

REPRINTED

SENATE FILE 184
BY COMMITTEE ON LOCAL GOVERNMENT

(SUCCESSOR TO SSB 95)

Passed Senate, Date 3/4/97 (p. 474) Passed House, (p. 1206) Date 4-14-97
Vote: Ayes 49 Nays 0 Vote: Ayes 95 Nays 3
Approved May 14, 1997

A BILL FOR

1 An Act relating to collection of fees charged prisoners for room
2 and board, by providing for the entry of judgment against the
3 prisoner and enforcement of the judgment through writ of
4 execution.

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

6
7

SENATE FILE 184

S-3077

- 1 Amend Senate File 184 as follows:
- 2 1. Page 1, line 4, by inserting after the word
- 3 "older" the following: "and who has been convicted of
- 4 a criminal offense".
- 5 2. Page 1, line 8, by inserting after the word
- 6 "prisoner" the following: "who has been convicted of
- 7 a criminal offense".

By MIKE CONNOLLY

S-3077 FILED FEBRUARY 24, 1997
Adopted 3/4/97 (p. 474)

17
18
19
20
21
22
23
24

1 Section 1. Section 356.7, subsections 1, 2, and 3, Code
2 1997, are amended to read as follows:

3 1. The county sheriff may charge a prisoner who is
4 eighteen years of age or older for the room and board provided
5 to the prisoner while in the custody of the county sheriff.
6 Moneys collected by the sheriff under this section shall be
7 credited to the county general fund and distributed as
8 provided in this section. If a prisoner fails to pay for the
9 room and board, the sheriff may file a room and board
10 reimbursement ~~lien~~ claim with the district court as provided
11 in subsection 2. The county attorney may file the room and
12 board reimbursement ~~lien~~ claim on behalf of the sheriff and
13 the county. This section does not apply to prisoners who are
14 paying for their room and board by court order pursuant to
15 sections 356.26 through 356.35.

16 2. The sheriff or the county attorney, on behalf of the
17 sheriff, may file a room and board reimbursement ~~lien~~ claim
18 with the clerk of the district court which shall include all
19 of the following information, if known:

20 a. The name and date of birth of the person whose property
21 or other interests are subject to ~~the-lien~~ execution.

22 b. The present address of the residence and principal
23 place of business of the person named in the ~~lien~~ claim.

24 c. The criminal proceeding pursuant to which the ~~lien~~
25 claim is filed, including the name of the court, the title of
26 the action, and the court's file number.

27 d. The name and address of the sheriff or the name and
28 address of the county attorney who is filing the ~~lien~~ claim on
29 behalf of the sheriff.

30 e. A statement that the notice is being filed pursuant to
31 this section.

32 f. The amount of room and board reimbursement ~~charges~~ the
33 ~~person has-been-ordered-to-pay-or-is-likely-to-be-ordered-to~~
34 pay owes.

35 3. ~~The-filing-of-a~~ Upon receipt of a claim for room and

1 board reimbursement ~~lien-in-accordance-with-this-section~~
2 ~~creates-a-lien,~~ the court shall enter a judgment in favor of
3 the sheriff or the county in any-personal-or-real-property an
4 amount equal to the value of the room and board provided to
5 the prisoner identified in the ~~lien-to-the-extent-of-the~~
6 ~~interest-held-in-that-property-by-the-person-named-in-the-lien~~
7 claim and any fees or charges associated with the filing or
8 processing of the claim with the court. The sheriff may
9 enforce the judgment in the manner provided in chapter 626.

10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

EXPLANATION

This bill provides that claims for reimbursement for room and board provided while a prisoner is in the custody of a county sheriff may be filed by the sheriff or the county attorney with the district court as part of the criminal proceeding. Upon receipt of a claim for reimbursement, the court is to enter judgment against the prisoner in an amount equal to the value of the room and board provided to the prisoner while the prisoner was in the county sheriff's custody, plus any associated court fees or charges. The sheriff may enforce the judgment through a writ of execution under chapter 626.

**SENATE FILE 184
FISCAL NOTE**

A revised fiscal note for **Senate File 184** 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 184 permits county sheriffs to charge prisoners for room and board while in jail and to file a claim with the district court as part of the criminal proceeding. The Court is to enter the judgment against the prisoner in an amount equal to the value of the room and board provided to the prisoner, plus any associated court fees or charges. Currently, counties are allowed to file liens to recover room and board charges. Allowing judgements to be filed will make it easier for counties to collect these charges.

ASSUMPTIONS

1. The average FY 1996 statewide jail population was 2,280 adult prisoners (representing 832,200 jail days).
2. The weighted statewide average per diem charged to the Department of Corrections for confining a parole or work release violator in a county jail until returned to prison is \$61.89 (as of February 1997). It is unknown how many claims will be filed by counties or what the actual charges will be.
3. The current procedure to file liens takes approximately 20 minutes and is processed by the clerk of court office (judge not involved). The new procedure would increase the processing time by 45 minutes and would involve some judge time. Most of the additional processing time would be with the clerk's office. The additional cost would be \$8.69 per claim. The number of claims that will be filed is unknown. Clerks of court in four counties were contacted to determine the possible impact on clerk of court operations. Polk County would require 1.00 FTE position at an annual cost of \$24,000 to handle the additional workload. Story County would require .50 FTE position costing approximately \$12,000 annually. Woodbury County estimates .50 FTE to 1.00 FTE position would be needed, costing from \$12,000 to \$24,000 annually. Pottawattamie County would require an additional .50 FTE position costing \$12,000 annually. The total statewide impact is unknown.

FISCAL IMPACT

Because sufficient information is not available on the ability of prisoner's to pay room and board, the value of property owned by prisoner's to file against, and the number and amount of county claims filed, an accurate estimate cannot be determined. The percentage of prisoners who will be identified as indigent is unknown.

Utilizing the 1996 statewide average jail population and the statewide average per diem paid by the Department of Corrections for county confinement, the

maximum amount counties could charge prisoners for room and board is approximately \$51.5 million annually. (This amount is not in addition to what is being collected under current law. The actual amount currently being collected is unknown.)

Because there is insufficient information available regarding the number of executions for collection that would be required, the impact to the clerks of court operations cannot be determined. However, four counties were contacted to determine if Senate File 184 would have any fiscal impact on their operations. The annual fiscal impact is as follows:

<u>COUNTY</u>	<u>FTE</u>	<u>SALARY/BENEFITS</u>
Polk	1.00	\$24,000
Story	.50	12,000
Woodbury	.75	18,000
Pottawattamie	.50	12,000

In addition, the Judicial Department would require a software upgrade costing between \$10,000 and \$20,000. This would be a one-time cost.

SOURCE

Department of Corrections
Judicial Department

(LSB 1683sv.2, TCF)

FILED APRIL 2, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

SENATE FILE 184
FISCAL NOTE

REQ. BY SEN. ZIEMAN

A fiscal note for Senate File 184 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 184 permits county sheriffs to charge prisoners for room and board while in jail and to file a claim with the district court as part of the criminal proceeding. The Court is to enter the judgment against the prisoner in an amount equal to the value of the room and board provided to the prisoner, plus any associated court fees or charges. Currently, counties are allowed to file liens to recover room and board charges. Allowing judgements to be filed will make it easier for counties to collect these charges.

ASSUMPTIONS

1. The average FY 1996 statewide jail population was 2,280 adult prisoners (representing 832,200 jail days).
2. The weighted statewide average per diem charged to the Department of Corrections for confining a parole or work release violator in a county jail until returned to prison is \$61.89 (as of February 1997). It is unknown how many claims will be filed by counties or what the actual charges will be.
3. The current procedure to file liens takes approximately 20 minutes and is processed by the clerk of court office (judge not involved). The new procedure would increase the processing time by 45 minutes and would involve some judge time. Most of the additional processing time would be with the clerk's office. The additional cost would be \$8.69 per claim. The number of claims the counties will file is unknown.

FISCAL IMPACT

Because sufficient information is not available on the ability of prisoner's to pay room and board, the value of property owned by prisoner's to file against, and the number and amount of county claims filed, an accurate estimate cannot be determined. The percentage of prisoners who will be identified as indigent is unknown.

Utilizing the 1996 statewide average jail population and the statewide average per diem paid by the Department of Corrections for county confinement, the maximum amount counties could charge prisoners for room and board is approximately \$51.5 million annually. (This amount is not in addition to what is being collected under current law. The actual amount currently being collected is unknown.)

SOURCE

Department of Corrections
Judicial Department

(LSB 1683SV, TCF)



1 Section 1. Section 356.7, subsections 1, 2, and 3, Code
2 1997, are amended to read as follows:

3 1. The county sheriff may charge a prisoner who is
4 eighteen years of age or older and who has been convicted of a
5 criminal offense for the room and board provided to the
6 prisoner while in the custody of the county sheriff. Moneys
7 collected by the sheriff under this section shall be credited
8 to the county general fund and distributed as provided in this
9 section. If a prisoner who has been convicted of a criminal
10 offense fails to pay for the room and board, the sheriff may
11 file a room and board reimbursement lien claim with the
12 district court as provided in subsection 2. The county
13 attorney may file the room and board reimbursement lien claim
14 on behalf of the sheriff and the county. This section does
15 not apply to prisoners who are paying for their room and board
16 by court order pursuant to sections 356.26 through 356.35.

17 2. The sheriff or the county attorney, on behalf of the
18 sheriff, may file a room and board reimbursement lien claim
19 with the clerk of the district court which shall include all
20 of the following information, if known:

21 a. The name and date of birth of the person whose property
22 or other interests are subject to the-lien execution.

23 b. The present address of the residence and principal
24 place of business of the person named in the lien claim.

25 c. The criminal proceeding pursuant to which the lien
26 claim is filed, including the name of the court, the title of
27 the action, and the court's file number.

28 d. The name and address of the sheriff or the name and
29 address of the county attorney who is filing the lien claim on
30 behalf of the sheriff.

31 e. A statement that the notice is being filed pursuant to
32 this section.

33 f. The amount of room and board reimbursement charges the
34 person has-been-ordered-to-pay-or-is-likely-to-be-ordered-to
35 pay owes.

1 3. ~~The filing of a~~ Upon receipt of a claim for room and
2 ~~board reimbursement lien in accordance with this section~~
3 ~~creates a lien,~~ the court shall enter a judgment in favor of
4 the sheriff or the county in any personal or real property an
5 amount equal to the value of the room and board provided to
6 the prisoner identified in the lien to the extent of the
7 interest held in that property by the person named in the lien
8 claim and any fees or charges associated with the filing or
9 processing of the claim with the court. The sheriff may
10 enforce the judgment in the manner provided in chapter 626.

- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26
- 27
- 28
- 29
- 30
- 31
- 32
- 33
- 34
- 35

SENATE FILE 184

H-1563

1 Amend Senate File 184, as amended, passed, and
2 reprinted by the Senate, as follows:

3 1. Page 1, by striking lines 21 and 22 and
4 inserting the following:

5 "a. The name, and date of birth, and social
6 security number of the person whose property or other
7 interests are who is the subject of the ~~the~~ lien
8 claim."

9 2. Page 1, line 28, by inserting after the words
10 "The name and" the following: "office".

11 3. Page 1, line 29, by inserting before the word
12 "address" the following: "office".

13 4. Page 1, by inserting after line 35, the
14 following:

15 ". If the sheriff wishes to have the amount of
16 the claim for charges owed included within the amount
17 of restitution determined to be owed by the person, a
18 request that the amount owed be included within the
19 order for payment of restitution by the person."

20 5. Page 2, line 3, by striking the words "enter a
21 judgment" and inserting the following: "approve the
22 claim".

23 6. Page 2, line 4, by striking the words "in any
24 personal or real property an" and inserting the
25 following: "in any personal or real property".

26 7. Page 2, by striking line 5, and inserting the
27 following: "for the amount owed by".

28 8. Page 2, line 6, by inserting after the word
29 "prisoner" the following: "as".

30 9. Page 2, line 10, by striking the words
31 "enforce the judgment" and inserting the following:
32 "choose to enforce the claim".

33 10. Page 2, by inserting after line 10 the
34 following: "Once approved by the court, the claim for
35 the amount owed by the person shall have the force and
36 effect of a judgment for purposes of enforcement by
37 the sheriff."

38 Sec. ____ . Section 910.1, subsection 4, Code 1997,
39 is amended to read as follows:

40 4. "Restitution" means payment of pecuniary
41 damages to a victim in an amount and in the manner
42 provided by the offender's plan of restitution.
43 "Restitution" also includes fines, penalties, and
44 surcharges, the contribution of funds to a local
45 anticrime organization which provided assistance to
46 law enforcement in an offender's case, the payment of
47 crime victim compensation program reimbursements,
48 court costs including correctional fees approved
49 pursuant to section 356.7, court-appointed attorney's
50 fees, or the expense of a public defender, and the

H-1563

H-1563

Page 2

1 performance of a public service by an offender in an
2 amount set by the court when the offender cannot
3 reasonably pay all or part of the court costs
4 including correctional fees approved pursuant to
5 section 356.7, court-appointed attorney's fees, or the
6 expense of a public defender.

7 Sec. . Section 910.2, Code 1997, is amended to
8 read as follows:

9 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE
10 ORDERED BY SENTENCING COURT.

11 In all criminal cases in which there is a plea of
12 guilty, verdict of guilty, or special verdict upon
13 which a judgment of conviction is rendered, the
14 sentencing court shall order that restitution be made
15 by each offender to the victims of the offender's
16 criminal activities, to the clerk of court for fines,
17 penalties, surcharges, and, to the extent that the
18 offender is reasonably able to pay, for crime victim
19 assistance reimbursement, court costs including
20 correctional fees approved pursuant to section 356.7,
21 court-appointed attorney's fees, or the expense of a
22 public defender when applicable, or contribution to a
23 local anticrime organization. However, victims shall
24 be paid in full before fines, penalties, and
25 surcharges, crime victim compensation program
26 reimbursement, court costs including correctional fees
27 approved pursuant to section 356.7, court-appointed
28 attorney's fees, the expenses of a public defender, or
29 contribution to a local anticrime organization are
30 paid. In structuring a plan of restitution, the court
31 shall provide for payments in the following order of
32 priority: victim, fines, penalties, and surcharges,
33 crime victim compensation program reimbursement, court
34 costs including correctional fees approved pursuant to
35 section 356.7, court-appointed attorney's fees, or the
36 expense of a public defender, and contribution to a
37 local anticrime organization.

38 When the offender is not reasonably able to pay all
39 or a part of the crime victim compensation program
40 reimbursement, court costs including correctional fees
41 approved pursuant to section 356.7, court-appointed
42 attorney's fees, the expense of a public defender, or
43 contribution to a local anticrime organization, the
44 court may require the offender in lieu of that portion
45 of the crime victim compensation program
46 reimbursement, court costs including correctional fees
47 approved pursuant to section 356.7, court-appointed
48 attorney's fees, expense of a public defender, or
49 contribution to a local anticrime organization for
50 which the offender is not reasonably able to pay, to

H-1563

-2-

H-1563

Page 3

1 perform a needed public service for a governmental
2 agency or for a private nonprofit agency which
3 provides a service to the youth, elderly, or poor of
4 the community. When community service is ordered, the
5 court shall set a specific number of hours of service
6 to be performed by the offender which, for payment of
7 court-appointed attorney's fees or expenses of a
8 public defender, shall be approximately equivalent in
9 value to those costs. The judicial district
10 department of correctional services shall provide for
11 the assignment of the offender to a public agency or
12 private nonprofit agency to perform the required
13 service.

14 Sec. ____ . Section 910.3, Code 1997, is amended to
15 read as follows:

16 910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

17 The county attorney shall prepare a statement of
18 pecuniary damages to victims of the defendant and, if
19 applicable, any award by the crime victim compensation
20 program and shall provide the statement to the
21 presentence investigator or submit the statement to
22 the court at the time of sentencing. The clerk of
23 court shall prepare a statement of court-appointed
24 attorney's fees, the expense of a public defender, and
25 court costs including correctional fees claimed by a
26 sheriff pursuant to section 356.7, which shall be
27 provided to the presentence investigator or submitted
28 to the court at the time of sentencing. If these
29 statements are provided to the presentence
30 investigator, they shall become a part of the
31 presentence report. If pecuniary damage amounts are
32 not available at the time of sentencing, the county
33 attorney shall provide a statement of pecuniary
34 damages incurred up to that time to the clerk of
35 court. The statement shall be provided no later than
36 thirty days after sentencing. If a defendant believes
37 no person suffered pecuniary damages, the defendant
38 shall so state. If the defendant has any mental or
39 physical impairment which would limit or prohibit the
40 performance of a public service, the defendant shall
41 so state. The court may order a mental or physical
42 examination, or both, of the defendant to determine a
43 proper course of action. At the time of sentencing or
44 at a later date to be determined by the court, the
45 court shall set out the amount of restitution
46 including the amount of public service to be performed
47 as restitution and the persons to whom restitution
48 must be paid. If the full amount of restitution
49 cannot be determined at the time of sentencing, the
50 court shall issue a temporary order determining a

H-1563

H-1563

Page 4

1 reasonable amount for restitution identified up to
2 that time. At a later date as determined by the
3 court, the court shall issue a permanent, supplemental
4 order, setting the full amount of restitution. The
5 court shall enter further supplemental orders, if
6 necessary. These court orders shall be known as the
7 plan of restitution.

8 Sec. ____ . EFFECTIVE DATE. This Act, being deemed
9 of immediate importance, takes effect upon enactment."

10 11. Title page, line 4, by inserting after the
11 word "execution" the following: ", and providing for
12 an effective date".

13 12. By numbering and renumbering as necessary.

By COMMITTEE ON LOCAL GOVERNMENT

VANDE HOEF of Osceola, Chairperson

H-1563 FILED APRIL 7, 1997

adopted
4-14-97
(p. 1206)

4/21/97 MTR Martin prevailed
Adopted as amended 4/21/97 (p. 1375)

SENATE FILE 184

H-1792

1 Amend the amendment, H-1563, to Senate File 184, as
2 amended, passed, and reprinted by the Senate, as
3 follows:

4 1. Page 1, line 37, by inserting after the word
5 "sheriff." the following: "However, irrespective of
6 whether the judgment lien for the amount of the claim
7 has been perfected, the claim shall not have priority
8 over competing claims for child support obligations
9 owed by the person."

By MARTIN of Scott

DODERER of Johnson

MORELAND of Wapello

H-1792 FILED APRIL 17, 1997

Adopted 4/21/97 (p. 1375)

HOUSE AMENDMENT TO
SENATE FILE 184

S-3661

1 Amend Senate File 184, as amended, passed, and
2 reprinted by the Senate, as follows:
3 1. Page 1, by striking lines 21 and 22 and
4 inserting the following:
5 "a. The name, and date of birth, and social
6 security number of the person whose ~~property or other~~
7 ~~interests are~~ who is the subject to of the lien
8 claim."
9 2. Page 1, line 28, by inserting after the words
10 "The name and" the following: "office".
11 3. Page 1, line 29, by inserting before the word
12 "address" the following: "office".
13 4. Page 1, by inserting after line 35, the
14 following:
15 " . If the sheriff wishes to have the amount of
16 the claim for charges owed included within the amount
17 of restitution determined to be owed by the person, a
18 request that the amount owed be included within the
19 order for payment of restitution by the person."
20 5. Page 2, line 3, by striking the words "enter a
21 judgment" and inserting the following: "approve the
22 claim".
23 6. Page 2, line 4, by striking the words "in any
24 personal or real property an" and inserting the
25 following: "in any personal or real property".
26 7. Page 2, by striking line 5, and inserting the
27 following: "for the amount owed by".
28 8. Page 2, line 6, by inserting after the word
29 "prisoner" the following: "as".
30 9. Page 2, line 10, by striking the words
31 "enforce the judgment" and inserting the following:
32 "choose to enforce the claim".
33 10. Page 2, by inserting after line 10 the
34 following: "Once approved by the court, the claim for
35 the amount owed by the person shall have the force and
36 effect of a judgment for purposes of enforcement by
37 the sheriff. However, irrespective of whether the
38 judgment lien for the amount of the claim has been
39 perfected, the claim shall not have priority over
40 competing claims for child support obligations owed by
41 the person.
42 Sec. ____ . Section 910.1, subsection 4, Code 1997,
43 is amended to read as follows:
44 4. "Restitution" means payment of pecuniary
45 damages to a victim in an amount and in the manner
46 provided by the offender's plan of restitution.
47 "Restitution" also includes fines, penalties, and
48 surcharges, the contribution of funds to a local
49 anticrime organization which provided assistance to
50 law enforcement in an offender's case, the payment of

S-3661

S-3661

page 2

1 crime victim compensation
2 costs including section 356.7
3 pursuant to the expense of a
4 performance of a public ser-
5 fees, or the expense of a
6 amount set by the court when
7 reasonably pay all or part of
8 including correctional fees ap-
9 section 356.7, court-appointed at
10 expense of a public defender.
11 sec. 910.2
12 read as follows:
13
14 **ORDERED BY SENTENCING OR COMMUNITY SERV-**
15 **ICES.** In all criminal cases in which there is
16 a guilty verdict of conviction, or special verdict
17 which a judgment of guilty, or restitution,
18 sentencing court shall order the offender
19 by each offender to the clerk of the court for
20 penalties, surcharges, and to the extent that
21 assistance is reasonably able to pay, for crime vi-
22 court-appointed attorney's fees, or the expense of
23 correctional fees approved pursuant to section 356
24 public defender, crime victim compensation, and
25 court-appointed attorney's fees, or the expense of
26 local organization, fines, penalties, and surcharges,
27 be paid in full before the sentencing court
28 surcharges, crime victim compensation, and
29 reimbursement, court-appointed attorney's fees, or
30 approved pursuant to section 356.7, court-appointed
31 attorney's fees, the expenses of a public defender, or
32 contribution to a local anticrime program, the court
33 shall provide for a plan of restitution, the court
34 shall provide for a local anticrime program, the court
35 shall provide for a local anticrime program, the court
36 shall provide for a local anticrime program, the court
37 shall provide for a local anticrime program, the court
38 shall provide for a local anticrime program, the court
39 shall provide for a local anticrime program, the court
40 shall provide for a local anticrime program, the court
41 shall provide for a local anticrime program, the court
42 shall provide for a local anticrime program, the court
43 shall provide for a local anticrime program, the court
44 shall provide for a local anticrime program, the court
45 shall provide for a local anticrime program, the court
46 shall provide for a local anticrime program, the court
47 shall provide for a local anticrime program, the court
48 shall provide for a local anticrime program, the court
49 shall provide for a local anticrime program, the court
50 shall provide for a local anticrime program, the court

S-3661

S-3661

Page 3

1 approved pursuant to section 356.7, court-appointed
2 attorney's fees, expense of a public defender, or
3 contribution to a local anticrime organization for
4 which the offender is not reasonably able to pay, to
5 perform a needed public service for a governmental
6 agency or for a private nonprofit agency which
7 provides a service to the youth, elderly, or poor of
8 the community. When community service is ordered, the
9 court shall set a specific number of hours of service
10 to be performed by the offender which, for payment of
11 court-appointed attorney's fees or expenses of a
12 public defender, shall be approximately equivalent in
13 value to those costs. The judicial district
14 department of correctional services shall provide for
15 the assignment of the offender to a public agency or
16 private nonprofit agency to perform the required
17 service.

18 Sec. ____ . Section 910.3, Code 1997, is amended to
19 read as follows:

20 910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

21 The county attorney shall prepare a statement of
22 pecuniary damages to victims of the defendant and, if
23 applicable, any award by the crime victim compensation
24 program and shall provide the statement to the
25 presentence investigator or submit the statement to
26 the court at the time of sentencing. The clerk of
27 court shall prepare a statement of court-appointed
28 attorney's fees, the expense of a public defender, and
29 court costs including correctional fees claimed by a
30 sheriff pursuant to section 356.7, which shall be
31 provided to the presentence investigator or submitted
32 to the court at the time of sentencing. If these
33 statements are provided to the presentence
34 investigator, they shall become a part of the
35 presentence report. If pecuniary damage amounts are
36 not available at the time of sentencing, the county
37 attorney shall provide a statement of pecuniary
38 damages incurred up to that time to the clerk of
39 court. The statement shall be provided no later than
40 thirty days after sentencing. If a defendant believes
41 no person suffered pecuniary damages, the defendant
42 shall so state. If the defendant has any mental or
43 physical impairment which would limit or prohibit the
44 performance of a public service, the defendant shall
45 so state. The court may order a mental or physical
46 examination, or both, of the defendant to determine a
47 proper course of action. At the time of sentencing or
48 at a later date to be determined by the court, the
49 court shall set out the amount of restitution
50 including the amount of public service to be performed

S-3661

-3-

S-3661

Page 4

1 as restitution and the persons to whom restitution
2 must be paid. If the full amount of restitution
3 cannot be determined at the time of sentencing, the
4 court shall issue a temporary order determining a
5 reasonable amount for restitution identified up to
6 that time. At a later date as determined by the
7 court, the court shall issue a permanent, supplemental
8 order, setting the full amount of restitution. The
9 court shall enter further supplemental orders, if
10 necessary. These court orders shall be known as the
11 plan of restitution.

12 Sec. ____ . EFFECTIVE DATE. This Act, being deemed
13 of immediate importance, takes effect upon enactment."

14 11. Title page, line 4, by inserting after the
15 word "execution" the following: ", and providing for
16 an effective date".

17 12. By numbering and renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3661 FILED APRIL 21, 1997

Senate Concurred
4/24/97
(P.1419)

Zieman, chair
Fraise
J Black

SSB 95

Local Government

Succeeded By

SENATE FILE.

SF/HF 184

BY (PROPOSED COMMITTEE ON

LOCAL GOVERNMENT BILL

BY CHAIRPERSON ZIEMAN)

Passed Senate, Date _____

Passed House, Date _____

Vote: Ayes _____ Nays _____

Vote: Ayes _____ Nays _____

Approved _____

A BILL FOR

1 An Act relating to collection of fees charged prisoners for room
2 and board, by providing for the entry of judgment against the
3 prisoner and enforcement of the judgment through writ of
4 execution.

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

6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23

1 Section 1. Section 356.7, subsections 1, 2, and 3, Code
2 1997, are amended to read as follows:

3 1. The county sheriff may charge a prisoner who is
4 eighteen years of age or older for the room and board provided
5 to the prisoner while in the custody of the county sheriff.
6 Moneys collected by the sheriff under this section shall be
7 credited to the county general fund and distributed as
8 provided in this section. If a prisoner fails to pay for the
9 room and board, the sheriff may file a room and board
10 reimbursement ~~lien~~ claim with the district court as provided
11 in subsection 2. The county attorney may file the room and
12 board reimbursement ~~lien~~ claim on behalf of the sheriff and
13 the county. This section does not apply to prisoners who are
14 paying for their room and board by court order pursuant to
15 sections 356.26 through 356.35.

16 2. The sheriff or the county attorney, on behalf of the
17 sheriff, may file a room and board reimbursement ~~lien~~ claim
18 with the clerk of the district court which shall include all
19 of the following information, if known:

20 a. The name and date of birth of the person whose property
21 or other interests are subject to ~~the-lien~~ execution.

22 b. The present address of the residence and principal
23 place of business of the person named in the ~~lien~~ claim.

24 c. The criminal proceeding pursuant to which the ~~lien~~
25 claim is filed, including the name of the court, the title of
26 the action, and the court's file number.

27 d. The name and address of the sheriff or the name and
28 address of the county attorney who is filing the ~~lien~~ claim on
29 behalf of the sheriff.

30 e. A statement that the notice is being filed pursuant to
31 this section.

32 f. The amount of room and board reimbursement charges the
33 person ~~has-been-ordered-to-pay-or-is-likely-to-be-ordered-to~~
34 pay owes.

35 3. ~~The-filing-of-a~~ Upon receipt of a claim for room and

1 board reimbursement ~~lien-in-accordance-with-this-section~~
2 ~~creates-a-lien,~~ the court shall enter a judgment in favor of
3 the sheriff or the county in ~~any-personal-or-real-property an~~
4 amount equal to the value of the room and board provided to
5 the prisoner identified in the lien-to-the-extent-of-the
6 ~~interest-held-in-that-property-by-the-person-named-in-the-lien~~
7 claim. The sheriff may enforce the judgment in the manner
8 provided in chapter 626.

9 EXPLANATION

10 This bill provides that claims for reimbursement for room
11 and board provided while a prisoner is in the custody of a
12 county sheriff may be filed by the sheriff or the county
13 attorney with the district court as part of the criminal
14 proceeding. Upon receipt of a claim for reimbursement, the
15 court is to enter judgment against the prisoner in an amount
16 equal to the value of the room and board provided to the
17 prisoner while the prisoner was in the county sheriff's
18 custody. The sheriff may enforce the judgment through a writ
19 of execution under chapter 626.

20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 184

AN ACT

RELATING TO COLLECTION OF FEES CHARGED PRISONERS FOR ROOM AND BOARD, BY PROVIDING FOR THE ENTRY OF JUDGMENT AGAINST THE PRISONER AND ENFORCEMENT OF THE JUDGMENT THROUGH WRIT OF EXECUTION, AND PROVIDING FOR AN EFFECTIVE DATE.

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

Section 1. Section 356.7, subsections 1, 2, and 3, Code 1997, are amended to read as follows:

1. The county sheriff may charge a prisoner who is eighteen years of age or older and who has been convicted of a criminal offense for the room and board provided to the prisoner while in the custody of the county sheriff. Moneys collected by the sheriff under this section shall be credited to the county general fund and distributed as provided in this section. If a prisoner who has been convicted of a criminal offense fails to pay for the room and board, the sheriff may file a room and board reimbursement lien claim with the district court as provided in subsection 2. The county attorney may file the room and board reimbursement lien claim on behalf of the sheriff and the county. This section does not apply to prisoners who are paying for their room and board by court order pursuant to sections 356.26 through 356.35.

2. The sheriff or the county attorney, on behalf of the sheriff, may file a room and board reimbursement lien claim with the clerk of the district court which shall include all of the following information, if known:

a. The name, and date of birth, and social security number of the person whose property or other interests are who is the subject to of the lien claim.

b. The present address of the residence and principal place of business of the person named in the lien claim.

c. The criminal proceeding pursuant to which the lien claim is filed, including the name of the court, the title of the action, and the court's file number.

d. The name and office address of the sheriff or the name and office address of the county attorney who is filing the lien claim on behalf of the sheriff.

e. A statement that the notice is being filed pursuant to this section.

f. The amount of room and board reimbursement charges the person has-been-ordered-to-pay-or-is-likely-to-be-ordered-to pay owes.

g. If the sheriff wishes to have the amount of the claim for charges owed included within the amount of restitution determined to be owed by the person, a request that the amount owed be included within the order for payment of restitution by the person.

3. The-filing-of-a Upon receipt of a claim for room and board reimbursement lien in accordance with this section creates a lien, the court shall approve the claim in favor of the sheriff or the county in any personal or real property for the amount owed by the prisoner as identified in the lien to the extent of the interest held in that property by the person named in the lien claim and any fees or charges associated with the filing or processing of the claim with the court. The sheriff may choose to enforce the claim in the manner provided in chapter 626. Once approved by the court, the claim for the amount owed by the person shall have the force and effect of a judgment for purposes of enforcement by the sheriff. However, irrespective of whether the judgment lien for the amount of the claim has been perfected, the claim shall not have priority over competing claims for child support obligations owed by the person.

Sec. 2. Section 910.1, subsection 4, Code 1997, is amended to read as follows:

4. "Restitution" means payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. "Restitution" also includes fines, penalties, and surcharges, the contribution of funds to a local anticrime organization which provided assistance to law enforcement in an offender's case, the payment of crime victim compensation program reimbursements, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender, and the performance of a public service by an offender in an amount set by the court when the offender cannot reasonably pay all or part of the court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender.

Sec. 3. Section 910.2, Code 1997, is amended to read as follows:

910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY SENTENCING COURT.

In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities, to the clerk of court for fines, penalties, surcharges, and, to the extent that the offender is reasonably able to pay, for crime victim assistance reimbursement, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender when applicable, or contribution to a local anticrime organization. However, victims shall be paid in full before fines, penalties, and surcharges, crime victim compensation program reimbursement, court costs including correctional fees

approved pursuant to section 356.7, court-appointed attorney's fees, the expenses of a public defender, or contribution to a local anticrime organization are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim compensation program reimbursement, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender, and contribution to a local anticrime organization.

When the offender is not reasonably able to pay all or a part of the crime victim compensation program reimbursement, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, the expense of a public defender, or contribution to a local anticrime organization, the court may require the offender in lieu of that portion of the crime victim compensation program reimbursement, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, expense of a public defender, or contribution to a local anticrime organization for which the offender is not reasonably able to pay, to perform a needed public service for a governmental agency or for a private nonprofit agency which provides a service to the youth, elderly, or poor of the community. When community service is ordered, the court shall set a specific number of hours of service to be performed by the offender which, for payment of court-appointed attorney's fees or expenses of a public defender, shall be approximately equivalent in value to those costs. The judicial district department of correctional services shall provide for the assignment of the offender to a public agency or private nonprofit agency to perform the required service.

Sec. 4. Section 910.3, Code 1997, is amended to read as follows:

910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

The county attorney shall prepare a statement of pecuniary damages to victims of the defendant and, if applicable, any award by the crime victim compensation program and shall provide the statement to the presentence investigator or submit the statement to the court at the time of sentencing. The clerk of court shall prepare a statement of court-appointed attorney's fees, the expense of a public defender, and court costs including correctional fees claimed by a sheriff pursuant to section 356.7, which shall be provided to the presentence investigator or submitted to the court at the time of sentencing. If these statements are provided to the presentence investigator, they shall become a part of the presentence report. If pecuniary damage amounts are not available at the time of sentencing, the county attorney shall provide a statement of pecuniary damages incurred up to that time to the clerk of court. The statement shall be provided no later than thirty days after sentencing. If a defendant believes no person suffered pecuniary damages, the defendant shall so state. If the defendant has any mental or physical impairment which would limit or prohibit the performance of a public service, the defendant shall so state. The court may order a mental or physical examination, or both, of the defendant to determine a proper course of action. At the time of sentencing or at a later date to be determined by the court, the court shall set out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. If the full amount of restitution cannot be determined at the time of sentencing, the court shall issue a temporary order determining a reasonable amount for restitution identified up to that time. At a later date as determined by the court, the court shall issue a permanent, supplemental order, setting the full amount of restitution. The court shall enter further supplemental orders, if necessary. These court orders shall be known as the plan of restitution.

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

MARY E. KRAMER
President of the Senate

RON J. CORBETT
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 184, Seventy-seventh General Assembly.

MARY PAT GUNDERSON
Secretary of the Senate

Approved May 14, 1997

TERRY E. BRANSTAD
Governor

SF 184