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FILED APR 12 1978

SENATE FILE 2236

By TAYLOR, BIENIUS, CURTIS,  
TIEDEN and HULTMAN

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

## A BILL FOR

- 1 An Act to recover defense costs from indigent defendants and
- 2 providing a penalty.
- 3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
- 4

SENATE FILE 2236  
FISCAL NOTE

Date: April 12, 1978  
Requested by: Senator Ray Taylor

In compliance with a written request received February 21, 1978, there is hereby submitted a Fiscal Note for Senate File 2236 pursuant to Joint Rule 16. Background information used in developing this Fiscal Note is available from the Legislative Fiscal Bureau, to members of the Legislature upon request.

S.F. 2236 An Act to recover defense costs from indigent defendants and providing a penalty.

This bill provides that a court may require a convicted defendant to pay the costs of defense and may condition probation, deferred judgment, deferred sentence or suspended sentence on payment of the costs and fine. Payment may be required only of defendants able to pay. Failure to pay may result in contempt of court.

It is estimated that for calendar year 1975, total annual court-appointed attorney fees were \$1.3 million. Allowing for inflation and the growth of the crime rate, fiscal year 1977-78 costs are estimated to be between \$2.25 and \$3 million.

Source: STATE ASSOCIATION OF COUNTIES

FILED  
APRIL 12, 1978

DENNIS C. PROUTY  
LEGISLATIVE FISCAL BUREAU

1 Section 1. Section three hundred thirty-six B point six  
2 (336B.6), Code 1977, is amended by striking the section and  
3 inserting in lieu thereof the following:

4 336B.6 COSTS.

5 1. If a court finds that a person desires legal assistance,  
6 and is financially able to secure counsel but refuses to  
7 employ an attorney, the court shall appoint an attorney to  
8 represent such person at public expense. The attorney fee  
9 paid by the state or county in such cases shall be taxed as  
10 part of the court costs against the person receiving the legal  
11 assistance, and the state or county shall be reimbursed for  
12 said fee when the court costs are paid.

13 2. The court may require a convicted person to pay costs  
14 as follows:

15 a. Costs shall be limited to expenses specially incurred  
16 by the state in prosecuting the defendant. The costs shall  
17 not include expenses inherent in providing a constitutionally  
18 guaranteed jury trial or expenditures in connection with the  
19 maintenance and operation of government agencies that must  
20 be made by the public irrespective of specific violations  
21 of law.

22 b. The court shall not sentence a defendant to pay costs  
23 unless the defendant is or will be able to pay them. In  
24 determining the amount and method of payment of costs, the  
25 court shall take account of the financial resources of the  
26 defendant and the nature of the burden that payment of costs  
27 will impose.

28 c. A defendant who has been sentenced to pay costs and  
29 who is not in default in the payment thereof may at any time  
30 petition the court which sentenced him or her for remission  
31 of the payment of costs or of any unpaid portion thereof.  
32 If it appears to the satisfaction of the court that payment  
33 of the amount due will impose manifest hardship on the  
34 defendant or his or her immediate family, the court may remit  
35 all or part of the amount due in costs, or modify the method

1 of payment under section two (2) of this Act.

2 Sec. 2. Chapter three hundred thirty-six B (336B), Code  
3 1977, is amended by adding the following new section:

4 NEW SECTION. TIME AND METHOD OF PAYMENT OF FINES AND  
5 COSTS.

6 1. When a defendant is sentenced to pay a fine or costs,  
7 the court may grant permission for payment to be made within  
8 a specified period of time or in specified installments.

9 If no such permission is included in the sentence the fine  
10 shall be payable immediately.

11 2. When a defendant is sentenced to pay a fine or costs,  
12 the court may make payment of the fine or costs a condition  
13 of probation, deferred judgment, deferred sentence, or  
14 suspended sentence.

15 Sec. 3. Chapter three hundred thirty-six B (336B), Code  
16 1977, is amended by adding the following new section:

17 NEW SECTION. EFFECT OF NONPAYMENT OF FINES OR COSTS.

18 1. When a defendant sentenced to pay a fine or costs  
19 defaults in the payment thereof or of any installment, the  
20 court on motion of the county attorney or upon its own motion  
21 may require the defendant to show cause why his or her default  
22 should not be treated as contempt of court, and may issue  
23 a show cause citation or a warrant of arrest for his or her  
24 appearance.

25 2. Unless the defendant shows that his or her default  
26 was not attributable to an intentional refusal to obey the  
27 order of the court or to a failure on his or her part to make  
28 a good faith effort to make the payment, the court may find  
29 that his or her default constitutes contempt and may order  
30 the defendant committed until the fine or costs or a specified  
31 part thereof, is paid.

32 3. When a fine or costs is imposed on a corporation or  
33 unincorporated association, it is the duty of the person  
34 authorized to make disbursement from the assets of the  
35 corporation or association to pay the fine from those assets,

1 and failure to do so may be held to be contempt unless he  
2 or she makes the showing required in subsection two (2) of  
3 this section.

4 4. If it appears to the satisfaction of the court that  
5 the default in the payment of a fine is not contempt, the  
6 court may enter an order allowing the defendant additional  
7 time for payment, reducing the amount thereof or of each  
8 installment or revoking the fine or the unpaid portion thereof  
9 in whole or in part.

10 5. A default in the payment of a fine or costs or any  
11 installment thereof may be collected by any means authorized  
12 by law for the enforcement of a judgment. The levy of  
13 execution for the collection of a fine shall not discharge  
14 a defendant committed to imprisonment for contempt until the  
15 amount of the fine has actually been collected.

16 Sec. 4. This Act is effective January 1, 1979.

17 EXPLANATION

18 This bill provides that a court may require a convicted  
19 defendant to pay the costs of defense and may condition  
20 probation, deferred judgment, deferred sentence or suspended  
21 sentence on payment of the costs and fine. Payment may be  
22 required only of defendants able to pay. Failure to pay may  
23 result in contempt of court.

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