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[SF 367](#) – Criminal Surcharge, Court Fees (LSB1174SV)  
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Fiscal Note Version – New

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### **Description**

[Senate File 367](#) relates to certain financial obligations under the consumer credit code and the criminal and juvenile justice system by modifying criminal and civil surcharges, fines, fees, costs, and court debt. The Bill makes several technical corrections related to the collection of fines and civil fees. Senate File 367 expands the debts of which the county attorney may not collect a percentage to include all current surcharges.

Senate File 367 amends the definition of court debt to mean all restitution as defined in Iowa Code section [910.1](#), fees, forfeited bail, and other debt paid to or collected by the clerk of the district court. The Bill requires the Iowa Department of Revenue (IDR) to collect a 15.0% processing fee from all court debt payments collected on cases assigned to the IDR for collection, with the remainder of the court debt to be collected by the clerk of the district court for distribution in accordance with applicable law. The IDR shall not receive payment from any court debt collected that is payable to a crime victim as pecuniary damages until after the clerk of the district court has received the entirety of the court debt payable to the crime victim as pecuniary damages.

Senate File 367 states that payments made by a person between January 1, 2021, and the effective date of this Bill, which added the IDR processing fee to the debt owed, shall be calculated as if the payment had been made and the IDR fee shall be applied to such a payment. The IDR processing fee added to the debt shall be deducted from the amount of court debt owed. If a payment made by a person owing court debt during this specified time reduces the total amount owed to zero, the IDR shall issue a refund to the person in the amount of the processing fee. This provision is repealed on January 1, 2023.

Senate File 367 rescinds Iowa administrative rule [701—155.1\(602\)](#) upon enactment. Sections 2 and 5 of the Bill are effective upon enactment. Section 5 also applies retroactively to January 1, 2021, for collected delinquent court debt, and Section 2 applies retroactively to June 25, 2020. Section 2 of this Bill makes a conforming Code change to Iowa Code section [692A.110\(2\)](#). Section 5 of this Bill relates to the collection of court debt by the IDR and the 15.0% processing fee collected by the department.

### **Background**

Prior to July 1, 2015, delinquent court debt was assigned to the Centralized Collection Unit (CCU) of the IDR at the time of delinquency. The CCU charged a 10.0% processing fee in addition to the delinquent debt. The CCU was removed from the collections process beginning in FY 2016, and debt was assigned to the private collector, Linebarger, Goggan, Blair, and Sampson, L.L.P. (Linebarger), at the time of delinquency. In FY 2017, further changes to the court debt collection system were implemented. The collections timeline was modified to allow the county attorneys to begin collecting after 30 days from assessment or the due date of an installment payment. If a county attorney has filed a notice of full commitment to collect delinquent court debt and a Memorandum of Understanding (MOU) with the Clerk of the District

Court, the debt is assigned to the county attorney. If not, the debt is assigned to the designated private debt collector.

During the 2020 Legislative Session, the General Assembly passed [SF 457](#) (Criminal Fines and Surcharges), which removed the private debt collector from the court debt collection process and replaced it with the CCU of the IDR beginning in January 2021. Currently, the IDR is permitted to collect a processing fee in addition to the delinquent debt in order to cover administrative costs. The fee is currently set by administrative rule at 15.0%. If enacted, this Bill will repeal the IDR administrative rule.

**Assumptions**

- The IDR collections will be similar to the average Linebarger collections from the last three fiscal years. The average annual collection by Linebarger was approximately \$9.7 million. In FY 2021, the IDR will collect half of the average annual Linebarger collection since IDR began collecting court debt halfway through the fiscal year.
- Based on the FY 2020 court debt collections, 82.0% of all fines and fees collected by and owed to the State will have a processing fee applied and collected from those fees. Court debt is comprised of: 22.0% attorney fees, 17.0% court costs, 33.0% fines, 10.0% jury and witness fees, and 18.0% surcharges. The analysis assumes that the IDR will not collect a percentage fee from pecuniary damages or criminal surcharges.
- The 15.0% processing fee will cover all administrative costs incurred by the IDR while collecting court debt.

**Fiscal Impact**

Senate File 367 is estimated to have a fiscal impact of approximately \$1.2 million annually beginning in FY 2022. It is estimated that the IDR will collect approximately \$1.2 million in processing fees and as a result, the State General Fund and city and county budgets will experience a combined revenue reduction of the same amount. This processing fee will cover any IDR administrative costs. It is unknown at this time how the \$1.2 million negative impact would be divided between the State, Cities, and Counties. **Table 1** provides the annual State collection categories and the fees estimated to be collected from each category beginning in FY 2022.

**Table 1 — IDR Estimated State Collections and Fees Beginning in FY 2022**

|                  | Annual Estimated<br>Collections* | Est. Fees<br>(15.0%) |
|------------------|----------------------------------|----------------------|
| Attorney Fees    | \$ 2,132,000                     | \$ 319,800           |
| Court Costs      | 1,647,000                        | 247,050              |
| Jury and Witness | 969,000                          | 145,350              |
| Fines            | 3,198,000                        | 479,700              |
| Surcharges       | 1,744,000                        | N/A                  |
| <b>Total</b>     | <b>\$ 9,690,000</b>              | <b>\$ 1,191,900</b>  |

\*Does not include victim restitution or other amounts not owed to the State.

The IDR began collecting court debt on January 1, 2021, and currently collects the processing fee in addition to the amount owed. If between the time the IDR began collecting and the effective date of this Bill a person pays off their court debt, including the processing fee, the IDR is required to refund the additional processing fee. It is estimated that the IDR will collect

\$600,000 in processing fees in FY 2021, but it is unknown how much of this will be collected and qualify for refund upon the effective date of this Bill. This may have an impact on the IDR administrative costs, but the full fiscal impact is unknown at this time.

**Sources**

Judicial Branch  
Iowa Department of Revenue  
LSA analysis

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/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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