

CHAPTER 1152**BAIL AND DEFERRED JUDGMENT***H.F. 2452*

AN ACT relating to the requirement of bail during and after a period of deferred judgment and to the discharge of surety bail upon the occurrence of specified conditions.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 811.2, subsection 1, unnumbered paragraph 1, Code Supplement 1983, is amended to read as follows:

Allailable defendants shall be ordered released from custody pending judgment or entry of deferred judgment on their personal recognizance, or upon the execution of an unsecured appearance bond in an amount specified by the magistrate unless the magistrate determines in the exercise of the magistrate's discretion, that such a release will not reasonably assure the appearance of the defendant as required or that release will jeopardize the personal safety of another person or persons. When such determination is made, the magistrate shall, either in lieu of or in addition to the above methods of release, impose the first of the following conditions of release which will reasonably assure the appearance of the person for trial or deferral of judgment and the safety of another person or other persons, or, if no single condition gives that assurance, any combination of the following conditions:

Sec. 2. Section 811.2, subsection 1, paragraph d, Code Supplement 1983, is amended to read as follows:

d. Require the execution of a bail bond with sufficient surety, or the deposit of cash in lieu thereof, provided that of bond. However, except as provided in section 811.1, bail initially given shall remain remains valid until final disposition of the offense or entry of an order deferring judgment. If the amount of bail is deemed insufficient by the court before whom the offense is pending, the court may order an increase thereof of bail and the defendant must provide the additional undertaking, written or in cash, to secure his or her release.

Sec. 3. **NEW SECTION. 811.10 DISCHARGE OF SURETY.** When a defendant is admitted to bail by means of a surety bail bond pursuant to section 811.2, subsection 1, paragraph "d", the obligation of surety shall be discharged, and the surety released, upon any of the following conditions:

1. Dismissal of the charges against the defendant.
2. Judgment of acquittal against the defendant.
3. Judgment of conviction against the defendant.
4. Entry of an order deferring judgment of the defendant.
5. Entry of an order by the court which, by its terms, continues the case against the defendant for a period exceeding six months.

Sec. 4. **NEW SECTION. 811.11 BAIL AFTER DEFERRED JUDGMENT.** Upon entry of an order by the court deferring judgment, effecting a discharge of the surety as required under section 811.10, the defendant may be admitted to bail, as a condition of the deferral of judgment. Admittance to bail under this section, if required by the court, requires a new bail

undertaking by the defendant. The surety under this section is responsible only for the failure of the defendant to appear at required court appearances during the period of deferral of judgment.

Approved April 27, 1984

CHAPTER 1153
ASSESSMENT OF COAL MINING PENALTIES
H.F. 531

AN ACT to revise the procedures for the assessment of penalties under the laws regulating coal mining.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 83.15, Code 1983, is amended by adding the following new subsections:

NEW SUBSECTION. A person who violates a permit condition, any provision of this chapter or a rule or order issued under this chapter shall be subject to a civil penalty not to exceed five thousand dollars per day for each day of violation. If any violation results in the issuance of a cessation order, a civil penalty shall be imposed. Such penalty shall not exceed five thousand dollars for each day of violation.

In determining the amount of the penalty, consideration shall be given to the operator's history of previous violations at the particular mining operation, the seriousness of the violation, including any irreparable harm to the environment and any hazard to the health or safety of the public, whether the operator was negligent, and the demonstrated good faith of the operator charged in attempting to achieve rapid compliance after notification of the violation.

An operator who fails to correct a violation for which a notice or order has been issued within the period permitted for its correction shall be required to pay a civil penalty of not less than seven hundred fifty dollars for each day during which the failure or violations continue.

NEW SUBSECTION. Where a notice or order has been issued, the department may assess a recommended penalty in accordance with a schedule established by rule. The person to whom the notice or order was issued may submit written information within fifteen days of the notice or order to be considered by the department. The department shall serve the assessment by certified mail return receipt requested within thirty days of issuance of the notice or order. The department may reassess any penalty if necessary to consider facts not reasonably available on the date of issuance of the assessment and may provide an informal conference to review the recommended penalty. A person may consent to a penalty assessment by paying the penalty without resort to judicial proceedings.

NEW SUBSECTION. Judicial review of any action of the department shall be in accordance with the provisions of chapter 17A.