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[HF 2583](#) – Restitution, Court-Appointed Attorney Fees (LSB5522HV)  
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Fiscal Note Version – New

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### **Description**

[House File 2583](#) relates to court-ordered reimbursement of jail costs and restitution. The Bill provides that if a claim of reimbursement for jail fees under Iowa Code section [356.7](#) was not requested by the county or municipality to be included within the order for payment of restitution, the court-approved claim must be a civil judgment against the prisoner in favor of the sheriff or county, or the municipality, and is not subject to a court's determination of the prisoner's reasonable ability to pay.

The Bill eliminates the requirement that the court consider the offender's reasonable ability to pay in a criminal case prior to entering a restitution order against the offender. It also eliminates the ability of the court to require the offender to perform public service in lieu of restitution. Under the Bill, the offender's reasonable ability to pay would only be considered for court-appointed attorney fees under Iowa Code section [815.9](#).

The Bill requires the court to make a finding as to the offender's reasonable ability to pay court-appointed attorney fees at the time of sentencing or a later date to be determined by the court. It requires a petition for a hearing relating to the amount of restitution to be filed by the offender or the office or individual who prepared the offender's restitution plan within 30 days of the date of the restitution order. If an offender does not file a petition within the time periods specified in the Bill, the failure to file shall be deemed a waiver of any objection to the offender's plan of restitution and an acknowledgement that the offender has the reasonable ability to pay court-appointed attorney fees as previously determined by the court.

[House File 2583](#) also makes changes to the judicial process for determining the amount of restitution.

### **Background**

#### **Jail Fee**

Under current law in Iowa Code section [356.7](#), a county or municipality may choose to enforce a claim of reimbursement for charges for administrative costs and room and board costs at a jail or municipal holding facility as a civil claim.

#### **Restitution**

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.<sup>1</sup> The second category includes:

- Crime victim assistance reimbursement
- Restitution to public agencies pursuant to Iowa Code section [321J.2](#)(13)(b)

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

- Court costs including correctional fees approved pursuant to Iowa Code section [356.7](#)
- Court-appointed attorney fees ordered pursuant to Iowa Code section [815.9](#)
- Contribution to a local anticrime organization
- Restitution to the medical assistance program pursuant to Iowa Code chapter [249A](#)

The court can only order restitution for items in this second 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.<sup>2</sup>

**Assumptions**

- Assessments and collections of all restitution will continue to consistently increase in future fiscal years.
- Jail fee assessments and collections will remain consistent in future fiscal years.

**Fiscal Impact**

[House File 2583](#) may increase the assessments and collections by the State of the restitution no longer subject to the ability-to-pay determination. The extent of this increase cannot be determined. In FY 2019, there was a total of \$138.0 million in court costs owed to the State as court debt. The following table provides the total court costs owed as court debt to the State since FY 2015.

**Court Debt — Court Costs Owed to State (FY 2015 to FY 2019)**

Fiscal Year	Total Outstanding Court Costs
2015	\$113,053,098
2016	\$113,344,760
2017	\$121,310,805
2018	\$129,878,440
2019	\$138,027,744

[House File 2583](#) may also have a fiscal impact on counties and municipalities assessing jail fees under Iowa Code section [356.7](#), but the extent of the impact cannot be determined. Under the Bill, the county or municipality must request to collect the jail fee as part of restitution in the criminal proceeding; otherwise, the county or municipality can only collect the fee as a civil judgment. In both cases, the jail fee would no longer be subject to the reasonable ability-to-pay determination under current law and could possibly allow for an increase in assessments and collections of the jail fee for counties and municipalities. 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.

In addition, [HF 2583](#) may reduce time spent by judges on ability-to-pay determinations and would likely reduce the instances in which a subsequent hearing is necessary. As a result, there may be some savings to Judicial Branch resources.

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<sup>2</sup> Id.

**Sources**

Judicial Branch  
LSA analysis

/s/ Holly M. Lyons

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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.

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