

Sec. 13. Section 504A.100, subsection 3, paragraph c, Code 1993, is amended to read as follows:

c. As to domestic corporations such instrument shall be delivered to the secretary of state for filing and recording in the secretary of state's office, and the same shall be filed and recorded in the office of the county recorder.

If the county of the initial registered office as stated in such instrument is one which is other than the county wherein the principal office or place of business of such corporation, as theretofore designated in its articles of incorporation, was located, the secretary of state shall forward also to the county recorder of the county in which the said principal office or place of business of said corporation was located a copy of such instrument and the secretary shall forward to the recorder of the county in which the initial registered office of such corporation is located, in addition to the original of such instrument, a copy of the articles of incorporation of said corporation together with all amendments thereto as then on file in the secretary of state's office.

Sec. 14. Section 558.66, unnumbered paragraph 2, Code 1993, is amended to read as follows:

An affidavit of or on behalf of a surviving spouse may be filed recorded with the auditor county recorder only when real estate owned by a decedent, who died on or after January 1, 1988, was held in joint tenancy with right of survivorship solely with the surviving spouse and shall be in the following form:

Approved May 11, 1993

## CHAPTER 110

### FINES AND PENALTIES — COLLECTION AND DISPOSITION — MINIMUM FINES S.F. 370

**\*AN ACT** relating to setting minimum fines for certain criminal convictions, increasing the civil penalty assessed for certain motor vehicle license revocations, collecting delinquent fines, penalties, costs, and restitution, and allowing community service in lieu of a fine.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 321J.17, Code 1993, is amended to read as follows:

321J.17 CIVIL PENALTY — VICTIM COMPENSATION FUND — REINSTATEMENT.

When the department revokes a person's motor vehicle license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of one two hundred dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit one-half of the money in the separate fund established in section 912.14 and one-half of the money shall be deposited in the general fund of the state. A temporary restricted license shall not be issued or a motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 2. Section 331.756, subsection 5, Code 1993, is amended to read as follows:

5. Enforce all forfeited bonds and recognizances and prosecute all proceedings necessary for the recovery of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees or expense of a public defender, and forfeitures accruing to the state or the county or to a school district or road district in the county, and all suits in the county against public service corporations which are brought in the name of the state. To assist in this duty, the county attorney may procure professional collection services provided by persons or organizations, including private attorneys, which are generally considered to have knowledge and

\*Estimate of additional local revenue expenditures required by state mandate on file with the Secretary of State

special abilities which are not generally available to state or local government or may designate another county official or agency to assist with collection efforts.

If professional collection services are procured, the county attorney shall enter on the appropriate record of file with the clerk of the district court an indication of the satisfaction of each obligation to the full extent of all moneys collected in satisfaction of that obligation, including all fees and compensation retained by the collection service incident to the collection and not paid into the office of the clerk.

Before a county attorney designates another county official or agency to assist with collection of debts, revenues, moneys, fines, penalties, restitution of court-appointed attorney fees or expense of a public defender, and forfeitures, the board of supervisors of the county must approve the designation. ~~Notwithstanding the disposition provisions of sections 602.8106 and 911.3, the county may retain up to thirty-five percent of all moneys collected, excluding amounts collected for victim restitution, as compensation for collection services. The county attorney shall enter on the appropriate record of the clerk of the district court an indication of the satisfaction of each obligation, including the amount retained by the county for collection services and not paid into the office of the clerk.~~

Sec. 3. Section 331.756, subsection 5, Code 1993, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. All fines, penalties, court costs, fees, and restitution for court-appointed attorney fees or expenses of a public defender which are delinquent as defined in section 602.8107 may be collected by the county attorney or the person procured or designated by the county attorney. In order to receive a percentage of the amounts collected pursuant to section 602.8107, the county attorney must file with the clerk of the district court a notice of full commitment to collect delinquent obligations. The notice shall contain a list of procedures which will be initiated by the county attorney. Amounts collected by the county attorney or the person procured or designated by the county attorney shall be distributed in accordance with section 602.8107.

Sec. 4. Section 331.756, subsection 64A, Code 1993, is amended by striking the subsection.

Sec. 5. Section 421.17, subsection 25, Code 1993, is amended to read as follows:

25. To establish and maintain a procedure to set off against a debtor's income tax refund or rebate any debt which is in the form of a liquidated sum due, owing, and payable to the clerk of the district court as a criminal fine, civil penalty, surcharge, court costs, or restitution of attorney fees incurred as a result of services provided under chapters 13B and 815, and section 232.141. The procedure shall meet the following conditions:

a. Before setoff all outstanding tax liabilities collectible by the department shall be satisfied except that no portion of a refund or rebate shall be credited against tax liabilities which are not yet due.

b. Before setoff the county attorney clerk of the district court shall obtain and forward to the department the full name and social security number of the debtor. The department shall cooperate in the exchange of relevant information with the county attorney clerk of the district court. However, only relevant information required by the county attorney clerk of the district court shall be provided by the department. The information shall be held in confidence and shall be used for purposes of setoff only.

c. The county attorney clerk of the district court, on the first day of February and August of each calendar year, shall submit to the department for setoff the debts described in this subsection, which are at least fifty dollars.

d. Upon submission of a claim the department shall notify the county attorney if the debtor is entitled to a refund or rebate and of the amount of the refund or rebate and the debtor's address on the income tax return.

e. Upon notice of entitlement to a refund or rebate the county attorney Upon submission of a claim the department shall send written notification to the debtor of the county attorney's clerk of the district court's assertion of rights to all or a portion of the debtor's refund

or rebate and the entitlement to recover the debt through the setoff procedure, the basis of the assertion, the opportunity to request that a joint income tax refund or rebate be divided between spouses, and the debtor's opportunity to give written notice of intent to contest the amount of the claim. ~~The county attorney shall send a copy of the notice to the department.~~

~~f e.~~ Upon the request of a debtor or a debtor's spouse to the county attorney department, filed within fifteen days from the mailing of the notice of entitlement to a refund or rebate, and upon receipt of the full name and social security number of the debtor's spouse, the county attorney shall notify the department of the request to divide a joint income tax refund or rebate. ~~The the department shall upon receipt of the notice divide a joint income tax refund or rebate between the debtor and the debtor's spouse in proportion to each spouse's net income as determined under section 422.7.~~

~~g f.~~ The department shall, after notice has been sent to the debtor by the county attorney, set off the debt against, and deduct a fee established by rule to reflect the cost of processing from the debtor's income tax refund or rebate. The department shall transfer sixty-five ninety percent of the amount set off to the treasurer of state for deposit in the general fund of the state. The remaining thirty-five ten percent shall be remitted to the county and deposited in the general fund of the county judicial department and used to defray the costs of this procedure. If the debtor gives timely written notice of intent to contest the amount of the claim, the department shall hold the refund or rebate until final determination of the correct amount of the claim. ~~The county attorney shall notify the debtor in writing upon completion of setoff.~~

~~g.~~ The department shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of all moneys collected in satisfaction of the obligation. The clerk shall record the notice and enter a satisfaction for the amounts collected.

Sec. 6. Section 421.17, subsection 26, Code 1993, is amended to read as follows:

26. To provide that in the case of multiple claims to payments filed under subsections 21, 23, 25, and 29 that priority shall be given to claims filed by the child support recovery unit or the foster care recovery unit under subsection 21, next priority shall be given to claims filed by the college student aid commission under subsection 23, next priority shall be given to claims filed by the investigations division of the department of inspections and appeals under subsection 21, next priority shall be given to claims filed by a county attorney clerk of the district court under subsection 25, and last priority shall be given to claims filed by other state agencies under subsection 29. In the case of multiple claims under subsection 29, priority shall be determined in accordance with rules to be established by the director.

Sec. 7. Section 602.8102, subsection 164, Code 1993, is amended by striking the subsection.

Sec. 8. NEW SECTION. 602.8107 COLLECTION OF FINES, PENALTIES, FEES, COURT COSTS, SURCHARGES, INTEREST, AND RESTITUTION.

1. Fines, penalties, court costs, fees, interest, restitution for court-appointed attorney fees, and surcharges shall be paid to the clerk of the district court. All amounts collected shall be distributed pursuant to sections 602.8106 and 602.8108 or as otherwise provided by this Code. The clerk may accept payment of an obligation or a portion thereof by credit card. The clerk may charge a fee to reflect the additional cost of processing the payment by credit card.

2. Payments received under this section shall be applied in the following priority order:

a. Fines or penalties plus any interest due on unsatisfied judgments and criminal penalty surcharges plus interest due on unsatisfied amounts.

b. Victim restitution.

c. Court costs.

d. Court-appointed attorney fees or public defender expenses.

3. A fine, penalty, court cost, fee, or surcharge is deemed delinquent if it is not paid within six months after the date it is assessed. An amount which was ordered by the court to be paid on a date fixed in the future pursuant to section 909.3 is deemed delinquent if it is not received by the clerk within six months after the fixed future date set out in the court order. If an amount was ordered to be paid by installments, and an installment is not received within

thirty days after the date it is due, the entire amount of the judgment is deemed delinquent.

4. All fines, penalties, court costs, fees, surcharges, and restitution for court-appointed attorney fees or for expenses of a public defender which are delinquent may be collected by the county attorney or the county attorney's designee. Thirty-five percent of the amounts collected by the county attorney or the person procured or designated by the county attorney shall be deposited in the general fund of the county if the county attorney has filed the notice required in section 331.756, subsection 5, unless the county attorney has discontinued collection efforts on a particular delinquent amount and has transferred collection responsibilities to the department of revenue and finance. The remainder shall be paid to the clerk for distribution under section 602.8108.

This subsection does not apply to amounts collected for victim restitution, the victim compensation fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.

The county attorney shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of the moneys collected in satisfaction of the obligation. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

5. If a county attorney has not filed a notice of commitment to collect delinquent obligations pursuant to section 331.756, subsection 5, or has transferred collection responsibility for a particular delinquent amount to the department, the department of revenue and finance or its designee may collect delinquent fines, penalties, court costs, surcharges, restitutions for court-appointed attorney fees, or expenses of a public defender. From the amounts collected, the department shall pay for the services of its designee and the remainder shall be deposited in the general fund of the state.

This subsection does not apply to amounts collected for victim restitution, the new victim restitution fund, criminal penalty surcharge, or amounts collected as a result of procedures initiated under section 421.17, subsection 25.

The department of revenue and finance or its collection designee shall file with the clerk of the district court a notice of the satisfaction of each obligation to the full extent of the moneys collected in satisfaction of the obligation. The clerk of the district court shall record the notice and enter a satisfaction for the amounts collected.

Sec. 9. Section 902.9, subsections 3 and 4, Code 1993, are amended to read as follows:

3. A class "C" felon, not an habitual offender, shall be confined for no more than ten years, and in addition may be sentenced to a fine of at least five hundred dollars but not more than ten thousand dollars.

4. A class "D" felon, not an habitual offender, shall be confined for no more than five years, and in addition may be sentenced to a fine of at least five hundred dollars but not more than seven thousand five hundred dollars. A class "D" felon, such felony being for a violation of section 321J.2, may be sentenced to imprisonment for up to one year in the county jail.

Sec. 10. Section 903.1, subsections 1 and 2, Code 1993, are amended to read as follows:

1. If a person eighteen years of age or older is convicted of a simple or serious misdemeanor and a specific penalty is not provided for or if a person under eighteen years of age has been waived to adult court pursuant to section 232.45 on a felony charge and is subsequently convicted of a simple, serious, or aggravated misdemeanor, the court shall determine the sentence, and shall fix the period of confinement or the amount of fine, if such be the sentence which fine shall not be suspended by the court, within the following limits:

a. For a simple misdemeanor, either imprisonment not to exceed thirty days, or a fine of at least fifty dollars but not to exceed one hundred dollars.

b. For a serious misdemeanor, there shall be a fine of at least two hundred fifty dollars but not to exceed one thousand five hundred dollars. In addition, the court may also order imprisonment not to exceed one year, or a fine not to exceed one thousand dollars, or both.

2. When a person is convicted of an aggravated misdemeanor, and a specific penalty is not provided for, the maximum penalty shall be imprisonment not to exceed two years, ~~or~~. There shall be a fine of at least five hundred dollars but not to exceed five thousand dollars, or both. When a judgment of conviction of an aggravated misdemeanor is entered against any person and the court imposes a sentence of confinement for a period of more than one year the term shall be an indeterminate term.

Sec. 11. Section 909.3, Code 1993, is amended to read as follows:

**909.3 PAYMENT IN INSTALLMENTS OR ON A FIXED DATE.**

1. All fines imposed by the court shall be paid on the day the fine is imposed.

2. The court may, in its discretion, order a fine to be paid in installments, or may fix a date in the future which is not more than one hundred twenty days from the date the fine is imposed for the payment of the fine, whenever it appears that the defendant cannot make immediate payment, or should not be made to do so.

For good cause, the court may order that the date for payment of the fine be extended beyond one hundred twenty days from the date the fine was imposed.

Sec. 12. **NEW SECTION. 909.3A COMMUNITY SERVICE OPTION.**

The court may, in its discretion, order the defendant to perform community service work of an equivalent value to the fine imposed where it appears that the community service work will be adequate to deter the defendant and to discourage others from similar criminal activity. The rate at which community service shall be calculated shall be the federal minimum wage.

Sec. 13. Section 909.6, Code 1993, is amended by adding the following new unnumbered paragraphs:

**NEW UNNUMBERED PARAGRAPH.** If a court imposes a fine on an offender, the court shall impose interest charges on any amount remaining unsatisfied from the day after sentencing at the rate provided in section 535.3.

**NEW UNNUMBERED PARAGRAPH.** At the time of imposing the sentence, the court shall inform the offender of the amount of the fine and that the judgment includes the imposition of a criminal surcharge, court costs, and applicable fees. The court shall also inform the offender of the duty to pay the judgment in a timely manner and that interest will be charged on unsatisfied judgments.

Sec. 14. Section 909.7, Code 1993, is amended by adding the following new unnumbered paragraph:

**NEW UNNUMBERED PARAGRAPH.** A defendant who proves that the defendant cannot pay the fine may, at the discretion of the court, be ordered to perform community service pursuant to section 909.3A.

Sec. 15. Section 909.8, Code 1993, is amended to read as follows:

**909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL PENALTY SURCHARGE.**

The provisions of this chapter governing the payment and collection of a fine, except section 909.3A, also apply to the payment and collection of a criminal penalty surcharge imposed pursuant to chapter 911.

Sec. 16. Section 909.10, if enacted by 1993 Iowa Acts, Senate File 267,\* section 22, is amended to read as follows:

**909.10 COLLECTION OF DELINQUENT AMOUNTS BY THE COURT.**

1. As used in this section, unless the context otherwise requires, "delinquent amounts" means a fine, court-imposed court costs in a criminal proceeding, or criminal surcharge imposed pursuant to section 911.2, which remains unpaid after two years from the date that the fine, court costs, or surcharge was imposed, and which is not collected by the county attorney pursuant to section ~~909.9~~ 602.8107. However, if the fine may be paid in installments pursuant to section

\*Chapter 171 herein

909.3, the fine is not a delinquent amount unless the installment remains unpaid after two years from the date the installment was due.

2. Notwithstanding the disposition sections of sections 602.8106 and 911.3, upon the collection of delinquent amounts, the clerks of the district court shall remit the delinquent amounts to the treasurer of state for deposit into the revolving fund established pursuant to section 602.1302, to be used for the payment of jury and witness fees and mileage.

Sec. 17. Section 909.9, Code 1993, is repealed.

Approved May 11, 1993

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**CHAPTER 111**  
PROBATE CODE REVISIONS  
S.F. 371

**AN ACT** relating to probate, including certain notice provisions and statutory shares.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. Section 633.42, Code 1993, is amended to read as follows:  
633.42 REQUESTS FOR NOTICE.

At any time after the issuance of letters testamentary or of administration upon a decedent's estate, any person interested in the estate may file with the clerk a written request, in ~~duplicate~~ triplicate, for notice of the time and place of all hearings in such estate for which notice is required by law, by rule of court, or by an order in such estate. ~~Such~~ The request for notice shall state the name and post-office address of such person and the name and post-office address of the attorney, if any, for the party requesting the notice. The clerk shall docket ~~such~~ the request, and transmit the ~~duplicate~~ duplicates to the personal representative of the estate of the decedent and to the personal representative's attorney of record, if any. Thereafter, the personal representative shall, unless otherwise ordered by the court, serve, by ordinary mail, upon such person, or the person's ~~said~~ attorney, if any, a notice of each ~~such~~ hearing.

Sec. 2. Section 633.219, Code 1993, is amended to read as follows:  
633.219 SHARE OF OTHERS THAN SURVIVING SPOUSE.

~~The portion part of the intestate estate remaining after the payment of the debts and charges, and not distributed passing to the surviving spouse, as provided in this Code, or if there is no surviving spouse, then the remaining entire net estate after payment of the debts and charges, shall descend and be distributed~~ passes as follows:

1. ~~In equal shares to the decedent's children, unless one or more of them is dead, in which case To the issue of such deceased child shall inherit the child's share in accordance with the rules herein prescribed, in the same manner as though said child had outlived the child's parents the decedent per stirpes.~~

2. ~~If there is no person to take under subsection 1 of this section, then to the surviving issue, to the parents in equal shares of the decedent equally; and if either parent is dead, the portion that would have gone to such deceased parent, shall go to the survivor.~~

3. ~~If there is no person to take under either subsection 1 or 2 of this section, the portion uninherited shall go to such persons as would have been entitled to take if the parents of the decedent had outlived the intestate and had died in possession and ownership of the portion thus falling to their share, and so on, through their ascending ancestors and their heirs to the issue of the parents or either of them per stirpes.~~