



[SF 2374](#) – Court Debt (LSB6195SV)
Staff Contact: Laura Book (515.205.9275) laura.book@legis.iowa.gov
Fiscal Note Version – New

Description

[Senate File 2374](#) relates to restitution ordered in a criminal proceeding and court debt. The Bill makes several changes related to jail fees assessed under Iowa Code section [356.7](#), the collection of court debt under Iowa Code section [602.8107](#), and restitution under Iowa Code chapter [910](#).

Jail Fees

[Senate File 2374](#) removes jail fees assessed against a defendant under Iowa Code section [356.7](#) from restitution ordered by the court. The Bill allows a county or municipality to file a claim for reimbursement of the jail fees in a separate civil action rather than as a claim in the underlying criminal case. The Bill waives the filing fees for such civil actions.

Court Debt

[Senate File 2374](#) makes changes to the collection of court debt under Iowa Code section [602.8107](#). The Bill changes the definition of court debt to mean all restitution, fees, and forfeited bail. The Bill also excludes jail and correctional fees assessed under Iowa Code sections [356.7](#) and [904.108](#)(6) from the definition of court debt and removes them from the payment priority order under Iowa Code section [602.8107](#)(2)(c). The Bill substitutes the phrase “victim restitution” with “pecuniary damages as defined in section [910.1](#)” in Iowa Code section [602.8107](#)(4)(a).

Restitution

[Senate File 2374](#) modifies the definition of restitution and creates category A and category B restitution. The Bill defines “restitution” under Iowa Code section [910.1](#) to mean pecuniary damages, category A restitution, and category B restitution.

Category A restitution is defined as fines, penalties, and surcharges. Category B restitution contains most other current restitution categories including:

- The contribution of funds to a local anticrime organization that provided assistance to law enforcement in an offender’s case.
- The payment of crime victim compensation program reimbursements.
- Payment of restitution to public agencies pursuant to Iowa Code section [321J.2](#)(13)(b).
- Court costs.
- Court-appointed attorney fees, including the expense of a public defender.
- Payments to medical assistance programs for expenditures paid on behalf of the victim resulting from the offender’s criminal activities.

[Senate File 2374](#) makes several other modifications to Iowa Code chapter [910](#):

- [Iowa Code section 910.2](#) — Removes and replaces the section relating to restitution or community service ordered by a sentencing court. The Bill requires pecuniary damages and category A restitution to be paid in full and category B restitution to be paid subject to an

offender's reasonable ability to make payments. If the offender is not reasonably able to pay category B restitution, the court may require the offender to perform community service.

- [Iowa Code section 910.2A](#) — Creates a new Iowa Code section relating to an offender's reasonable ability to make category B restitution payments. The Bill creates a presumption that an offender has a reasonable ability to make category B restitution payments and establishes a judicial process to determine if an offender has a reasonable ability to pay the full amount of such restitution.
- [Iowa Code section 910.3](#) — Makes changes relating to the court's determination of the amount of restitution and the issuance of temporary and permanent restitution orders.
- [Iowa Code section 910.4](#) — Makes changes relating to payment plans as a condition of probation.
- [Iowa Code section 910.7](#) — Specifies that the appellate court shall not review or modify an offender's plan of restitution or review any other issue related to an offender's restitution unless the offender has exhausted all remedies under Iowa Code section [910.7](#).

Background

Jail Fees

Under Iowa Code section [356.7](#), the county sheriff, or a municipality operating a temporary municipal holding facility or jail, may charge a prisoner who is 18 years of age or older and has been convicted of a criminal offense for the actual administrative costs relating to the arrest and booking of that prisoner. The average daily cost is determined by the county and varies across the State. Funds collected by the sheriff or municipality are credited to the county general fund or the city general fund.

The fee is currently assessed and collected as part of criminal restitution under Iowa Code chapter [910](#) and is subject to the offender's reasonable ability to pay. The Bill removes this fee from restitution and allows the fee to be collected through a civil action.

Court Debt

Currently under Iowa Code section [602.8107](#), court debt is defined as all fines, penalties, court costs, fees, forfeited bail, surcharges under Iowa Code chapter [911](#), victim restitution, court-appointed attorney fees or expenses of a public defender ordered pursuant to Iowa Code section [815.9](#), or jail or correctional fees charged pursuant to Iowa Code section [356.7](#) or [904.108](#). The Bill removes the fees charged under Iowa Code sections [356.7](#) and [904.108](#) from this definition. The correctional fees under Iowa Code section [904.108](#) are not currently collected by the Department of Corrections. This "pay for stay" fee is currently assessed as a 6.0% sales tax on items in the commissary.

Restitution

The current definition of restitution under Iowa Code section [910.1](#)(4) is the payment of pecuniary damages to a victim in an amount and in the manner provided by the offender's plan of restitution. Restitution includes all items listed under the category A and category B restitution categories within this Bill and the jail fees assessed under Iowa Code section [356.7](#).

Currently under Iowa Code section [910.2](#)(1), there are two categories of restitution. The items in the first category are restitution to the victims of the offender's criminal activities and to the clerk of court for fines, penalties and surcharges. The court is required to order restitution for the items in this first category regardless of the offender's reasonable ability to pay.¹

The second category includes all items in category B of this Bill, plus the jail fees assessed under Iowa Code section [356.7](#). The court can only order restitution for items in this second

¹ [State v. Albright](#), 925 N.W.2d 144 (Iowa 2019).

category to the extent the offender has the reasonable ability to pay. If the court finds an offender is not reasonably able to pay all or part of the items in the second category, the court may order community service in lieu of restitution under the terms and conditions set forth in the Iowa Code.²

Assumptions

- The average amount of jail fees assessed and collected will remain the same in future fiscal years.
- The modifications to the collection of the jail fees assessed pursuant to Iowa Code section [356.7](#) will create a substantial increase in the filing of small claims cases. The calculations assume 1,000 new small claims cases.
- The new criminal court debt collection processes will require at least a two-hour training program for most clerk of court staff. It is assumed there will be training for 500 staff at an average cost of \$34.62/hour per person.
- The new criminal court debt collection processes will require at least a one-hour training program for all judges prior to the implementation of the new law. It is assumed there will be training for 185 judges at an average cost of \$108/hour per judge.
- The trainer preparation for the training for the clerks will require four hours for each group.

Fiscal Impact

Counties and Municipalities

[Senate File 2374](#) is estimated to have a negative fiscal impact on the general fund budgets of the counties and municipalities that collect the jail fees assessed under Iowa Code section [356.7](#). It is difficult to determine the total impact due to the fact that the fee would still be permitted, but would be required to be collected as part of a separate civil judgment rather than within the underlying criminal proceeding. As a result, the fee would be subject to a different collection system since it would no longer be considered restitution or court debt, and therefore the fee may be more difficult to assess and collect.

In FY 2019, there was a total of \$21.9 million assessed and \$4.1 million collected in jail fees from all 99 counties. The average total amount collected from all 99 counties over the last three fiscal years was \$3.9 million. **Table 1** shows the five counties with the highest and lowest collections of these fees in FY 2019.

² Id.

**Table 1 — FY 2019 Jail Fee Assessments and Collections
Counties with Highest and Lowest Collections³**

	County	FY 19 Assessed	FY 19 Collected
Highest	Polk	\$ 9,156,650	\$ 1,570,303
	Linn	1,896,950	351,509
	Woodbury	730,620	251,405
	Black Hawk	420,564	248,187
	Dallas	429,741	86,836
Lowest	Allamakee	\$ 450	\$ 0
	Johnson	30	0
	Franklin	350	0
	Grundy	0	50
	Davis	0	158

Judicial Branch

[Senate File 2374](#) is estimated to have a fiscal impact to Judicial Branch operations. Requiring the jail fee to be collected through a civil judgment rather than the criminal proceeding is estimated to create a substantial increase in small claims cases, although it is unclear how many new small claims cases will be filed. In CY 2019, there were 86,808 small claims filings. Assuming an average filing increase of 1,000 cases (1.0% increase), this provision is estimated to result in an annual cost increase of approximately \$65,000. **Table 2** provides the annual additional cost to the Judicial Branch from the increase in small claims filings.

**Table 2 — [SF 2374](#) Estimated Additional Annual Costs
Small Claims Caseload Increase**

<u>Required Staff</u>	<u>Average Time/Case</u>	<u>Average Cost/Hr</u>	<u>Additional Caseload</u>	<u>Annual Cost Increase</u>
Magistrate	24 min	\$58.23	1,000	\$ 23,292
Clerk of Court	72 min	\$34.62	1,000	41,544
			Total	\$ 64,836

The modifications made in [SF 2374](#) to the court debt collection system and restitution categories are estimated to have a one-time cost to Judicial Branch operations.

Table 3 outlines the estimated cost to the Judicial Branch from the changes made by [SF 2374](#). The one-time costs are the result of the training that would be required for staff and judges for the new collection system.

³ There were several counties that did not assess jail fees in FY 2019: Buchanan, Crawford, Davis, Dubuque, Grundy, Iowa, Keokuk, and Page. Some of these counties still collected previously assessed fees in FY 2019: Buchanan (\$26,089), Davis (\$158), Dubuque (\$259), Grundy (\$50), and Page (\$4,784).

Table 3 — Estimated One-Time Costs of [SF 2374](#)

<u>One-Time Costs — First Year</u>	<u>Cost</u>
Training of all clerks' office staff	\$ 34,620
Trainer preparation for clerks' training	160
Training of all judges	19,980
Trainer preparation for judges' training	432
Total	<u><u>\$ 55,192</u></u>

In summary, the estimated overall cost of [SF 2374](#) to the Judicial Branch in the first year would be approximately \$120,000, and \$65,000 in the second year and beyond.

Additional Impacts

[Senate File 2374](#) creates category A and B restitution, but does not make any changes to the items subject to the ability-to-pay consideration under current law (other than the jail fees assessed under Iowa Code section [356.7](#)). As a result, these modifications are not estimated to have an impact on the assessment or collection of those items listed under category A and B restitution in this Bill.

The Bill also removes correctional fees under Iowa Code section [904.108](#) from the definition of court debt under Iowa Code section [602.8107](#). These fees are not currently collected by the Department of Corrections (DOC). This “pay for stay” fee is currently assessed as a 6.0% sales tax on items in the commissary. Therefore, the provision removing correctional fees from the definition of court debt would not have an impact on the DOC.

Sources

Judicial Branch
 Department of Corrections
 LSA analysis

/s/ Holly M. Lyons

March 3, 2020

Doc ID 1131876

The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
