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FILED MARCH 1993

SENATE FILE 372
BY COMMITTEE ON JUDICIARY

Substituted for HF 577
4-8-93
(SUCCESSOR TO SSB 307)

(p.923)
Passed Senate, Date 3/31/93
Vote: Ayes 47 Nays 2

(p.1659)
Passed House, Date 4/26/93
Vote: Ayes 98 Nays 0

Re-passed Senate Approved May 3, 1993
48-0 4/27/93 (p.1360)

A BILL FOR

1 An Act relating to the structured fines pilot program,
2 establishing a civil penalty and surcharge, providing for the
3 distribution of fines, and providing an effective date.

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

5

SENATE FILE 372

H-4039

1 Amend Senate File 372, as passed by the Senate, as
2 follows:

- 3 1. Page 1, line 1, by inserting before the word
- 4 "is" the following: "unnumbered paragraph 2,".
- 5 2. Page 1, by striking lines 3 through 24.

By RAFFERTY of Scott

H-4039 FILED APRIL 19, 1993

Adopted 4/26/93 (p.1659)

S F 372

HOUSE AMENDMENT TO
SENATE FILE 372

S-3634

1 Amend Senate File 372, as passed by the Senate, as
2 follows:

- 3 1. Page 1, line 1, by inserting before the word
- 4 "is" the following: "unnumbered paragraph 2,".
- 5 2. Page 1, by striking lines 3 through 24.

RECEIVED FROM THE HOUSE

S-3634 FILED APRIL 26, 1993

Senate concurred 4/27/93 (p.1360)

1 Section 1. 1992 Iowa Acts, chapter 1202, section 1, is
2 amended to read as follows:

3 SECTION 1. STRUCTURED FINES PILOT PROGRAM -- DEPARTMENT OF
4 HUMAN RIGHTS, DIVISION OF CRIMINAL AND JUVENILE JUSTICE
5 PLANNING. The general assembly hereby finds that the
6 structured fines system of imposing fines has been
7 successfully utilized in several countries of Europe and in
8 the states of New York and Arizona. The general assembly
9 further finds that a fine imposed as a criminal sanction
10 should be proportionate to the severity of the offense and
11 should equally impact individuals of differing financial
12 resources, and that the sentencing of a criminal defendant
13 pursuant to a structured fines program, in which fine amounts
14 for some or all offenses are calculated and imposed according
15 to the nature of the offense and the offender's financial
16 resources, is not contrary to any existing provision of law.
17 The general assembly further finds that the implementation of
18 a structured fines pilot program within this state could serve
19 as a test for a fairer method of dispensing criminal justice
20 and could increase the overall amount of criminal fines
21 collected from offenders, reduce the volume of delinquent and
22 unpaid fines, reduce the number of offenders sentenced to
23 formal probation, and help to alleviate the overcrowded
24 conditions at the penal institutions within the state.

25 The department of human rights, division of criminal and
26 juvenile justice planning is authorized to participate in a
27 federal discretionary grant program to test the structured
28 fines concept in counties and judicial districts also wishing
29 to participate in the pilot program. Sections 2 through 5 of
30 this Act shall apply only within those counties and judicial
31 districts agreeing with the department of human rights,
32 division of criminal and juvenile justice planning to
33 participate in this pilot program from enactment of this Act
34 through June 30, 1993 1995.

35 Sec. 2. 1992 Iowa Acts, chapter 1202, section 2, is

1 amended to read as follows:

2 SEC. 2. PAYMENT IN INSTALLMENTS OR ON A FIXED FUTURE DATE
3 -- INSTALLMENT FEE AND INTEREST -- STRUCTURED CIVIL PENALTY.

4 1. If the district court orders a structured fine,
5 structured civil penalty, or structured civil penalty
6 surchARGE imposed pursuant to this chapter 909, the criminal
7 penalty surcharge for a structured fine imposed pursuant to
8 chapter 911, indigent defense fees assessed as restitution
9 pursuant to chapter 910 for a case in which a structured fine
10 or structured civil penalty was imposed, or court costs
11 assessed pursuant to chapter 602 for a case in which a
12 structured fine or structured civil penalty was imposed, to be
13 paid in installments or at a fixed date in the future, the
14 court shall do all of the following:

15 † a. Impose a time payment fee in the amount of ten
16 dollars.

17 2 b. Impose interest charges on the unsatisfied judgment
18 from the date of sentencing at the rate provided in section
19 535.3 for court judgments.

20 2. Notwithstanding any other provision of law to the
21 contrary, when a deferred judgment or deferred sentence is
22 entered by the court pursuant to chapter 907, the court may
23 impose a structured civil penalty that is calculated in the
24 same manner as a structured fine. The structured civil
25 penalty shall be subject to a structured civil penalty
26 surchARGE equal to the criminal penalty surcharge under
27 section 911.2. The structured civil penalty shall be
28 disbursed in the manner provided for in section 4, subsection
29 2, of this Act and the structured civil penalty surcharge
30 shall be disbursed in the manner provided for in section 4,
31 subsection 2, of this Act.

32 Sec. 3. 1992 Iowa Acts, chapter 1202, section 3, is
33 amended to read as follows:

34 SEC. 3. NO MINIMUM FINE. Notwithstanding any other
35 provisions of law, a ~~criminal~~ structured fine imposed pursuant

1 to 1992 Iowa Acts, chapter 1202 and this Act in a county
2 participating in the structured fines pilot program shall not
3 be required to be imposed in any minimum amount.

4 Sec. 4. 1992 Iowa Acts, chapter 1202, section 4, is
5 amended to read as follows:

6 SEC. 4. DISTRIBUTION OF CERTAIN FEES UNDER THE STRUCTURED
7 FINES PILOT PROGRAM.

8 1. Upon payment of the time payment fee, the clerk of the
9 district court shall remit all such fees collected by the
10 fifteenth day of the month following payment to the county
11 treasurer for credit to the general fund of the county to be
12 used to support the costs of the continued operation of the a
13 structured fines pilot program in the county. Upon payment of
14 interest charges, the clerk of the district court shall remit
15 all such charges collected by the fifteenth day of the month
16 following payment to the treasurer of state to be credited to
17 the general fund of the state, ~~except as provided in~~
18 ~~subsection-2.~~

19 2. Notwithstanding any other provisions of ~~this Act~~ law,
20 the clerk of the district court for a county participating in
21 ~~the a~~ structured fines pilot program shall annually remit ten
22 by the fifteenth day of the month following payment fifteen
23 ~~percent of the first five hundred thousand dollars in~~ of all
24 structured fines, criminal penalty surcharges collected on
25 structured fines, structured civil penalties, structured civil
26 penalty surcharges, indigent defense fees, and court costs,
27 ~~time-payment-fees, and interest charges assessed for public~~
28 ~~offenses other than scheduled violations as defined in chapter~~
29 ~~805, which are paid in installments or at a fixed date in the~~
30 future collected in cases where a structured fine or
31 structured civil penalty was imposed, to the county treasurer
32 for credit to the general fund of the county to be used to
33 support the costs of operation of the structured fines pilot
34 program in the county and the remaining eighty-five percent to
35 the treasurer of state for deposit in the general fund of the

1 state.

2 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
3 immediate importance, takes effect upon enactment.

4 EXPLANATION

5 This bill changes the sunset date of the structured fines
6 pilot program from June 30, 1993, to June 30, 1995. The bill
7 also creates a structured civil penalty and structured civil
8 penalty surcharge which may be imposed in certain
9 circumstances. The civil penalty and surcharge will function
10 in the same manner as criminal fines and surcharges. The bill
11 also provides that indigent defense fees assessed in cases in
12 which a structured fine or penalty was imposed may be paid in
13 installments. The bill also provides that 15 percent of
14 structured fines, penalties, surcharges, and indigent defense
15 fees collected in structured fines cases be used by the county
16 to support the pilot program.

17 The bill takes effect upon enactment.

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SENATE FILE 372
• FISCAL NOTE

A fiscal note for Senate File 372 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 372 extends the sunset for the Structured Fines Pilot Program from June 30, 1993 to June 30, 1995. The Program has a structured fine and criminal penalty surcharge. Senate File 372 creates a structured civil penalty and structured civil penalty surcharge which will function in the same manner as the criminal fines and surcharges.

ASSUMPTIONS:

1. The current sentencing and disposition practices at the pilot site would continue in FY 1994 - FY 1995.
2. The average amount of structured fines assessed at the pilot site would continue in FY 1994 - FY 1995.
3. The current rate at which structured fines, surcharges, court costs, time payment fees, and related interest were collected at the pilot site would continue in FY 1994 - FY 1995.
4. The rate at which civil penalty collection rates would be collected would parallel the structured fine collection rates.

FISCAL EFFECT:

The estimated annual revenue generated for FY 1994 and FY 1995 by Senate File 372 is \$348,624. Of this amount, \$119,448 would be used by the pilot project county to operate the Program, with the remaining \$229,176 being deposited in the General Fund.

Source: Department of Human Rights

(LSB 1186sv, RRS)

FILED MARCH 25, 1993

BY DENNIS PROUTY, FISCAL DIRECTOR

VILSACK, et.
GIANNETTO,
FURMAN

SSB 307
JUDICIARY

SENATE/HOUSE FILE 372
BY (PROPOSED DEPARTMENT OF
HUMAN RIGHTS/CRIMINAL AND
JUVENILE JUSTICE PLANNING
DIVISION BILL)

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

A BILL FOR

1 An Act relating to the structured fines pilot program,
2 establishing a civil penalty and surcharge, providing for the
3 distribution of fines, and providing an effective date.

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

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1 Section 1. 1992 Iowa Acts, chapter 1202, section 1, is
2 amended to read as follows:

3 SECTION 1. STRUCTURED FINES PILOT PROGRAM -- DEPARTMENT OF
4 HUMAN RIGHTS, DIVISION OF CRIMINAL AND JUVENILE JUSTICE
5 PLANNING. The general assembly hereby finds that the
6 structured fines system of imposing fines has been
7 successfully utilized in several countries of Europe and in
8 the states of New York and Arizona. The general assembly
9 further finds that a fine imposed as a criminal sanction
10 should be proportionate to the severity of the offense and
11 should equally impact individuals of differing financial
12 resources, and that the sentencing of a criminal defendant
13 pursuant to a structured fines program, in which fine amounts
14 for some or all offenses are calculated and imposed according
15 to the nature of the offense and the offender's financial
16 resources, is not contrary to any existing provision of law.
17 The general assembly further finds that the implementation of
18 a structured fines pilot program within this state could serve
19 as a test for a fairer method of dispensing criminal justice
20 and could increase the overall amount of criminal fines
21 collected from offenders, reduce the volume of delinquent and
22 unpaid fines, reduce the number of offenders sentenced to
23 formal probation, and help to alleviate the overcrowded
24 conditions at the penal institutions within the state.

25 The department of human rights, division of criminal and
26 juvenile justice planning is authorized to participate in a
27 federal discretionary grant program to test the structured
28 fines concept in counties and judicial districts also wishing
29 to participate in the pilot program. Sections 2 through 5 of
30 this Act shall apply only within those counties and judicial
31 districts agreeing with the department of human rights,
32 division of criminal and juvenile justice planning to
33 participate in this pilot program from enactment of this Act
34 through June 30, ~~1993~~ 1995.

35 Sec. 2. 1992 Iowa Acts, chapter 1202, section 2, is

1 amended to read as follows:

2 SEC. 2. PAYMENT IN INSTALLMENTS OR ON A FIXED FUTURE DATE
3 -- INSTALLMENT FEE AND INTEREST -- STRUCTURED CIVIL PENALTY.

4 1. If the district court orders a structured fine,
5 structured civil penalty, or structured civil penalty
6 surcharge imposed pursuant to this chapter 909, the criminal
7 penalty surcharge for a structured fine imposed pursuant to
8 chapter 911, indigent defense fees assessed as restitution
9 pursuant to chapter 910 for a case in which a structured fine
10 or structured civil penalty was imposed, or court costs
11 assessed pursuant to chapter 602 for a case in which a
12 structured fine or structured civil penalty was imposed, to be
13 paid in installments or at a fixed date in the future, the
14 court shall do all of the following:

15 1 a. Impose a time payment fee in the amount of ten
16 dollars.

17 2 b. Impose interest charges on the unsatisfied judgment
18 from the date of sentencing at the rate provided in section
19 535.3 for court judgments.

20 2. Notwithstanding any other provision of law to the
21 contrary, when a deferred judgment or deferred sentence is
22 entered by the court pursuant to chapter 907, the court may
23 impose a structured civil penalty that is calculated in the
24 same manner as a structured fine. The structured civil
25 penalty shall be subject to a structured civil penalty
26 surcharge equal to the criminal penalty surcharge under
27 section 911.2. The structured civil penalty shall be
28 disbursed in the manner provided for in section 4, subsection
29 2, of this Act and the structured civil penalty surcharge
30 shall be disbursed in the manner provided for in section 4,
31 subsection 2, of this Act.

32 Sec. 3. 1992 Iowa Acts, chapter 1202, section 3, is
33 amended to read as follows:

34 SEC. 3. NO MINIMUM FINE. Notwithstanding any other
35 provisions of law, a ~~criminal~~ structured fine imposed pursuant

1 to 1992 Iowa Acts, chapter 1202 and this Act in a county
2 participating in the structured fines pilot program shall not
3 be required to be imposed in any minimum amount.

4 Sec. 4. 1992 Iowa Acts, chapter 1202, section 4, is
5 amended to read as follows:

6 SEC. 4. DISTRIBUTION OF CERTAIN FEES UNDER THE STRUCTURED
7 FINES PILOT PROGRAM.

8 1. Upon payment of the time payment fee, the clerk of the
9 district court shall remit all such fees collected by the
10 fifteenth day of the month following payment to the county
11 treasurer for credit to the general fund of the county to be
12 used to support the costs of the continued operation of the a
13 structured fines pilot program in the county. Upon payment of
14 interest charges, the clerk of the district court shall remit
15 all such charges collected by the fifteenth day of the month
16 following payment to the treasurer of state to be credited to
17 the general fund of the state, ~~except as provided in~~
18 ~~subsection-2.~~

19 2. Notwithstanding any other provisions of ~~this Act~~ law,
20 the clerk of the district court for a county participating in
21 the a structured fines pilot program shall annually remit ten
22 by the fifteenth day of the month following payment fifteen
23 ~~percent of the first five hundred thousand dollars in~~ of all
24 structured fines, criminal penalty surcharges collected on
25 structured fines, structured civil penalties, structured civil
26 penalty surcharges, indigent defense fees, and court costs,
27 ~~time-payment-fees, and interest charges assessed for public~~
28 ~~offenses other than scheduled violations as defined in chapter~~
29 ~~885, which are paid in installments or at a fixed date in the~~
30 future collected in cases where a structured fine or
31 structured civil penalty was imposed, to the county treasurer
32 for credit to the general fund of the county to be used to
33 support the costs of operation of the structured fines pilot
34 program in the county and the remaining eighty-five percent to
35 the treasurer of state for deposit in the general fund of the

1 state.

2 Sec. 5. EFFECTIVE DATE. This Act, being deemed of
3 immediate importance, takes effect upon enactment.

4 EXPLANATION

5 This bill changes the sunset date of the structured fines
6 pilot program from June 30, 1993, to June 30, 1995. The bill
7 also creates a structured civil penalty and structured civil
8 penalty surcharge which may be imposed in certain
9 circumstances. The civil penalty and surcharge will function
10 in the same manner as criminal fines and surcharges. The bill
11 also provides that indigent defense fees assessed in cases in
12 which a structured fine or penalty was imposed may be paid in
13 installments. The bill also provides that 15 percent of
14 structured fines, penalties, surcharges, and indigent defense
15 fees collected in structured fines cases be used by the county
16 to support the pilot program.

17 The bill takes effect upon enactment.

18 BACKGROUND STATEMENT

19 SUBMITTED BY THE AGENCY

20 Preliminary data tends to indicate that the structured
21 fines pilot project now in operation has been successful in
22 achieving many of its goals. Improvements are constantly
23 being made to make the program more effective, and new ideas
24 have been developed to improve the project's operations. It
25 is believed that more time should be allocated to the project
26 to improve operations and to further study the success of the
27 project in achieving its goals. Recognizing this need, the
28 United States department of justice has granted a one-year
29 extension of the pilot project period and is in the process of
30 making available additional federal funds to continue the
31 project's operations.

32 The major changes proposed in this legislation will
33 accomplish the following goals: First, the bill extends the
34 sunset of the enabling legislation for two years to permit
35 further improvements to the project's operations and to more

1 fully study the program's effectiveness. Second, the bill
2 establishes a structured civil penalty and structured civil
3 penalty surcharge, which are the equivalent of, and
4 distributed in the same manner as, a structured fine and
5 criminal penalty surcharge assessed on a structured fine case.
6 The civil penalty and civil penalty surcharge could be
7 assessed when the court imposes a deferred judgment or
8 deferred sentence. Since the current Code does not permit
9 fines and surcharges to be imposed in such cases, it would
10 permit the costs of the criminal justice system to be assessed
11 to these users of the system. Third, the bill restructures
12 the financial allocation formula and distribution frequency to
13 counties participating in the pilot project to more fully fund
14 the true costs of project operations. Fourth, the bill
15 reinstates minimum fines within counties participating in the
16 pilot project while exempting only structured fines from any
17 statutory fine minimums. Finally, numerous minor changes in
18 language to clarify the legislation and its intent have been
19 made.

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SENATE FILE 372

AN ACT

RELATING TO THE STRUCTURED FINES PILOT PROGRAM, ESTABLISHING
A CIVIL PENALTY AND SURCHARGE, PROVIDING FOR THE DISTRI-
BUTION OF FINES, AND PROVIDING AN EFFECTIVE DATE.

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

Section 1. 1992 Iowa Acts, chapter 1202, section 1,
unnumbered paragraph 2, is amended to read as follows:

The department of human rights, division of criminal and
juvenile justice planning is authorized to participate in a
federal discretionary grant program to test the structured
fines concept in counties and judicial districts also wishing
to participate in the pilot program. Sections 2 through 5 of
this Act shall apply only within those counties and judicial
districts agreeing with the department of human rights,
division of criminal and juvenile justice planning to
participate in this pilot program from enactment of this Act
through June 30, 1993 1995.

Sec. 2. 1992 Iowa Acts, chapter 1202, section 2, is
amended to read as follows:

SEC. 2. PAYMENT IN INSTALLMENTS OR ON A FIXED FUTURE DATE
-- INSTALLMENT FEE AND INTEREST -- STRUCTURED CIVIL PENALTY.

1. If the district court orders a structured fine,
structured civil penalty, or structured civil penalty
surchARGE imposed pursuant to this chapter 909, the criminal
penalty surcharge for a structured fine imposed pursuant to
chapter 911, indigent defense fees assessed as restitution
pursuant to chapter 910 for a case in which a structured fine
or structured civil penalty was imposed, or court costs
assessed pursuant to chapter 602 for a case in which a
structured fine or structured civil penalty was imposed, to be
paid in installments or at a fixed date in the future, the
court shall do all of the following:

1 a. Impose a time payment fee in the amount of ten
dollars.

2 b. Impose interest charges on the unsatisfied judgment
from the date of sentencing at the rate provided in section
535.3 for court judgments.

2. Notwithstanding any other provision of law to the
contrary, when a deferred judgment or deferred sentence is
entered by the court pursuant to chapter 907, the court may
impose a structured civil penalty that is calculated in the
same manner as a structured fine. The structured civil
penalty shall be subject to a structured civil penalty
surchARGE equal to the criminal penalty surcharge under
section 911.2. The structured civil penalty shall be
disbursed in the manner provided for in section 4, subsection
2, of this Act and the structured civil penalty surcharge
shall be disbursed in the manner provided for in section 4,
subsection 2, of this Act.

Sec. 3. 1992 Iowa Acts, chapter 1202, section 3, is
amended to read as follows:

SEC. 3. NO MINIMUM FINE. Notwithstanding any other
provisions of law, a criminal structured fine imposed pursuant
to 1992 Iowa Acts, chapter 1202 and this Act in a county

participating in the structured fines pilot program shall not be required to be imposed in any minimum amount.

Sec. 4. 1992 Iowa Acts, chapter 1202, section 4, is amended to read as follows:

SEC. 4. DISTRIBUTION OF CERTAIN FEES UNDER THE STRUCTURED FINES PILOT PROGRAM.

1. Upon payment of the time payment fee, the clerk of the district court shall remit all such fees collected by the fifteenth day of the month following payment to the county treasurer for credit to the general fund of the county to be used to support the costs of the continued operation of the a structured fines pilot program in the county. Upon payment of interest charges, the clerk of the district court shall remit all such charges collected by the fifteenth day of the month following payment to the treasurer of state to be credited to the general fund of the state ~~except as provided in subsection-2.~~

2. Notwithstanding any other provisions of this Act law, the clerk of the district court for a county participating in the a structured fines pilot program shall annually remit ten by the fifteenth day of the month following payment fifteen percent of the first five hundred thousand dollars in of all structured fines, criminal penalty surcharges collected on structured fines, structured civil penalties, structured civil penalty surcharges, indigent defense fees, and court costs, time-payment-fees, and interest charges assessed for public offenses other than scheduled violations as defined in chapter 805, which are paid in installments or at a fixed date in the future collected in cases where a structured fine or structured civil penalty was imposed, to the county treasurer for credit to the general fund of the county to be used to support the costs of operation of the structured fines pilot program in the county and the remaining eighty-five percent to the treasurer of state for deposit in the general fund of the state.

Sec. 5. EFFECTIVE DATE. This Act, being deemed of immediate importance, takes effect upon enactment.

LEONARD L. BOSWELL
President of the Senate

HAROLD VAN MAANEN
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 372, Seventy-fifth General Assembly.

JOHN F. DWYER
Secretary of the Senate

Approved *May 3*, 1993

TERRY E. BRANSTAD
Governor