

Judiciary and Law Enforcement: Haverland, Chair; Brammer and Maulsby.

Do Pass 4/6/83

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SENATE FILE 359

BY COMMITTEE ON JUDICIARY

Approved 3/2 (p. 641)

Passed Senate, Date 3-14-83 (p. 725) Passed House, Date 4-14-83 (p. 1305)

Vote: Ayes 42 Nays 0 Vote: Ayes 98 Nays 0

Approved May 5, 1983 (p. 1578)

A BILL FOR

1 An Act relating to the office or individual charged with
2 supervision of an offender and the preparation of a
3 restitution plan of payment as a condition of probation,
4 work release, or parole.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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S.F. 359

1 Section 1. Section 910.4, unnumbered paragraph 3, Code
2 1983, is amended to read as follows:

3 When the offender ~~is committed by the court to be super-~~
4 ~~vised by a judicial district department of correctional~~
5 ~~services~~, is committed to a county jail, or to an alternate
6 facility, the ~~judicial district department of correctional~~
7 ~~services~~ office or individual charged with supervision of
8 the offender shall prepare a restitution plan of payment
9 taking into consideration the offender's income, physical
10 and mental health, age, education, employment and family cir-
11 cumstances. The ~~judicial district department of correctional~~
12 ~~services~~ office or individual charged with supervision of
13 the offender shall review the plan of restitution ordered
14 by the court, and shall submit a restitution plan of payment
15 to the sentencing court. When community service is ordered
16 by the court as restitution, the restitution plan of pay-
17 ment shall set out a plan to meet the requirement for the
18 community service. The court may approve or modify the plan
19 of restitution and restitution plan of payment. When there
20 is a significant change in the offender's income or
21 circumstances, the ~~judicial district department of correc-~~
22 ~~tional services~~ office or individual which has supervision
23 of the plan of payment shall submit a modified restitution
24 plan of payment to the court. When there is a transfer of
25 supervision from one ~~agent, agency, or judicial district~~
26 ~~department of correctional services~~ office or individual
27 charged with supervision of the offender to another, the
28 sending ~~agent, agency or judicial district department~~ office
29 or individual shall forward to the receiving ~~agent, agency,~~
30 ~~or judicial district department,~~ office or individual all
31 necessary information regarding the balance owed against the
32 original amount of restitution ordered and the balance of
33 public service required. When the offender's circumstances
34 and income have significantly changed, the receiving ~~agent,~~
35 ~~agency, or judicial district department~~ office or individual

1 shall submit a new plan of payment to the sentencing court
2 for approval or modification based on the considerations
3 enumerated in this section.

4 Sec. 2. Section 910.5, subsection 3, Code 1983, is amended
5 to read as follows:

6 3. If an offender is to be placed on work release from
7 a facility under control of a county sheriff, restitution
8 shall be a condition of work release. The ~~judicial-district~~
9 ~~department-of-correctional-services~~ office or individual
10 charged with supervision of the offender shall prepare a
11 restitution plan of payment or may modify any previously
12 existing restitution plan of payment. The new or modified
13 plan of payment shall reflect the offender's present
14 circumstances concerning the offender's income, physical and
15 mental health, education, employment and family circumstances.
16 Failure of the offender to comply with the restitution plan
17 of payment including the community service requirement, if
18 any, ~~shall-constitute~~ constitutes a violation of a condition
19 of work release. The ~~judicial-district-department-of~~
20 ~~correctional-services~~ office or individual charged with
21 supervision of the offender may modify the plan of restitution
22 at any time to reflect the offender's present circumstances.

23 Sec. 3. Section 910.6, Code 1983, is amended to read as
24 follows:

25 910.6 PAYMENT PLAN--COPY TO VICTIMS. ~~Each-agent,-agency,-~~
26 ~~or-judicial-district-department-of-correctional-services~~ An
27 office or individual preparing a restitution plan of payment
28 or modified restitution plan of payment ~~shall-forward~~, when
29 it is approved by the court if approval is required under
30 section 910.4, or when the plan is completed if court approval
31 under section 910.4 is not required, shall forward a copy
32 to the clerk of court in the county in which the offender
33 was sentenced. The clerk of court shall forward a copy of
34 the plan of payment or modified plan of payment to the victim
35 or victims.

1 Sec. 4. Section 910.7, Code 1983, is amended to read as
2 follows:

3 910.7 PETITION FOR HEARING. At any time during the period
4 of probation, parole or incarceration, the offender or the
5 ~~agent, -agency-or-judicial-district-department-of-correctional~~
6 ~~services~~ office or individual who prepared the offender's
7 restitution plan, may petition the court and the court shall
8 grant a hearing on any matter related to the plan of
9 restitution or restitution plan of payment. The court at
10 any time prior to the expiration of the offender's sentence,
11 may modify the plan of restitution or the restitution plan
12 of payment, or both, and may extend the period of time for
13 the completion of restitution.

14 Sec. 5. Section 910.9, unnumbered paragraph 3, Code 1983,
15 is amended to read as follows:

16 Court costs, court-appointed attorney's fees, and expenses
17 for public defenders, shall not be withheld by the clerk of
18 court until all victims have been paid in full. Payments
19 to victims shall be made by the clerk of court at least
20 quarterly. Payments by a clerk of court shall be made no
21 later than the last business day of the quarter, but may be
22 made more often at the discretion of the clerk of court.
23 The clerk of court receiving final payment from an offender,
24 shall notify all victims that full restitution has been made,
25 and a copy of the notice shall be sent to the sentencing
26 court. Each ~~agent, -agency, -or-judicial-district-department~~
27 ~~of-correctional-services~~ office or individual charged with
28 supervising an offender who is required to perform community
29 service as full or partial restitution shall keep records
30 to assure compliance with the portions of the plan of
31 restitution and restitution plan of payment relating to com-
32 munity service and, when the offender has complied fully with
33 the community service requirement, notify the sentencing
34 court.

35 EXPLANATION

1 This bill would require that the office or individual
2 charged with supervision of an offender, from whom the court
3 has required restitution, prepare the plan for restitution
4 payment. Therefore, plans for probationers would be prepared
5 by the judicial district department of correctional services,
6 the plans for institutional work releases and parolees would
7 be prepared by the state division of adult corrections, the
8 plans for inmates of county jails would be prepared by that
9 county's sheriff's office, and so on.

10 This bill takes effect July 1 following its enactment.

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SENATE FILE 359

AN ACT

RELATING TO THE OFFICE OR INDIVIDUAL CHARGED WITH SUPERVISION OF AN OFFENDER AND THE PREPARATION OF A RESTITUTION PLAN OF PAYMENT AS A CONDITION OF PROBATION, WORK RELEASE, OR PAROLE.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. Section 910.4, unnumbered paragraph 3, Code 1983, is amended to read as follows:

When the offender ~~is committed by the court to be supervised by a judicial-district-department-of-correctional services,~~ is committed to a county jail, or to an alternate facility, the ~~judicial-district-department-of-correctional services~~ office or individual charged with supervision of the offender shall prepare a restitution plan of payment taking into consideration the offender's income, physical and mental health, age, education, employment and family circumstances. The ~~judicial-district-department-of-correctional services~~ office or individual charged with supervision of the offender shall review the plan of restitution ordered by the court, and shall submit a restitution plan of payment to the sentencing court. When community service is ordered by the court as restitution, the restitution plan of payment shall set out a plan to meet the requirement for the community service. The court may approve or modify the plan of restitution and restitution plan of payment. When there is a significant change in the offender's income or circumstances, the ~~judicial-district-department-of-correctional-services~~ office or individual which has supervision of the plan of payment shall submit a modified restitution plan of payment to the court. When there is a transfer of supervision from one ~~agent, agency, or judicial-district~~

~~department-of-correctional-services~~ office or individual charged with supervision of the offender to another, the ~~sending agent, agency, or judicial-district-department~~ office or individual shall forward to the receiving ~~agent, agency, or judicial-district-department,~~ office or individual all necessary information regarding the balance owed against the original amount of restitution ordered and the balance of public service required. When the offender's circumstances and income have significantly changed, the receiving ~~agent, agency, or judicial-district-department~~ office or individual shall submit a new plan of payment to the sentencing court for approval or modification based on the considerations enumerated in this section.

Sec. 2. Section 910.5, subsection 3, Code 1983, is amended to read as follows:

3. If an offender is to be placed on work release from a facility under control of a county sheriff, restitution shall be a condition of work release. The ~~judicial-district-department-of-correctional-services~~ office or individual charged with supervision of the offender shall prepare a restitution plan of payment or may modify any previously existing restitution plan of payment. The new or modified plan of payment shall reflect the offender's present circumstances concerning the offender's income, physical and mental health, education, employment and family circumstances. Failure of the offender to comply with the restitution plan of payment including the community service requirement, if any, ~~shall constitute~~ constitutes a violation of a condition of work release. The ~~judicial-district-department-of-correctional-services~~ office or individual charged with supervision of the offender may modify the plan of restitution at any time to reflect the offender's present circumstances.

Sec. 3. Section 910.6, Code 1983, is amended to read as follows:

910.6 PAYMENT PLAN--COPY TO VICTIMS. ~~Each agent, agency, or judicial district department of correctional services~~ An office or individual preparing a restitution plan of payment or modified restitution plan of payment ~~shall forward~~, when it is approved by the court if approval is required under section 910.4, or when the plan is completed if court approval under section 910.4 is not required, shall forward a copy to the clerk of court in the county in which the offender was sentenced. The clerk of court shall forward a copy of the plan of payment or modified plan of payment to the victim or victims.

Sec. 4. Section 910.7, Code 1983, is amended to read as follows:

910.7 PETITION FOR HEARING. At any time during the period of probation, parole or incarceration, the offender or the ~~agent, agency or judicial district department of correctional services~~ office or individual who prepared the offender's restitution plan, may petition the court and the court shall grant a hearing on any matter related to the plan of restitution or restitution plan of payment. The court at any time prior to the expiration of the offender's sentence, may modify the plan of restitution or the restitution plan of payment, or both, and may extend the period of time for the completion of restitution.

Sec. 5. Section 910.9, unnumbered paragraph 3, Code 1983, is amended to read as follows:

Court costs, court-appointed attorney's fees, and expenses for public defenders, shall not be withheld by the clerk of court until all victims have been paid in full. Payments to victims shall be made by the clerk of court at least quarterly. Payments by a clerk of court shall be made no later than the last business day of the quarter, but may be made more often at the discretion of the clerk of court. The clerk of court receiving final payment from an offender, shall notify all victims that full restitution has been made,

and a copy of the notice shall be sent to the sentencing court. Each ~~agent, agency, or judicial district department of correctional services~~ office or individual charged with supervising an offender who is required to perform community service as full or partial restitution shall keep records to assure compliance with the portions of the plan of restitution and restitution plan of payment relating to community service and, when the offender has complied fully with the community service requirement, notify the sentencing court.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 359, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved May 5, 1983

TERRY E. BRANSTAD
Governor