

1999 HOUSE JUDICIARY

HB 1042

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. 1042

House Judiciary Committee

Conference Committee

Hearing Date January 12, 1999

Tape Number	Side A	Side B	Meter #
1	X		0
Committee Clerk Signature			

Minutes:

VONETTE RICHTER (LC) explained the bill to the committee. The interim committee felt that the fees charged by the clerk should be more commensurate with the work required on the filings.

TOM WALLNER (Cncl of Dev. Dis.) Presented prepared testimony, which is attached. He also presented a copy of testimony on this bill from PAUL GRIFFIN of Catholic Family Services, which is attached.

SEN.M TRAYNOR appeared the following day at the request of the Chairman and explained that these filings all take up time of the clerk's office and the interim committee felt that the office should get paid for that workload.

COMMITTEE ACTION : January 18, 1999

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House Judiciary Committee

Bill/Resolution Number 1042

Hearing Date January 12, 1999

REP CLEARY moved that the bill be amended to drop the fees for guardianship reports. Rep

Kelsh seconded and all voted aye on a voice vote.

REP DELMORE moved that the committee recommend that the bill DO PASS AS AMENDED.

Rep Maragos seconded and the motion carried on a roll call vote of 11 ayes, 0 nays and 4 absent.

Rep. Cleary was named to carry the bill on the floor.

FISCAL NOTE

(Return original and 14 copies)

Bill/Resolution No.: _____ Amendment to: HB 1042

Requested by Legislative Council

Date of Request: 01/22/98

- Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative:

The amendments to House Bill 1042 would have minimal, if any, fiscal impact. The original fiscal impact estimate is, therefore, unchanged.

- State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium		
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds	
Revenues:	0	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0	0

- What, if any, is the effect of this measure on the appropriation for your agency or department:

- For rest of 1997-99 biennium: 0
- For the 1999-2001 biennium: 0
- For the 2001-2003 biennium: 0

- County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	\$62,580	0	0	\$62,580	0	0

If additional space is needed,
attach a supplemental sheet.

Signed Keith E. Nelson

Typed Name Keith E. Nelson

Department Judicial Branch

Phone Number 328-4216

Date Prepared: 1/22/99

H.B. No. 1042 would increase the fee for filing a foreign judgment from \$10 to \$80, a net increase per filing of \$70. During 1997 (1998 statistics were not available when this note was prepared), 326 foreign judgments were filed. Biennial revenue for these filings under this bill would be approximately \$52,160 ($326 \times 2 \times \$80 = \$52,160$), a net increase of \$45,640 over the present \$10 fee for 652 filings (\$6,520). H.B. No. 1042 would also increase the fee regarding registration of a trust from \$10 to \$80. During 1997, there were 121 trust proceedings. Biennial revenue for these filings under this bill would be \$19,360 ($121 \times 2 \times \$80 = \$19,360$), a net increase of \$16,940 over the present \$10 fee for 242 filings (\$2,420). H.B. No. 1042 would also establish an \$80 filing fee for petitions for subsequent administration of a trust. No data is available concerning these petitions, so an approximate estimate cannot be provided.

In summary:

Fee revenue	Total	Net
Foreign judgments	\$52,160	\$45,640
Trust registration	19,360	16,940
Subsequent admin.	?	?
	<hr/>	<hr/>
	\$71,520	\$62,580 (Approx. per biennium)

Note: New or increased fee revenue under H.B. No. 1042 would be retained by the counties.

FISCAL NOTE

(Return original and 10 copies)

/Resolution No.: HB 1042 Amendment to: _____

Requested by Legislative Council

Date of Request: December 10, 1998

1. Please estimate the fiscal impact (in dollar amounts) of the above measure for state general or special funds, counties, and cities.

Narrative:

See attached.

2. **State** fiscal effect in dollar amounts:

	1997-99 Biennium		1999-2001 Biennium		2001-03 Biennium	
	General Fund	Special Funds	General Fund	Special Funds	General Fund	Special Funds
Revenues:	0	0	0	0	0	0
Expenditures:	0	0	0	0	0	0

3. What, if any, is the effect of this measure on the appropriation for your agency or department:

- a. For rest of 1997-99 biennium: 0
- b. For the 1999-2001 biennium: 0
- c. For the 2001-2003 biennium: 0

4. **County, City, and School District** fiscal effect in dollar amounts:

1997-99 Biennium			1999-2001 Biennium			2001-03 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
0	0	0	\$62,580	0	0	\$62,580	0	0

If additional space is needed,
attach a supplemental sheet.

Signed *Keith E. Nelson*

Typed Name Keith E. Nelson

Date Prepared: 12/14/98

Department Judicial Branch

Phone Number 328-4216

H.B. No. 1042 would increase the fee for filing a foreign judgment from \$10 to \$80, a net increase per filing of \$70. During 1997 (1998 statistics were not available when this note was prepared), 326 foreign judgments were filed. Biennial revenue for these filings under this bill would be approximately \$52,160 (326 x 2 x \$80 = \$52,160), a net increase of \$45,640 over the present \$10 fee for 652 filings (\$6,520). H.B. No. 1042 would also increase the fee regarding registration of a trust from \$10 to \$80. During 1997, there were 121 trust proceedings. Biennial revenue for these filings under this bill would be \$19,360 (121 x 2 x \$80 = \$19,360), a net increase of \$16,940 over the present \$10 fee for 242 filings (\$2,420). H.B. No. 1042 would also establish an \$80 filing fee for petitions for subsequent administration of a trust. No data is available concerning these petitions, so an approximate estimate cannot be provided.

In summary:

Fee revenue	Total	Net
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Trust registration	19,360	16,940
Subsequent admin.	?	?
	<u>\$71,520</u>	<u>\$62,580</u> (Approx. per biennium)

Note: New or increased fee revenue under H.B. No. 1042 would be retained by the counties.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1042

Page 1, line 2, remove "subsection 9 of section 30.1-28-12, sections"

Page 4, remove lines 28 through 31

Page 5, remove lines 1 through 5

Renumber accordingly

Date: 1/18/99
Roll Call Vote #:

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1042

House JUDICIARY Committee

Subcommittee on _____
or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Delmore Seconded By Maragos

Representatives	Yes	No	Representatives	Yes	No
REP. DEKREY	✓		REP. SVEEN	✓	
REP. CLEARY	✓				
REP. DELMORE	✓				
REP. DISRUD	✓				
REP. FAIRFIELD					
REP. GORDER	✓				
REP. GUNTER					
REP. HAWKEN					
REP. KELSH	✓				
REP. KLEMIN	✓				
REP. KOPPELMAN	✓				
REP. MAHONEY					
REP. MARAGOS	✓				
REP. MEYER	✓				

Total (Yes) 11 No 0

Absent 4

Floor Assignment Cleary

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1042: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (11 YEAS, 0 NAYS, 4 ABSENT AND NOT VOTING). HB 1042 was placed on the Sixth order on the calendar.

Page 1, line 2, remove "subsection 9 of section 30.1-28-12, sections"

Page 4, remove lines 28 through 31

Page 5, remove lines 1 through 5

Renumber accordingly

1999 SENATE POLITICAL SUBDIVISIONS

HB 1042


1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB1042

Senate Political Subdivisions Committee

Conference Committee

Hearing Date February 11, 1999

Tape Number	Side A	Side B	Meter #
1	x		0 to 2370
Committee Clerk Signature 			

Minutes:

SENATOR LEE: open hearing on HB1042

SENATOR WATNE: INTRODUCTION ON HB1042, heart of the bill is on page 3

ALL SENATORS PRESENT

SENATOR NELSON: Bill effective date of April 1st

SENATOR LEE: why April 1ST

SENATOR WATNE: unsure, would have to ask Vonnie Richter or Tim Johnson from the

LEGISLATIVE COUNCIL

DISCUSSION ON SPONSORS OF THE BILL AND TO GET THE SPONSORS IN TOUCH WITH THE COMMITTEE.

MOTION: recess the hearing until sponsors could be contacted

BONNIE CALECHEK: Understanding foreign decrees, North Dakota Council on Abused Women. Protection orders by the states or the tribes and the filing fees associated with FULL FAITH AND CREDIT ACT. Waiver of the fees and foreign orders that need certification

SENATOR LEE: House Bill associated with this act, questions

SENATOR NELSON: 10 dollars or less and the waiver and setting the fee associated with the act

BONNIE CALECHEK: don't know what the practice is for waiving the certification fee

SENATOR LEE: not to be a burden on the people or the people initiating the fee

SENATOR WATNE: what is the need for having a certification and the amount associated with it

BONNIE CALECHEK: because the orders come from other states or tribes and proving it's a valid order

SENATOR WATNE: can it be certified on the other end

SENATOR LYSON: moving of people and what is associated with a foreign decree

BONNIE CALECHECK: some clerks certify the order and some don't

SENATOR LYSON: counties coming to another county for the certification order

SENATOR LEE: questions

DISCUSSION

VONNETTE RICHTER: fees imposed or applied to these decrees in order to get access moneys for the counties for a 10 dollar fee, 1st engrossment of the bill and repeat of the changes associated with the bill

SENATOR LEE: elimination of section 6

VONNETTE RICHTER: change is provided to protect the guardian ship

SENATOR LEE: Accountability of guardians in the guardianship services and our we doing the right thing

VONNETTE RICHTER: not sure that the requirements of the report require a fee

SENATOR NELSON: that just goes back into the code with no changes

SENATOR LEE: Remove line 28 -31

DISCUSSION

SENATOR LYSON: should be taken from the whole law and how much money is given to me because of this

SENATOR LEE: need for people to know what is going on with this bill

SENATOR LYSON: classification of the statement

SENATOR WATNE: why the first section goes to March 31st and the next section takes effect on April 1st

VONNETTE RICHTER: results of bill passed in last session, and when the bill would take effect because of the emergency clause

SENATOR LYSON: clerk of courts bill and the results of this bill being passed regarding to this bill and the passage

DISCUSSION ON HOUSE BILL 1275 AND OTHER BILLS ASSOCIATED WITH THIS

BILL

BONNIE CALESEK: fees for certification and foreign orders under full faith and credit and what the fee will be and can it be waved

VONNETTE RICHTER: any fee can be waved

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Senate Political Subdivisions Committee

Bill/Resolution Number Hb1042

Hearing Date February 11, 1999

SENATOR LEE: fees could go all the way to 0 under the house bill and the language associated with this bill, any other questions

MOTION: DO PASS

SECONDED: SENATOR FLAKOLL

CARRIER WILL BE SENATOR WATNE

Date: 2-11-99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1042

Senate Political Subdivisions Committee Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do pass

Motion Made By Watne Seconded By Flatoll

Senators	Yes	No	Senators	Yes	No
Senator Lee (Chairman)	/				
Senator Lyson (Vice-Chaiman)	/				
Senator Flakoll	/				
Senator Watne	/				
Senator Kelsh	/				
Senator Nelson	/				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Watne

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
February 11, 1999 12:34 p.m.

Module No: SR-28-2584
Carrier: Watne
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1042: Political Subdivisions Committee (Sen. Lee, Chairman) recommends **DO PASS**
(6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1042 was placed on the
Fourteenth order on the calendar.

1999 TESTIMONY

HB 1042

HB 1042

Testimony by Tom Wallner to
House Judiciary Committee

January 12, 1999

Mr. Chairman, members of the Committee, my name is Tom Wallner and I am Executive Director of the State Council on Developmental Disabilities. I have no position on HB 1042, but I do wish to point out some concerns regarding guardianship report fees.

As you may know, Catholic Family Services of ND contracts with the state's Department of Human Services to furnish corporate guardianship services for DD persons who are unable to have a friend or a family member designated to serve as individual guardians. I believe the Catholic Family Services caseload for corporate guardianship is about 320 wards.

HB 1042 appears to establish a \$10 fee for filing guardian's annual reports. With the Catholic Family Services caseload of 320, this \$10 fee has an annual financial impact of \$3,200 to the CFS budget for corporate guardianship. This impact is upon a budget which has traditionally been fairly limited in past years.

Also, it is difficult enough to recruit individuals and family members to become guardians for DD persons. The \$10 report filing fee only adds to the disincentives for individuals to take on guardianship responsibility.

Mr. Chairman, that concludes my testimony.



January 8, 1999

75 years

1923-1998

2537 South University
Fargo, North Dakota 58103
(701) 235-4457
FAX (701) 239-8266

Representative Duane DeKrey, Chair
House Judiciary Committee
State Capitol
Bismarck, ND 58505

Re: HB 1042

Dear Chairman DeKrey and Committee Members,

My name is Paul Griffin. I supervise the Guardianship Division of Catholic Family Service, a position I have held for the past 12 years. I am also the current president of the Guardianship Association of North Dakota.

I understand that next Tuesday, January 12th your committee will be holding hearings on HB 1042. I regret that other commitments will not allow me to be present for the hearing, but I would like to provide you with some concerns and input from my professional point of view.

As I understand HR 1042, it sets or establishes certain fees for the clerk(s) of district court. While I do not have any problem with this in general, I am concerned with the section that will require a \$10 charge for each annual guardianship report that is filed. On the surface this seems fairly reasonable and harmless, but it has the potential to create some major financial problems for private non-profit agencies that are providing corporate guardianship services and for un-paid volunteers that may be serving as guardians for indigent wards.

Catholic Family Service serves as the corporate guardian for a caseload that averages 350 individuals. We are funded through a contract with the Disability Services Division of the Department of Human Services at a fixed rate. This rate has not increased for a number of years and we cannot expect that it will increase for at least the next biennium.....it covers less than 85% of the actual cost of providing the service. This means that we must secure additional funds from other sources. These include: United Ways across the state, donations, fund raising projects (Golf for Guardianship) and fees for service from non-indigent individuals.

We file at least one report to the appointing court on each of our wards annually. Therefore, the \$10 fee represents an increase in our budget of approximately \$7,000 for the biennium. Frankly, these are funds we do not have.

Additionally, our agency is working in conjunction with a number of other agencies and individuals to recruit, screen and train volunteers who are willing and qualified to serve as guardians through our



GOD'S SHARE



GOD'S GIFT



ACCREDITED
COUNCIL ON ACCREDITATION
OF SERVICES FOR FAMILIES
AND CHILDREN, INC.



A UNITED WAY AGENCY

Partners in Guardianship Program. This effort is specifically directed toward alleviating the ever increasing, critical need for non-traditional guardians in every section of our state. In most cases these people will serve as guardians for indigent wards who have no one else available or willing to serve as their guardians. In nearly all of these situations, the "Partners" will provide their service for no compensation what-so-ever. It may be unfair to have these volunteers donate their time and efforts and be required to pay a filing fee when they submit their annual report to the court. Though not prohibitive, this fee requirement could also be counter productive to our recruitment efforts.

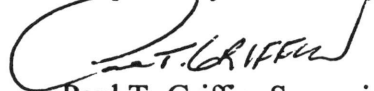
Through the Guardianship Association I am aware of others who are struggling to provide quality guardianship services to indigent wards and are receiving little or no compensation. The filing fee requirement would also be an undue burden on them.

I would like to ask that your committee consider making some exemption to the filing fee for these groups.

Please accept my apology for not being available in person, but be assured that I will welcome the opportunity to answer any questions or respond more specifically to you or any members of your committee as you follow-up on these issues.

Thank you!

Respectfully Submitted,



Paul T. Griffin, Supervisor
Guardianship Services

C: Senator Wayne Stenehjem, Chair
Senate Judiciary Committee