

Fees of Clerk of Court for Filing Transcript in Justice Court. Fees, Clerk of Court, for Issuing Execution. Execution, Fees for Issuing. Clerk of Court, for Petition for Adoption of Child. Child, Adoption of, Fees for. Clerk of Court, Fees of for Issuing Execution. Clerk of Court, Fees for Filing Petition for Adoption of Children.

Where a transcript from a justice court is filed in the district court, and execution issued thereon, the total fee is \$2.50, whether the execution is issued at the time of filing or thereafter.

There is no fee provided by law that can be charged for filing a petition for the adoption of a child.

Helena, Montana, November 16, 1909.

Hon. H. H. Pigott,
State Examiner,
Helena, Montana.

Dear Sir:

I am in receipt of your communications, requesting an opinion upon the following propositions:

1. What is the fee for filing and docketing in the district court a transcript of judgment from a justice court, and issuing execution thereon, and if the execution is not demanded at the time the transcript is docketed should any additional fees be charged for the issuance of such execution thereafter?

2. What fee, if any, must the clerk of the district court charge for filing a petition for the adoption of a child?

Section 3169, revised codes, fixing the fees for clerk of the district court provides, among other things, that the clerk of the court shall charge \$2.50 "for filing and docketing transcript of judgment and issuing execution thereon." This clearly provides that the \$2.50 shall include

the issuance of execution, if the man demands the writ of execution at the time of filing the transcript of judgment.

The next clause of said section provides that the clerk shall charge \$1.00 for issuing execution, and all services connected therewith. This latter clause cannot be construed to apply to an execution issued upon the filing and docketing of a transcript from the justice court, as the preceding clause expressly states that the \$2.50 includes the fee for issuing such execution. Therefore, the latter clause relates only to executions on judgments rendered in the district court in the first instance, and, in our opinion, it makes no difference whether the person filing and docketing a transcript of judgment from the justice court has his execution issued immediately or at some later period, for if he is entitled to have it issued immediately without the payment of any fee, as the statute clearly says he is, then it necessarily follows that he would be entitled to the issuance of such writ at any time thereafter without the payment of an additional fee.

In answer to your second question, you are advised that we find no statute specifically authorizing the clerk of the district court to charge any fee for filing petitions for the adoption of children. None of the services for which fees are provided, under sections 3169 and 3170, revised codes, are similar to those relating to the adoption of a child, and it is clearly to the interest and welfare of the state that homeless children should be adopted, it would appear that the legislature had intentionally omitted to impose any burden in the way of fees upon any citizen who was willing to legally adopt children, thereby giving them a home.

You are therefore advised that, in our opinion, the clerk of the court should charge no fee for filing petitions for the adoption of children.

Yours very truly,

ALBERT J. GALEN,

Attorney General.