

Court Debt Collection Programs and Outstanding Court Debt

ISSUE

This *Issue Review* provides background information regarding the collection of outstanding court debt, highlights current collection efforts, and reports current revenues received.

AFFECTED AGENCIES

Judicial Branch, Department of Administrative Services, Department of Revenue, Department of Transportation, County Attorneys, and County Treasurers

CODE AUTHORITY

Iowa Code sections [8A.504](#), [232.142](#), [272D](#), [321.210A](#), [321.210B](#), [321A.32A](#), [321J.17](#)

BACKGROUND

Court debt consists of all fines, penalties, court costs, fees, forfeited bail, surcharges under Iowa Code chapter [911](#), victim restitution, court-appointed attorney fees or expenses for a public defender ordered pursuant to Iowa Code section [815.9](#) (Indigent Defense), or fees charged pursuant to Iowa Code section [356.7](#) (County Sheriff Room and Board) or Iowa Code section [904.108](#) (Department of Corrections). Court debt is paid to the Clerk of the District Court. If no case number is provided, payments are applied to the oldest debt first. Debts are paid in the following priority order:

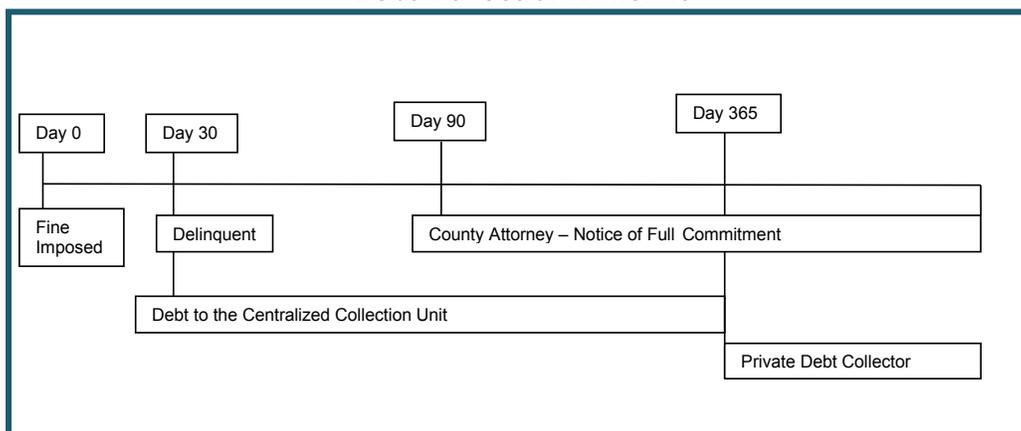
1. Restitution.¹
2. Fines, penalties, criminal penalty surcharge, and law enforcement initiative surcharge.
3. Crime Victim Compensation Fund.²
4. Court costs, including correctional fees, court-appointed attorney fees, and public defender expenses.

Court debt is deemed delinquent if it is not paid within 30 days after the date it is assessed or 30 days after the installment payment is due. At that time, the Judicial Branch will assign the case to the Centralized Collection Unit (CCU) in the Department of Revenue for a period of one year. If a county attorney has filed a notice of full commitment with the Clerk of District Court, the case will be assigned 60 days after it is deemed delinquent if the debt has not been placed in an established payment plan with the CCU. After one year, if the debt has not been assigned to the county attorney and the debt is not in an established payment plan with the CCU, the debt will be turned over to a private debt collector.

¹ **Restitution:** An equitable remedy that allows a person to be restored to his or her original position prior to loss or injury. Restitution is commonly used to describe full or partial compensation owed by a criminal to a victim of a crime as part of a criminal sentence. In Iowa, restitution may also include the entire amount of a defendant's monetary obligation, including victim restitution, fines, court costs, surcharges, and fees.

² Iowa Code [§915.94](#).

Debt Collection Timeline



HISTORY

The General Assembly enacted [SF 2428](#) (Delinquent Debt Collection Act)³ in 2008 and [SF 2383](#) (Debt Collection Act)⁴ in 2010. Both Acts made various changes including modifying existing debt collection programs and creating some new programs.

Court Debt Amnesty was a new program administered by the Department of Revenue from September 1, 2010, through November 30, 2010. Eligible debt was defined as outstanding court debt imposed on cases prior to December 1, 2006, and owed to the State as defined in Iowa Code section [602.8107](#). The Program permitted forgiveness of 50.0% of the debt if 50.0% was paid in a lump sum for debt that was more than four years old. Debt amnesty was granted to 13,511 applicants involving 25,442 cases. A total of \$3.4 million was collected with an additional \$3.4 million forgiven (\$6.8 million total). The total direct cost of the Program was \$616,000 and a net total of \$2.8 million was deposited in the State General Fund. The [final report](#) was filed with the General Assembly on January 15, 2011.

The 2010 legislation also contained three new programs that were never established and were repealed on January 1, 2014.⁵ They included the Office of the State Debt Coordinator, the Debt Settlement Program, and the notice of lien in a civil action.

RECOMMENDATIONS

[Senate File 396](#) (Government Efficiency Act) required the Director of Revenue to develop and recommend legislative proposals for the efficiency of the Office of the State Debt Coordinator established in Iowa Code section [421C.1](#). A [report](#) detailing the recommendations was submitted to the Governor, the Department of Management, and the General Assembly on January 13, 2014.

CURRENT SITUATION

According to the June 30, 2013 [Judicial Branch Accounts Receivable Report](#), the total outstanding court debt owed to the State was \$633.5 million. Of this amount, 72.0% is criminal debt and 23.0% is traffic debt. Debt less than one year old accounts for 15.0% of the total debt and debt 10 years or older accounts for 26.0% of the total debt. These numbers do not reflect restitution since that is not owed to the State of Iowa.

³ 2008 Iowa Acts, [ch. 1172](#).

⁴ 2010 Iowa Acts, [ch. 1146](#).

⁵ Iowa Code [§421C.5](#)

The following table shows current collection rates by case type. Higher fine amounts tend to result in lower collection rates.

Collection Rates by Case Type

Case Type	Collection Rate
Felonies	11.7%
Aggravated Misdemeanor	17.2%
Serious Misdemeanor	26.5%
Simple Misdemeanor	37.7%
OWI	36.4%
Dare Surcharge	26.8%
Law Enforcement Initiative Surcharge	24.0%
Municipal Infractions	44.6%
Criminal Penalty Surcharge	53.1%
Speeding	85.0%

Source: Criminal and Juvenile Justice Planning Division

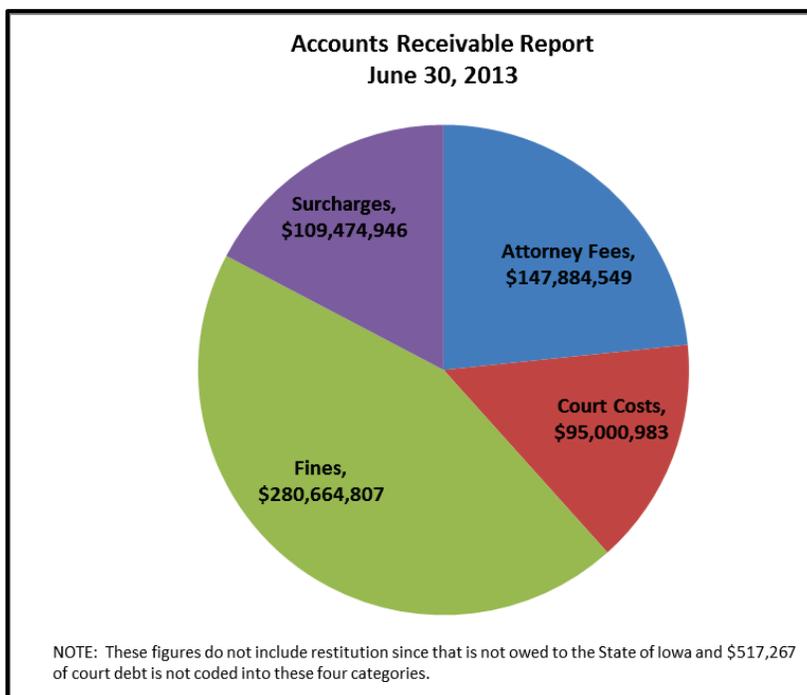
Debt is easiest to collect in the first two years of assessment. Of the current \$633.5 million in debt, \$158.3 million or 25.0% is up to two years old. **Table 1** shows outstanding court debt by fiscal year and **Chart 1** shows the June 30, 2013, court debt by category, as reported by the Judicial Branch.

Table 1

Outstanding Court Debt By Fiscal Year (Dollars in Millions)			
Fiscal Year	Outstanding Court Debt	Annual Increase	Percent Increase
1998	\$143.4		
1999	\$171.5	\$28.1	19.6%
2000	\$202.9	\$31.4	18.3%
2001	\$237.7	\$34.8	17.2%
2002	\$275.2	\$37.5	15.8%
2003	\$298.5	\$23.3	8.5%
2004	\$334.8	\$36.3	12.2%
2005	\$371.4	\$36.6	10.9%
2006	\$412.5	\$41.1	11.1%
2007	\$453.7	\$41.2	10.0%
2008	\$484.7	\$31.0	6.8%
2009	\$506.5	\$21.8	4.5%
2010	\$532.8	\$26.3	5.2%
2011	\$558.2	\$25.4	4.8%
2012	\$594.9	\$36.7	6.6%
2013	\$633.5	\$38.6	6.5%

Source: Judicial Branch

Chart 1



The following table shows the current programs for collecting outstanding court debt, the statutory authority, what agency collects the debt, and where the revenue is deposited once collected.

Debt Collection Programs

Program	Statutory Authority	Who Collects	Where Is the Revenue Deposited
Income Tax and Vendor Offsets	8A.504; 99D.28	Department of Administrative Services	State General Fund; A \$7 administrative fee is added on by DAS and maintained by DAS to offset the cost of the program.
Judicial Branch Clerk of Court Set Off	602.8103(6)	Judicial Branch	State General Fund
County Treasurer Vehicle Registrations	321.40(4); 321.40(9)	County Treasurer	The Clerk notifies the county treasurer of the failure to pay court debt. The treasurer places a hold on the vehicle registration of the defendant and the individual must pay the entire debt to the Court or enter into a payment plan with the County Attorney or CCU before the treasurer can release the hold so the individual can renew their vehicle registration. The money goes to the Judicial Branch and is applied through the county attorney formula if paid to them or to the General Fund if paid through the CCU or the Courts. County treasurers can add a \$5 fee for collection under Iowa Code section 321.152(3) for deposit in the county general fund.
Centralized Collection Unit (CCU)	602.8107; 421.17(27); 321.210A; 321.210B	Department of Revenue	Revenue is collected by the CCU and transferred to the Judicial Branch for deposit in the State General Fund. The CCU maintains the 10.0% add-on fee to help offset costs of administering the program.
County Attorney Collection Program	602.8107; 331.756(5); 321.210A; 321.210B	County Attorneys	60.0% of the revenue is deposited in the State General Fund and 40.0% of the revenue is maintained by the counties for deposit in the county general fund. Once the threshold is met, the State receives 48.0% and the counties receive 52.0%
Professional Licensing	272D	Department of Revenue	State General Fund
Private Debt Collector	602.8107	Debt Collection Agency	Revenue is deposited with the Judicial Branch for deposit in the State General Fund. The private debt collector maintains the 25.0% add-on fee to help offset the costs of administering the program.

The following table shows actual debt collection for FY 2011, FY 2012, and FY 2013. The increase in revenues collected in FY 2013 compared to FY 2011 was \$15.0 million (29.3%). This may be a result of the statutory changes implemented in SF 2383.

Actual Court Debt Collections

			Difference		Difference	
	Actual FY 2011	Actual FY 2012	FY 2011 to FY 2012	Actual FY 2013	FY 2012 to FY 2013	
Judicial Offsets	\$ 9,300,000	\$ 10,200,000	\$ 900,000	\$ 10,200,000	\$ 0	0
Court Debt Amnesty	2,765,514	0	-2,765,514	0	0	0
County Treasurer - Court Debt	0	466,906	466,906	324,500	-142,406	-142,406
Centralized Collections Unit (CCU)	25,421,909	26,763,326	1,341,417	29,430,533	2,667,207	2,667,207
County Attorneys	10,500,000	12,900,000	2,400,000	16,400,000	3,500,000	3,500,000
Professional Licensing	3,100,000	4,000,000	900,000	5,200,000	1,200,000	1,200,000
Private Debt Collector	0	3,200,000	3,200,000	4,500,000	1,300,000	1,300,000
	<u>\$ 51,087,423</u>	<u>\$ 57,530,232</u>	<u>\$ 6,442,809</u>	<u>\$ 66,055,033</u>	<u>\$ 8,524,801</u>	<u>\$ 8,524,801</u>

NOTES:

1. The county treasurer court debt collection and the private debt collector programs did not begin until FY 2012.
2. The CCU amounts include a 10.0% add-on fee.
3. The private debt collector amounts includes a 25.0% add-on fee.
4. The county attorney amounts include both the State portion and the portion retained by the counties.

DEBT COLLECTION PROGRAMS IN IOWA CODE SECTION 602.8107

Assignment of Debt to the Centralized Collection Unit (CCU) – The CCU is housed in the Department of Revenue and is a self-supporting, centralized debt collection program for State agencies. The CCU charges for all direct and indirect costs that are properly allowable to CCU activities. The CCU collects debt for the Judicial Branch, the Department of Revenue Tax Receivables, the Department of Human Services Child Support Recovery Unit, and the Department of Natural Resources. An annual report is required under Iowa Code section [421.17\(27\)\(h\)](#). The CCU began collecting court debt in 1996.

For Judicial Branch debt, the CCU adds a 10.0% fee to each account to cover collection costs (personnel, accounting, data processing, auto-dialer, collection software upgrades, and printing). The CCU recently completed a study of expenses for court collections and found that costs are not being covered after the most recent upgrade to the collections system. The CCU has asked the Judicial Branch to increase the add-on collection fee from 10.0% to 15.0%. This will require a program change to ICIS and will not be implemented until sometime in calendar year 2015.

The 2010 legislation modified the existing program by sending the debt to the CCU sooner (at 30 days rather than 45) and permitted debt to be withdrawn from the CCU sooner (at one year rather than two years). Criminal debt from all 99 counties is sent to the CCU at 30 days, for a period of one year, prior to being sent to another collection program such as a private debt collector. If a notice of full commitment⁶ has been filed by the county attorney and the defendant is not in a current payment plan with the CCU, the debt is sent to the requesting county at 90 days from the date imposed. The CCU does not receive civil judgment debt but does receive information regarding delinquent civil filing fees and copying fees.

For FY 2013 collections, the Judicial Branch reported a total of \$29.4 million collected by the CCU. This is an increase of \$2.7 million (10.0%) compared to FY 2012. The following table shows the amount of court debt placed with the CCU compared to the amount of debt collected, including the 10.0% fee for the CCU.

CCU Court Debt Placements and Collections

Fiscal Year	Amount Placed	Amount Collected	Percent Collected
2005	\$ 68,040,825	\$ 14,462,920	21.3%
2006	30,018,024	15,710,342	52.3%
2007	64,191,936	18,496,807	28.8%
2008	31,913,550	20,385,881	63.9%
2009	64,821,349	19,795,673	30.5%
2010	100,256,280	24,456,248	24.4%
2011	139,280,371	25,421,909	18.3%
2012	124,580,175	26,763,326	21.5%
2013	122,219,128	29,430,533	24.1%
	<u>\$ 745,321,638</u>	<u>\$ 194,923,639</u>	<u>26.2%</u>

NOTES:

FY 2009 - Court collections decreased because changes to the County Attorney Program were implemented. The percentage collected decreased because of increased placements and quicker recalls back to the county attorneys (60 days). Offsetting some of the reduction in collections were increased collections from bank matches and professional license sanctions.

FY 2011 - There was a large increase in placements as the backlog of old court debt was brought into the CCU collections program. The combination of large placements and the corresponding larger recalls to county attorneys at 60 days resulted in a lower percentage collected.

FY 2013 - The increase in collections has been a result of the higher placements and several enhancements to the CCU collection system.

⁶ County attorneys must annually submit a notice of full commitment that contains a list of procedures initiated by the county attorney to collect delinquent debt for all cases assigned to the county for collection by the court.

County Attorney Collection Program – The county attorneys began collecting court debt in 1992.⁷ Under the current formula, the State receives 60.0% and the counties receive 40.0% of the debt collected. After a threshold is met, the State receives 48.0% and the counties receive 52.0%. The threshold is based on county population.⁸ The following shows the populations, threshold amounts, and how many counties in each group participated in FY 2013.

- Population greater than 150,000 - \$500,000 – three counties participated.
- Population greater than 100,000 to 150,000 - \$400,000 – three counties participated.
- Population greater than 50,000 to 100,000 - \$250,000 – three counties participated.
- Population greater than 26,000 to 50,000 - \$100,000 – 11 counties participated.
- Population greater than 15,000 to 26,000 - \$50,000 – 13 counties participated.
- Population less than or equal to 15,000 - \$25,000 – 15 counties participated.

Debt is sent to the county attorneys for collection at 90 days from the date imposed and they receive a percentage of the amount collected. Senate File 2383 established a minimum threshold of \$25,000 for a county to participate in the collection program. Debt from counties that do not meet the \$25,000 threshold goes to the CCU. Counties that fall below the threshold can reapply with the Judicial Branch to reenter the program the following year. In FY 2013, 48 counties participated in the Program. Of this amount, 26 (or 54.2%) met the required threshold amount by December 2012.

The Act also permitted Iowa Code chapter [28E](#) agreements for collections. Decatur, Fremont, Ringgold, and Taylor counties have entered into a 28E agreement for collections as have O'Brien and Cherokee counties. The threshold amount is determined by the largest county participating in the agreement. Decatur, Fremont, Ringgold, and Taylor counties met their threshold in August 2012 and O'Brien and Cherokee counties met their threshold in July 2012. The legislation required an annual report to the State Debt Coordinator. Those reports are currently being received by the Department of Revenue.

For FY 2013, a total of \$16.4 million was collected through the County Attorney Program. Of this amount, \$8.5 million was deposited with the State and \$7.9 million was deposited with the counties including \$6.6 million for threshold payments and \$1.3 million in incentive payments. Following is a historical table of county attorney debt collections for the past three years.

County Attorney Court Debt Collection

Fiscal Year	Total Collected	State	County Attorneys
2011	\$10.5 million	\$5.8 million	\$4.7 million
2012	\$12.9 million	\$6.8 million	\$6.1 million
2013	\$16.4 million	\$8.5 million	\$7.9 million

NOTE: County attorneys do not receive any portion of any amounts collected for victim restitution, the Victim Compensation Fund, the Criminal Penalty Surcharge, the Drug Abuse Surcharge, the Law Enforcement Surcharge, the County Enforcement Surcharge, the \$200 DOT Civil Penalty, any of the setoff procedures under Iowa Code section 8A.504, or sheriffs fees.

Private Debt Collector – Any debt not being collected by a county attorney and not in a payment plan with the CCU is sent to a private debt collector after one year. The collection fee allowed for the private debt collector is 25.0% and is in addition to the total debt owed. Senate File 2383 required the Judicial Branch to send the debt to a private debt collection agency at one year unless it is in a payment plan with the CCU.

⁷ 1991 Iowa Acts., ch. 192.

⁸ Iowa Code [§602.8107\(4\)](#).

An initial contract was signed for the period of December 1, 2010, to June 30, 2012, with Linebarger, Groggan, Blair, and Sampson LLP (Linebarger), a law firm from Kansas City, Missouri. The contract allows the Judicial Branch to grant up to three one-year extensions. At the end of the three extensions (June 30, 2015), the contract will continue on a month-to-month basis until the Judicial Branch decides to terminate the agreement.

The program was fully implemented in FY 2012 and debt was first sent to Linebarger for collection in July 2011. The total collected through October 31, 2013, by this program was \$8.9 million. This is 2.97% of the total amount placed with Linebarger since the program's inception (\$298.3 million from 552,896 cases). Of the \$8.9 million received, 34,591 accounts have been paid in full. This following shows the amount collected by fiscal year:

- FY 2012 - \$3.2 million
- FY 2013 - \$4.5 million
- FY 2014 thru October - \$1.2 million

OTHER COURT DEBT COLLECTIONS PROGRAMS

Taxpayer Public/Private Utility Customer Match – Statute permits the Department of Revenue, as of January 1, 2011, to subpoena records of public and private utilities on a quarterly basis for individuals with debt placed with the CCU to obtain telephone numbers and last known addresses. The program began January 1, 2012. The Department had initially requested files in January, May, and November from telephone and utility companies but currently requests are made in May and November. Following are the results to date:

Subpoena Results

Date	Number Sent to Utilities	Number Updated	Percent Updated
January 2012	45,881	9,242	20.14%
May 2012	37,418	7,039	18.81%
November 2012	42,310	8,229	19.45%
May 2013	40,362	7,116	17.63%
November 2013	46,467	10,099	21.73%

County Treasurer Restitution and Delinquent Court Debt Collection for Vehicle Registrations – State law requires a county treasurer to refuse to renew a vehicle registration when the owner owes unpaid fines and court fees. Once the debt is paid, the county treasurer will allow renewal of the registration.

The 2010 legislation permitted payment at the county treasurer's office rather than going to pay at the Clerk of Court. The legislation also permitted a \$5 processing fee paid to the county treasurer that is deposited in the county general fund. This program includes all debt – not just criminal debt – including civil cases such as dissolutions, probate, small claims, and other unpaid court costs due to the State. The program began July 1, 2011, and is implemented at the discretion of the county. In FY 2012, 55 counties participated and a total of \$466,906 was collected. In FY 2013, 55 counties participated and a total of \$324,500 was collected.

Court Debt Priority Ranking for Setoffs – Senate File 2383 required the Clerk of Court (Judicial Branch) be moved from the fourth to second position on the priority list behind the Child Support Recovery Unit and Foster Care Recovery Unit. *(Prior to the change, the order was Child Support Recovery Unit and Foster Care Recovery Unit, College Student Aid Commission, Department of Inspections and Appeals, and the Clerk of Court).*

Income Tax and Vendor Offset Program – The Department of Administrative Services (DAS) operates the Income Tax and Vendor Offset Program. Money recovered by DAS through this program is returned to the respective department or agency and is applied to the various

funding sources. The DAS collects funds monthly through income tax offset, vendor offset, lottery winnings, and casino and racetrack winnings. The Department charges an additional \$7 to the debtor for each offset held. The fee is used to cover all the expenses for the offset program so no appropriation is necessary.

The following table shows the last five years of offsets:

Department of Administrative Services State of Iowa Offset Program		
<u>Fiscal Year</u>	<u>Total Offsets</u>	<u>Judicial Offsets</u>
2009	\$25.3 million	\$7.1 million
2010	\$25.5 million	\$7.7 million
2011	\$29.4 million	\$9.3 million
2012	\$34.1 million	\$10.2 million
2013	\$33.9 million	\$10.2 million

Racing and Gaming Offset Program – The Department of Administrative Services (DAS) was charged with creating and operating a Racing and Gaming Offset Program at casinos, riverboats, and racetracks for the collection of outstanding debt owed the State of Iowa and local governments. Originally, anyone with winnings of at least \$10,000 was verified by the casino or track, prior to payout, to determine the person did not have any outstanding debt owed the State of Iowa. The threshold amount was lowered to \$1,200 in FY 2011.

The following amounts have been collected for all agencies since the program began and are included in the offset totals above.

- FY 2009 - \$98,970
- FY 2010 - \$163,830
- FY 2011 - \$2,676,877
- FY 2012 - \$2,858,266
- FY 2013 - \$2,684,114

Clarifies Payment of a Fine at the Date of Imposition – Statute requires a person to pay fines with the Clerk of Court on the date of imposition. Effective July 1, 2013, the Supreme Court adopted a new [Chapter 26](#) to the Iowa Court Rules entitled “Rules for Installment Plans and Other Court Collection Activities” to provide for the efficient and expeditious collection of court debt. If the total amount of court debt due at the time of imposition is \$300 or less, a judicial officer will not order an installment payment plan.

If the person does not have the financial means to pay the debt in full within 30 days from the date it is imposed, the judicial officer may instruct the person to contact the CCU to request a payment plan or establish an installment payment plan. If a payment plan is established, the first payment is due 30 days from imposition, and each payment is due once a month. The minimum monthly payment is \$50.

Professional Licensing – The CCU in the Department of Revenue is required to notify certain licensees of nonrenewal unless their outstanding court debt was paid. Most State agencies send monthly or quarterly files to the CCU to keep them current with active licenses. Each week, a list of active licenses is run to match all court debt collection cases over \$1,000. Every Tuesday, warning letters are sent out on any new matches from that week.

In FY 2013, there were 4,930 total matches including 3,410 warning letters sent and 1,520 license sanctions requested. The total amount collected through this program was \$5.2 million in FY 2013. This offset resulted in General Fund deposits of \$3.1 million in FY 2011 and \$4.0 million in FY 2012.

COURT DEBT RECORDS

Court debt records are updated daily for all collections, except Income Tax Offset which is monthly. Vendor offsets are updated daily or as needed.

If a county attorney wants to pursue collection on cases, the county attorney contacts the Clerk of Court and if the CCU does not have a current collection plan on that person or if the person is delinquent, the cases are returned by the Clerk of Court so they can be sent to the county attorney for collection. Regardless if a defendant is on a county attorney or CCU collection plan, vendor offset and income tax offset will still occur. Only a court ordered payment plan stops collection from income tax offset, vendor offset, and vehicle registration holds.

Funds received by the Clerk of Court are prorated and applied to the oldest judgments first in the priority order of payment through the Iowa Court Information System (ICIS). The ICIS program automatically apportions any payment received toward all accounts owed in a grouping. For example, if \$20 was paid and two items were owed such as a fine and a Criminal Penalty Surcharge, \$10 (50.0%) would be applied to each item. However, the clerks have the ability to override the default system to apply the credit to individual penalties.

FINDINGS

There are multiple court debt collection methods conducted through various State and local agencies. The financial code entered by the Clerks of Court into ICIS is important in determining how payments are applied and then credited to the appropriate collection entity. Past issues facing court debt collection have been the inconsistent interpretation and application of court debt methodologies across the State that created confusion, impeded payments, and impacted collection efforts. The statutory changes implemented in FY 2009 and FY 2011 were intended to streamline collection efforts and facilitate the repayment of court debt owed the State.

Of the total \$633.5 million in court debt, \$468.8 million is 10 years old or less (74.0%). Approximately \$14.7 million (2.4%) of the outstanding debt is payable to the Clerk of Court and owed by deceased people. As the debt ages, the ability to collect it becomes increasingly more difficult. For example, there are currently 694 inmates serving life sentences in the Iowa prison system with limited opportunities to earn a wage to pay back the debt owed. Iowa Code section [602.8107\(6\)](#) requires the Judicial Branch to close the case file and write off debt that is uncollectible after 65 years. The Judicial Branch has not written off any debt and will not until 2056, 65 years from when the Iowa Court Information System (ICIS) first started.

When comparing actual FY 2011 to FY 2013, the amount of outstanding court debt has increased by \$75.3 million (13.5%). The debt collection programs implemented and modified during this same time period resulted in an additional \$6.4 million (12.7%) in collections in FY 2012 and \$8.5 million (14.9%) in FY 2013. The additional amount deposited in the State General Fund was approximately \$4.1 million in FY 2012 and approximately \$6.1 million in FY 2013.

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