

By HORBACH of Tama

**EIGHTY FIRST GENERAL ASSEMBLY
2005 REGULAR SESSION
DAILY
SENATE CLIP SHEET**

APRIL 14, 2005

**HOUSE AMENDMENT TO
SENATE FILE 325**

S-3114

1 Amend Senate File 325, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. By striking page 1, line 1, through page 2,
4 line 25, and inserting the following:
5 "Section 1. NEW SECTION. 602.8102A NOTICES
6 RETURNED FOR UNKNOWN ADDRESS -- RESENDING.
7 Notwithstanding any other provision of the Code to
8 the contrary, and subject to rules prescribed by the
9 supreme court, if the clerk of the district court
10 sends a mailing or notice to a person or party and the
11 mailing or notice is returned by the postal service to
12 the clerk of the district court as undeliverable, the
13 clerk is not required to send a repeat or subsequent
14 mailing or notice unless the clerk receives an updated
15 mailing address.
16 Sec. 2. Section 602.8105, subsection 2, Code 2005,
17 is amended to read as follows:
18 2. The clerk of the district court shall collect
19 the following fees for miscellaneous services:
20 a. For filing, entering, and endorsing a
21 mechanic's lien, twenty dollars, and if a suit is
22 brought, the fee is taxable as other costs in the
23 action.
24 b. For filing and entering an agricultural supply
25 dealer's lien and any other statutory lien, twenty
26 dollars.
27 c. For a certificate and seal, ten dollars.
28 However, there shall be no charge for a certificate
29 and seal to an application to procure a pension,
30 bounty, or back pay for a member of the armed services
31 or other person.
32 d. For certifying a change in title of real
33 estate, twenty dollars.
34 e. For filing a praecipe to issue execution under
35 chapter 626, twenty-five dollars.
36 f. For filing a praecipe to issue execution under
37 chapter 654, fifty dollars.
38 g. For filing a confession of judgment under
39 chapter 676, fifty dollars if the judgment is five
40 thousand dollars or less, and one hundred dollars if
41 the judgment exceeds five thousand dollars.
42 e. h. Other fees provided by law.
43 Sec. 3. Section 901.4, Code 2005, is amended to
44 read as follows:
45 901.4 PRESENTENCE INVESTIGATION REPORT
46 CONFIDENTIAL -- DISTRIBUTION.
47 The presentence investigation report is
48 confidential and the court shall provide safeguards to
49 ensure its confidentiality, including but not limited
50 to sealing the report, which may be opened only by

S-3114

1 further court order. At least three days prior to the
2 date set for sentencing, the court shall ~~serve~~ send a
3 copy of all of the presentence investigation report
4 upon by ordinary or electronic mail, to the
5 defendant's attorney and the attorney for the state,
6 and the report shall remain confidential except upon
7 court order. However, the court may conceal the
8 identity of the person who provided confidential
9 information. The report of a medical examination or
10 psychological or psychiatric evaluation shall be made
11 available to the attorney for the state and to the
12 defendant upon request. The reports are part of the
13 record but shall be sealed and opened only on order of
14 the court. If the defendant is committed to the
15 custody of the Iowa department of corrections and is
16 not a class "A" felon, a copy of the presentence
17 investigation report shall be forwarded by ordinary or
18 electronic mail to the director with the order of
19 commitment by the clerk of the district court and to
20 the board of parole at the time of commitment.
21 Pursuant to section 904.602, the presentence
22 investigation report may also be released by ordinary
23 or electronic mail by the department of corrections or
24 a judicial district department of correctional
25 services to another jurisdiction for the purpose of
26 providing interstate probation and parole compact or
27 interstate compact for adult offender supervision
28 services or evaluations, or to a substance abuse or
29 mental health services provider when referring a
30 defendant for services. The defendant or the
31 defendant's attorney may file with the presentence
32 investigation report, a denial or refutation of the
33 allegations, or both, contained in the report. The
34 denial or refutation shall be included in the report.
35 If the person is sentenced for an offense which
36 requires registration under chapter 692A, the court
37 shall release the report by ordinary or electronic
38 mail to the department.

39 Sec. 4. STUDY OF COURT RULE RELATED TO TRIBAL
40 COURTS. The general assembly acknowledges that
41 contact and interaction between the Iowa court system
42 and federally recognized tribal courts are ever
43 increasing and the general assembly urges the Iowa
44 supreme court to consider developing and prescribing
45 rules that recognize the tribal court system and
46 enforce tribal court orders, judgments, and decrees."

47 2. Title page, by striking lines 2 and 3 and
48 inserting the following: "branch, including sending
49 notices, and providing for fees."

RECEIVED FROM THE HOUSE

Hancock CO-Chair
Larson CO-Chair
Kreiman
Zawn

Succeeded By
SF/HF 325

SSB# 1128
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:

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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.

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.

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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.