



[SF 367](#) – Criminal Surcharge, Court Fees (LSB1174SV.1)
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Fiscal Note Version – As Amended and Passed by the Senate

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) receive 15.0% of each court debt payment as a processing fee 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 collection fee must not include the amount of court debt collected for restitution involving pecuniary damages, the victim compensation fund, the crime services surcharge, the domestic and sexual abuse crimes surcharge, the agricultural surcharge, or the sex offender civil penalty.

Senate File 367 states that payments made by a person between January 1, 2021, and August 1, 2021, 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 clerk of court 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 This provision is repealed on January 1, 2023.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\(602\)](#) on August 1, 2021. Section 2 of the Bill is effective upon enactment and Section 4 of the Bill takes effect on August 1, 2021. Section 2 also applies retroactively to July 15, 2020. Section 2 of this Bill makes a conforming change to Iowa Code section [602.8105](#). Section 4 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, [SF 457](#) (Criminal Fines and Surcharges) was enacted, 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 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 Collections*	Est. Fees (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
Total	\$ 9,690,000	\$ 1,191,900

*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 August 1, 2021, a person pays off their court debt, including the processing fee, the clerk of court 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 on August 1, 2021. This may have a fiscal impact on the State General Fund and city and county budgets, but the impact is unknown at this time.

Sources

Judicial Branch
Iowa Department of Revenue
LSA analysis

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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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