

Mc Kibben
Maddox
Duorsky

SSB-3021
Judiciary
Succeeded By
SF/HF 2146

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
PUBLIC SAFETY BILL)

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

A BILL FOR

1 An Act relating to the appearance in court and the release from
2 custody of certain criminal defendants.

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

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22

1 Section 805.6, subsection 1, paragraph c, Code
2 1999, is amended by adding the following new subparagraph
3 before subparagraph (1):

4 NEW SUBPARAGRAPH. (0) If the offense is one to which an
5 assessment of a minimum fine is applicable and the entry is
6 otherwise not prohibited by this section, an amount equal to
7 one and one-half times the minimum fine plus court costs.

8 Sec. 2. Section 805.6, subsection 1, paragraph c,
9 subparagraph (3), Code 1999, is amended to read as follows:

10 (3) If the violation is for any offense for which a court
11 appearance is mandatory, and an assessment of a minimum fine
12 is not applicable, the amount of one hundred dollars plus
13 court costs.

14 Sec. 3. Section 805.6, subsection 1, paragraph d, Code
15 1999, is amended to read as follows:

16 d. The written appearance defined in paragraph "b" shall
17 not be used for any offense other than a simple misdemeanor
18 and shall not be used for any offense under section 321.218 or
19 321A.32.

20 Sec. 4. Section 811.2, subsection 2, Code Supplement 1999,
21 is amended to read as follows:

22 2. DETERMINATION OF CONDITIONS. In determining which
23 conditions of release will reasonably assure the defendant's
24 appearance and the safety of another person or persons, the
25 magistrate shall, on the basis of available information, take
26 into account the nature and circumstances of the offense
27 charged, the defendant's family ties, employment, financial
28 resources, character and mental condition, the length of the
29 defendant's residence in the community, the defendant's record
30 of convictions, including the defendant's driving record, the
31 defendant's failure to pay any fine, surcharge, or court
32 costs, and the defendant's record of appearance at court
33 proceedings or of flight to avoid prosecution or failure to
34 appear at court proceedings.

35 EXPLANATION

1 This bill relates to the appearance in court and the
2 release from custody of certain criminal defendants.

3 The amendments to Code section 805.6 relate to a defendant
4 giving the court an unsecured appearance bond for certain
5 simple misdemeanor offenses. An unsecured appearance bond
6 given to the court authorizes the court to enter a conviction
7 and render judgment against the defendant in the amount of the
8 unsecured appearance bond if the defendant fails to appear in
9 court. The bill prohibits a defendant charged with driving
10 while the defendant's license is under suspension in violation
11 of Code section 321.218 or 321A.32 from giving the court an
12 unsecured appearance bond. Under existing law, a defendant
13 may give the court an unsecured appearance bond for any simple
14 misdemeanor offense including driving while under suspension
15 in violation of Code section 321.218 or 321A.32. The bill
16 effectively requires the issuance of an arrest warrant for a
17 defendant who fails to appear in court for driving while under
18 suspension in violation of Code section 321.218 or 321A.32.

19 The bill also requires an unsecured appearance bond equal
20 to one and one-half times any minimum fine for a simple
21 misdemeanor offense in which an unsecured appearance bond is
22 permitted. Under existing law, the amount of the unsecured
23 appearance bond is limited to \$100 plus court costs.

24 The amendment to Code section 811.2 relates to the release
25 conditions of a criminal defendant. The bill requires the
26 court to consider a defendant's driving record and failure to
27 pay a prior fine and court costs when considering the release
28 of a defendant from custody.

29
30
31
32
33
34
35



THOMAS J. VILSACK
GOVERNOR

SALLY J. PEDERSON
LT. GOVERNOR

DEPARTMENT OF PUBLIC SAFETY

E. A. "PENNY" WESTFALL

COMMISSIONER

TO: Members of the General Assembly
FROM: Commissioner E.A. "Penny" Westfall *E.A. "Penny" Westfall*
DATE: October 20, 1999
RE: Motor Vehicle Violations and Court Appearances

Section 1-2 of this proposal amends section 805.6 relating to mandatory court appearance. When the legislature enacted SF 189 in 1999, changing some serious misdemeanors to simples, it did not change the sections dealing with unsecured bonds on charges filed on certain traffic citations.

While scheduled violations have increased bonds, all *non*-scheduled violations written on a traffic citation are limited to a \$155 bond. This causes a problem when minimum fines exceed this amount (such as for 321.218, 321A.32, and 321.260), since it is cheaper for the offender to NOT appear.

Section 3-5 of this proposal also amends 805.6, mandatory court appearance. When SF 189 was enacted in 1999 (relating to changing serious misdemeanors to simple misdemeanors), section 321.218 and 321A.32 became simples with a fine of \$250. While the fines are adequate, the failure to appear on a simple misdemeanor results in the problem of the offender forfeiting only an unsecured bond (which is no money), and re-suspension of the driver's license. This is the same situation as was occurring prior to 321.218 being changed to a serious misdemeanor (which corrected the problem since at a serious misdemeanor, a warrant would be issued).

This bill proposes that the unsecured bond not be used for any violation of 321.218, 321.561, 321A.32 or 321J.21, and that warrants be issued for the arrest of persons who fail to appear on those charges and that the court consider prior violations in determining conditions of release.

H. 3/7/00 Judiciary
4. 3/15/00 Do Pass
FILED FEB 14 2000
H. 3/23/00 Unfinished Business Calendar
2146

SENATE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3021)

Passed Senate, Date ^(p.529) 3-6-00 Passed House, Date ^(p.1184) 4-3-00
Vote: Ayes 49 Nays 0 Vote: Ayes 92 Nays 5
Approved 4-21-00

A BILL FOR

1 An Act relating to the appearance in court and the release from
2 custody of certain criminal defendants.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

SF 2146

1 Section 1. Section 805.6, subsection 1, paragraph c, Code
2 1999, is amended by adding the following new subparagraph
3 before subparagraph (1):

4 NEW SUBPARAGRAPH. (0) If the offense is one to which an
5 assessment of a minimum fine is applicable and the entry is
6 otherwise not prohibited by this section, an amount equal to
7 one and one-half times the minimum fine plus court costs.

8 Sec. 2. Section 805.6, subsection 1, paragraph c,
9 subparagraph (3), Code 1999, is amended to read as follows:

10 (3) If the violation is for any offense for which a court
11 appearance is mandatory, and an assessment of a minimum fine
12 is not applicable, the amount of one hundred dollars plus
13 court costs.

14 Sec. 3. Section 805.6, subsection 1, paragraph d, Code
15 1999, is amended to read as follows:

16 d. The written appearance defined in paragraph "b" shall
17 not be used for any offense other than a simple misdemeanor
18 and shall not be used for any offense under section 321.218 or
19 321A.32.

20 Sec. 4. Section 805.10, subsection 1, Code 1999, is
21 amended to read as follows:

22 1. When the violation charged involved or resulted in ~~an~~
23 ~~accident or injury to property and the total damages are one~~
24 ~~thousand dollars or more~~, or in an a death or caused serious
25 injury to person as defined under section 702.18.

26 Sec. 5. Section 805.10, Code 1999, is amended by adding
27 the following new subsection:

28 NEW SUBSECTION. 1A. When the violation charged involved
29 or resulted in an accident or injury to property and based
30 upon the violator's driving record, or failure to pay any
31 fine, surcharge, or court costs, or any other circumstances
32 involving the accident, the officer determines a court
33 appearance is necessary.

34 Sec. 6. Section 811.2, subsection 2, Code Supplement 1999,
35 is amended to read as follows:

1 appearance bond is limited to \$100 plus court costs.

2 The amendments to Code section 805.10 relate to the
3 appearance in court of persons involved in an accident. The
4 bill requires a court appearance if the accident involved a
5 death or caused serious injury. Existing law requires a court
6 appearance if the accident caused \$1,000 or more in property
7 damage or an injury to a person. The bill also provides that
8 an officer may require a person involved in an accident to
9 appear in court based upon the person's driving record,
10 failure to pay a fine or court costs, or any other
11 circumstance involving the accident.

12 The amendment to Code section 811.2 relates to the release
13 conditions of a criminal defendant. The bill requires the
14 court to consider a defendant's failure to pay a prior fine
15 and court costs when considering the release of a defendant
16 from custody.

17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34
35

SENATE FILE 2146 FISCAL NOTE

The estimate for Senate File 2146 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

Senate File 2146 relates to court appearance and release from custody of certain criminal defendants. The Bill prohibits a defendant charged with driving with a suspended, disqualified, or invalid license from giving the court an unsecured appearance bond. The Bill also requires an unsecured appearance bond equal to one and one-half times any minimum fine for a simple misdemeanor offense, in which an unsecured appearance bond is permitted. Senate File 2146 requires a court appearance if an officer involved death or serious injury. The Bill also provides that an officer involved death or involved in an accident to appear in court based on the person's driving record, failure to pay a fine or court costs, or any other circumstance involving the accident. Senate File 2146 also requires magistrates to consider a defendant's failure to pay prior fines and court costs when considering release of a defendant from custody.

ASSUMPTIONS

1. Current law permits an unsecured bond for a person charged with a suspended, disqualified, or invalid license. The appearance bond given to the court authorizes the court conviction and render a judgment against the defendant if the unsecured appearance bond, if the defendant fails to appear, will have to pay that judgement before receiving driver's license. Senate File 2146 changes current secured appearance bond for a person charged with suspended, disqualified, or invalid license.
2. The court does not issue warrants and hold hearings for the original hearing, if the defendant was released on a secured appearance bond. Therefore, more warrants are issued for the original hearing, if the defendant was released on a secured appearance bond. This will increase the cost of a court attendant, and court attendant's average cost of a court appearance is \$15. The cost of a district associate judge and clerk's office case for the clerk of court's office is available on the current cost of driving.

-2-

4. Provisions requiring an unsecured appearance bond to be one and one-half times the amount of any minimum fine for a simple misdemeanor, in cases where an unsecured appearance bond is permitted, will result in higher judgements in cases where the defendant fails to appear for a hearing.
5. Provisions requiring a court appearance in accidents involving death or serious injury will result in fewer court appearances. Existing law requires a court appearance if the accident caused \$1,000 or more in property damage or an injury to a person. In calendar year 1998, there were 64,000 vehicle accidents with property damage. There were 386 fatal vehicle accidents, with 449 fatalities in 1998. There were 2,717 major injury accidents in 1998. Under existing law, potentially all 64,000 accidents could have required court appearances. Under Senate File 2146, 3,166 accidents could have required court appearances.
6. Senate File 2146 provides that an officer may require a person to appear in court based on the person's driving record, failure to pay a fine or court costs, or any other circumstances involving the accident. This may result in more court appearances being required. The actual number of court appearances is unknown.
7. Senate File 2146 requires magistrates to consider a defendant's failure to pay prior fines, surcharges, and court costs when considering the defendant's release from custody. This is an additional criterion for pretrial release. Currently, this criterion is not used. This provision will increase the number of people held in jail, assuming some of these people have a history of failing to pay fines, surcharges, and court costs. However, it is unknown how many people are currently released from custody who have a history of failing to pay fines, surcharges, and court costs. The statewide average cost per day for county jails is \$60.
8. Pretrial release staff's workload will be impacted by the provision requiring magistrates to consider the defendant's failure to pay fines, surcharges, and court costs. Staff do not currently consider this as a criterion for release. Additional work will be required to research payment records. Not all records are readily available.

FISCAL IMPACT

The provisions requiring a secured appearance bond for defendants charged with certain violations will impact court case loads, since warrants and hearings will be held in failure to appear for hearing cases. However, the fiscal impact cannot be estimated due to a lack of data regarding the current number of unsecured appearance bonds issued for these offenses.

The provisions requiring a court appearance in accidents involving death or serious injury will result in fewer court appearances. There are fewer accidents causing death or serious injury, compared to accidents involving property damage or personal injury. The fiscal impact cannot be estimated since the number of court appearances for accidents involving property damage or personal injury is not available.

-3-

The provisions permitting an officer to require court appearances for certain offenders may result in more court appearances. However, the fiscal impact cannot be estimated since the court appearance is at the officer's discretion.

The provisions requiring the consideration of failure to pay fines, surcharges, and court costs as a condition of release from custody will have a fiscal impact, but it cannot be determined. Counties will have more defendants held in jail, and pretrial release staff will have increased workloads.

SOURCES

Department of Human Rights, Criminal and Juvenile Justice Planning Division
State Court Administrator's Office
Fifth Judicial District Department of Correctional Services
First Judicial District Department of Correctional Services
Department of Transportation
Iowa State Association of Counties

(LSB 5127SV, BAL)

FILED FEBRUARY 23, 2000

BY DENNIS PROUTY, FISCAL DIRECTOR



(3) If the violation is for any offense for which a court appearance is mandatory, and an assessment of a minimum fine is not applicable, the amount of one hundred dollars plus court costs.

Sec. 3. Section 805.6, subsection 1, paragraph d, Code 1999, is amended to read as follows:

d. The written appearance defined in paragraph "b" shall not be used for any offense other than a simple misdemeanor and shall not be used for any offense under section 321.218 or 321A.32.

Sec. 4. Section 805.10, subsection 1, Code 1999, is amended to read as follows:

1. When the violation charged involved or resulted in ~~an accident or injury to property and the total damages are one thousand dollars or more, or in an a death or caused serious injury to person as defined under section 702.18.~~

Sec. 5. Section 805.10, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 1A. When the violation charged involved or resulted in an accident or injury to property and based upon the violator's driving record, or failure to pay any fine, surcharge, or court costs, or any other circumstances involving the accident, the officer determines a court appearance is necessary.

Sec. 6. Section 811.2, subsection 2, Code Supplement 1999, is amended to read as follows:

2. DETERMINATION OF CONDITIONS. In determining which conditions of release will reasonably assure the defendant's appearance and the safety of another person or persons, the magistrate shall, on the basis of available information, take into account the nature and circumstances of the offense charged, the defendant's family ties, employment, financial resources, character and mental condition, the length of the defendant's residence in the community, the defendant's record of convictions, including the defendant's failure to pay any

SENATE FILE 2146

AN ACT

RELATING TO THE APPEARANCE IN COURT AND THE RELEASE FROM CUSTODY OF CERTAIN CRIMINAL DEFENDANTS.

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

Section 1. Section 805.6, subsection 1, paragraph c, Code 1999, is amended by adding the following new subparagraph before subparagraph (1):

NEW SUBPARAGRAPH. (0) If the offense is one to which an assessment of a minimum fine is applicable and the entry is otherwise not prohibited by this section, an amount equal to one and one-half times the minimum fine plus court costs.

Sec. 2. Section 805.6, subsection 1, paragraph c, subparagraph (3), Code 1999, is amended to read as follows:

fine, surcharge, or court costs, and the defendant's record of appearance at court proceedings or of flight to avoid prosecution or failure to appear at court proceedings.

MARY E. KRAMER
President of the Senate

BRENT SIEGRIST
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2146, Seventy-eighth General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved 4/21, 2000

THOMAS J. VILSACK
Governor