

House File 688 - Introduced

HOUSE FILE _____
BY R. OLSON

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to performing community service in lieu of a
2 criminal fine or civil penalty.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
4 TLSB 2333HH 82
5 jm/es/88

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1 1 Section 1. Section 901.5, subsection 1, Code 2007, is
1 2 amended to read as follows:
1 3 1. If authorized by section 907.3, the court may defer
1 4 judgment and sentence for an indefinite period in accordance
1 5 with chapter 907. In addition, the court shall assess a civil
1 6 penalty as provided in section 907.14 unless the court orders
1 7 community service in lieu of the assessment of a civil penalty
1 8 as provided in section 907.13.

1 9 Sec. 2. Section 901.5, Code 2007, is amended by adding the
1 10 following new subsection:

1 11 NEW SUBSECTION. 3A. The court may suspend the fine and
1 12 order the person to perform community service in lieu of
1 13 paying the fine as provided in section 907.13.

1 14 Sec. 3. Section 903.1, subsection 1, unnumbered paragraph
1 15 1, Code 2007, is amended to read as follows:

1 16 If a person eighteen years of age or older is convicted of
1 17 a simple or serious misdemeanor and a specific penalty is not
1 18 provided for or if a person under eighteen years of age has
1 19 been waived to adult court pursuant to section 232.45 on a
1 20 felony charge and is subsequently convicted of a simple,
1 21 serious, or aggravated misdemeanor, the court shall determine
1 22 the sentence, and shall fix the period of confinement or the
1 23 amount of fine, which fine shall not be suspended by the court
1 24 except as provided in section 901.5, subsection 3A, within the
1 25 following limits:

1 26 Sec. 4. Section 907.3, subsection 1, unnumbered paragraph
1 27 1, Code 2007, is amended to read as follows:

1 28 With the consent of the defendant, the court may defer
1 29 judgment and may place the defendant on probation upon
1 30 conditions as it may require. ~~However, a civil penalty shall~~
~~1 31 be assessed as provided in section 907.14 upon the entry of a~~
~~1 32 deferred judgment.~~ Upon a showing that the defendant is not
1 33 cooperating with the program of probation or is not responding
1 34 to it, the court may withdraw the defendant from the program,
1 35 pronounce judgment, and impose any sentence authorized by law.
2 1 Before taking such action, the court shall give the defendant
2 2 an opportunity to be heard on any matter relevant to the
2 3 proposed action. Upon fulfillment of the conditions of
2 4 probation and the payment of fees imposed and not waived by
2 5 the judicial district department of correctional services
2 6 under section 905.14, the defendant shall be discharged
2 7 without entry of judgment. Upon violation of the conditions
2 8 of probation, the court may proceed as provided in chapter
2 9 908.

2 10 Sec. 5. Section 907.3, subsection 3, unnumbered paragraph
2 11 1, Code 2007, is amended to read as follows:

2 12 By record entry at the time of or after sentencing, the
2 13 court may suspend the sentence or suspend the fine as provided
~~2 14 in section 901.5, subsection 3A,~~ and place the defendant on
2 15 probation upon such terms and conditions as it may require
2 16 including commitment to an alternate jail facility or a
2 17 community correctional residential treatment facility to be
2 18 followed by a term of probation as specified in section 907.7,
2 19 or commitment of the defendant to the judicial district
2 20 department of correctional services for supervision or

2 21 services under section 901B.1 at the level of sanctions which
2 22 the district department determines to be appropriate and the
2 23 payment of fees imposed under section 905.14. A person so
2 24 committed who has probation revoked shall be given credit for
2 25 such time served. However, the court shall not suspend any of
2 26 the following sentences:

2 27 Sec. 6. Section 907.13, Code 2007, is amended by adding
2 28 the following new subsection:

2 29 NEW SUBSECTION. 1A. If the court suspends the fine under
2 30 section 901.5, subsection 3A, or does not assess the civil
2 31 penalty as provided in section 907.14, the court, in lieu of
2 32 ordering payment of the fine or civil penalty, shall order the
2 33 defendant to perform unpaid community service equal to the
2 34 amount of the suspended fine or equal to the civil penalty
2 35 amount as if the civil penalty had been imposed. The plan of
3 1 community service in this subsection shall be separate from a
3 2 plan of community service in subsection 1 for purposes of
3 3 calculating the amount of unpaid community service needed to
3 4 complete the requirements of this subsection. The federal
3 5 minimum wage or the state minimum wage, whichever is greater,
3 6 shall be used as the basis for calculating the amount of
3 7 unpaid community service needed to complete the plan of
3 8 community service pursuant to this subsection.

3 9 Sec. 7. Section 907.14, subsection 1, Code 2007, is
3 10 amended to read as follows:

3 11 1. ~~Upon~~ Except as provided in section 901.5, subsection 1,
3 12 upon the entry of a deferred judgment pursuant to section
3 13 907.3, a defendant shall be assessed a civil penalty of an
3 14 amount not less than the amount of any criminal fine
3 15 authorized by law for the offense under section 902.9 or
3 16 section 903.1.

3 17 EXPLANATION

3 18 This bill relates to performing community service in lieu
3 19 of a criminal fine or civil penalty.

3 20 The bill provides the court may suspend a fine and order a
3 21 criminal defendant to perform unpaid community service in lieu
3 22 of paying the fine. Under the bill, if the court suspends the
3 23 fine, the court shall order the defendant to perform unpaid
3 24 community service equal to the amount of the suspended fine.
3 25 Current law does not provide for the suspension of a
3 26 misdemeanor or felony fine.

3 27 The bill eliminates the requirement of assessing a civil
3 28 penalty if the court grants a deferred judgment. Under the
3 29 bill, if the court chooses not to assess the civil penalty the
3 30 court shall require the defendant to perform unpaid community
3 31 service equal to the amount of the civil penalty if the civil
3 32 penalty had been imposed. Current law requires the court to
3 33 impose a civil penalty of an amount not less than the amount
3 34 of any criminal fine authorized by law.

3 35 The federal minimum wage or the state minimum wage,
4 1 whichever is greater, shall be used as the basis for
4 2 calculating the amount of unpaid community service needed to
4 3 complete the unpaid community service requirement of the bill.

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