

## Court Debt Collection

### **ISSUE**

This *Issue Review* provides background and historical information regarding the collection of outstanding court debt, highlights current collection efforts and revenues received, and details law changes made during the 2015 Legislative Session. This document is an update of an *Issue Review* published by the Legislative Services Agency (LSA) in March 2014.<sup>1</sup>

### **AFFECTED AGENCIES**

Judicial Branch  
Department of Administrative Services (DAS)  
Department of Revenue  
Department of Transportation  
County Attorneys and Treasurers

### **CODE AUTHORITY**

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

### **BACKGROUND**

Court debt consists of:

- Unpaid 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)
- 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 for victims of crime.
2. Fines, penalties, criminal penalty surcharge, and law enforcement initiative surcharge.
3. Crime Victim Compensation Fund.
4. Court costs, including correctional fees, court-appointed attorney fees, and public defender expenses.

The General Assembly enacted [SF 2428](#) (Delinquent Debt Collection Act) in 2008 and [SF 2383](#) (Debt Collection Act) in 2010. Both Acts made various changes to existing debt collection programs and created new programs, including instituting a court debt amnesty program administered by the Iowa Department of Revenue from September 1, 2010, through November 30, 2010. Debt amnesty was granted to 13,511 applicants involving 25,442 cases, and a total of

<sup>1</sup> [Court Debt Collection Programs and Outstanding Court Debt](#), published March 17, 2014.

\$3.4 million was collected with an additional \$3.4 million forgiven. 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. There have been, and continue to be, a myriad of programs for collecting outstanding court debt. The following table outlines the various programs. Add-on fees are highlighted.

### Debt Collection Programs

Program	Statutory Authority	Collector	Revenue Deposited
Income Tax and Vendor Offsets	<a href="#">8A.504</a> ; <a href="#">99D.28</a>	Department of Administrative Services	State General Fund; a <b>\$7 administrative fee</b> is added and retained by the DAS to offset the cost of the program.
Centralized Collection Unit (CCU)	<a href="#">602.8107</a> ; <a href="#">421.17(27)</a> ; <a href="#">321.210A</a> ; <a href="#">321.210B</a>	Department of Revenue	Revenue is collected by the CCU and transferred to the Judicial Branch for deposit in the State General Fund. The CCU retains the <b>10.0% add-on fee</b> to help offset costs of administering the program. <b>The CCU is no longer collecting outstanding court debt as of June 30, 2015.</b>
Judicial Branch Clerk of Court Set Off	<a href="#">602.8103(6)</a>	Judicial Branch	State General Fund
County Treasurer Vehicle Registrations	<a href="#">321.40(4)</a> ; <a href="#">321.40(9)</a>	County Treasurer	The County Clerk of Court 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 <b>\$5 fee</b> for collection under Iowa Code section <a href="#">321.152(3)</a> for deposit in the county general fund.
County Attorney Collection Program	<a href="#">602.8107</a> ; <a href="#">321.210A</a> ; <a href="#">321.210B</a>	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	<a href="#">272D</a>	Department of Revenue	State General Fund
Private Debt Collector	<a href="#">602.8107</a>	Debt Collection Agency	Revenue is deposited with the Judicial Branch for deposit in the State General Fund. The private debt collector retains the <b>25.0% add-on fee</b> to help offset the costs of administering the program.

### COURT DEBT SINCE FY 1998

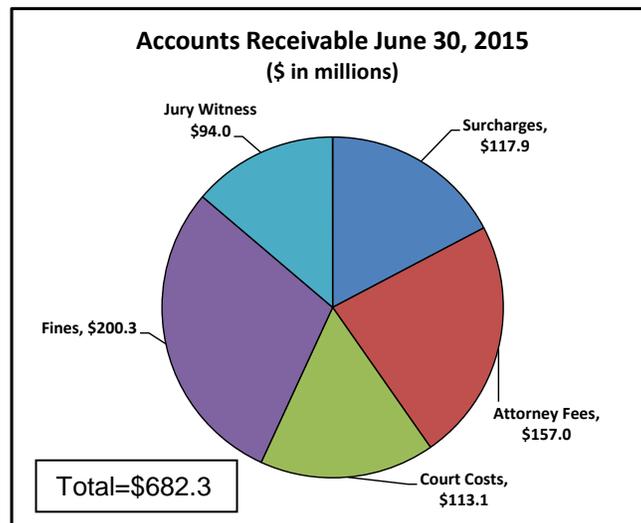
Outstanding court debt has grown considerably since FY 1998. The total debt outstanding at the end of FY 2015 was \$682.2 million. Debt increased by 1.6% from FY 2014 to FY 2015. This is less than previous years. This may be attributed to court efforts to remove debt owed by deceased persons and because total case filings in general have decreased. See the table on the following page for detail by fiscal year.

**Outstanding Court Debt**  
(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%
2014	\$671.5	\$38.0	6.0%
2015	\$682.2	\$10.7	1.6%

Source: Judicial Branch

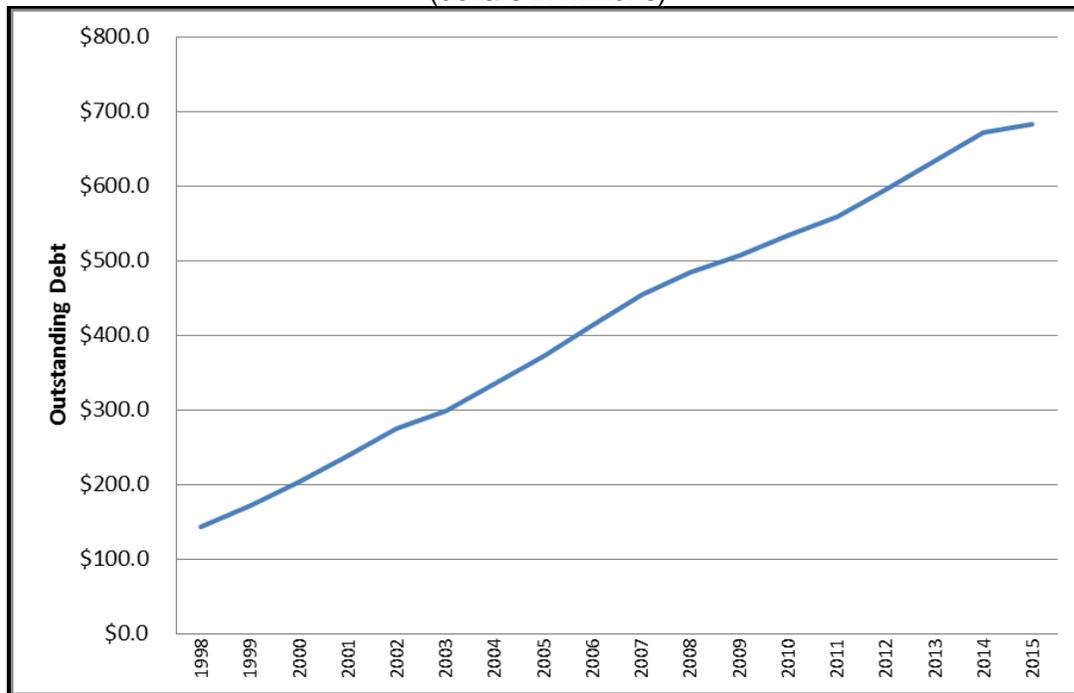
Nearly half of the debt outstanding at the end of FY 2015 consisted of fines and court costs.



Total may not add due to rounding.

The growth since FY 1998 has been fairly linear, as shown in the graph below.

**Outstanding Court Debt – FY 1998 to FY 2015**  
(dollars in millions)



**CURRENT COURT DEBT BY TYPE**

Of the total outstanding court debt owed to the state, \$490.3 million, (71.9%) is criminal debt and \$155.8 million (22.8%) is traffic debt. Debt up to one year old accounts for \$89.3 million (13.1%) of the total and debt 10 years or older accounts for \$198.6 million (29.1%). These numbers do not reflect restitution because that is paid to the victims, and not to the State of Iowa. 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	9.2%
Aggravated Misdemeanor	12.4%
Serious Misdemeanor	18.8%
Simple Misdemeanor	24.2%
Operating While Intoxicated	16.8%
D.A.R.E Surcharge	26.9%
Law Enforcement Initiative Surcharge	22.5%
Municipal Infractions	36.5%
Criminal Penalty Surcharge	50.8%
Scheduled Violations including Speeding	80.4%

Source: Criminal and Juvenile Justice Planning Division

D.A.R.E. = Drug Abuse Resistance Education

**PREVIOUS ROLE OF 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. It charges for all direct and indirect costs that are allowable for CCU activities. The CCU collects debt for the Department of Revenue Tax Receivables, the Department of Human Services Child Support Recovery Unit, and the Department of Natural Resources. Iowa Code section [421.17\(27\)\(h\)](#) requires quarterly reporting to the Legislative Fiscal Committee, the LSA, and the chairs and ranking members of the Administration and Regulation Appropriations Subcommittee regarding the implementation of the centralized debt collection program.

The CCU began collecting court debt in 1996, but as of July 1, 2015, is no longer collecting debt for the Judicial Branch because of changes made in [SF 510](#) (Standing Appropriations Act) enacted during the 2015 Legislative Session. For Judicial Branch debt, the CCU added a 10.0% fee to each account to cover collection costs (personnel, accounting, data processing, auto-dialer, collection software upgrades, and printing). Since FY 2005, the percentage of debt collected was 24.6% of debt placed.

**CCU Court Debt Placements and Collections**

<b>Fiscal Year</b>	<b>Amount Placed</b>	<b>Amount Collected</b>	<b>Percent Collected</b>
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%
2014	160,581,278	29,953,334	18.7%
2015	121,663,553	27,542,139	22.6%
	<u>\$1,027,566,469</u>	<u>\$ 252,419,112</u>	<u>24.6%</u>

**NOTES:**

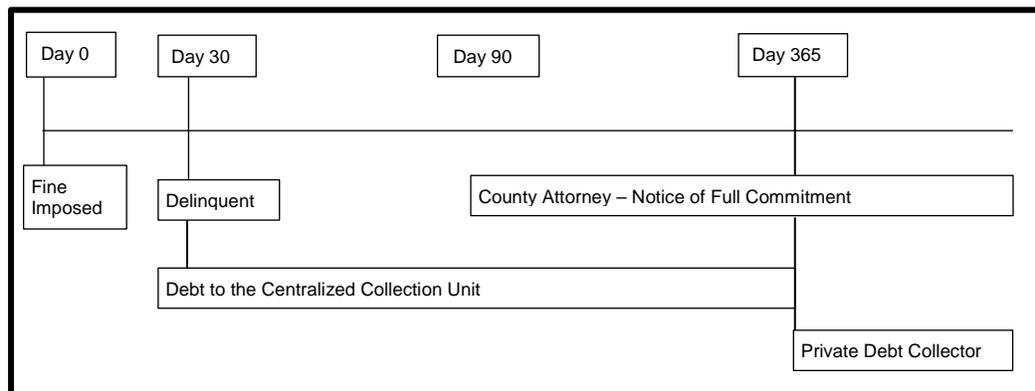
FY 2009 - Court collections decreased because changes to the County Attorney Program were implemented. The percentage collected decreased because of increased placements and quicker recalls back to the county attorneys (60 days). Offsetting some of the reduction in collections were increased collections 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 was the result of higher placements and several enhancements to the CCU collection system.

**Debt Collection Timeline Prior to SF 510**

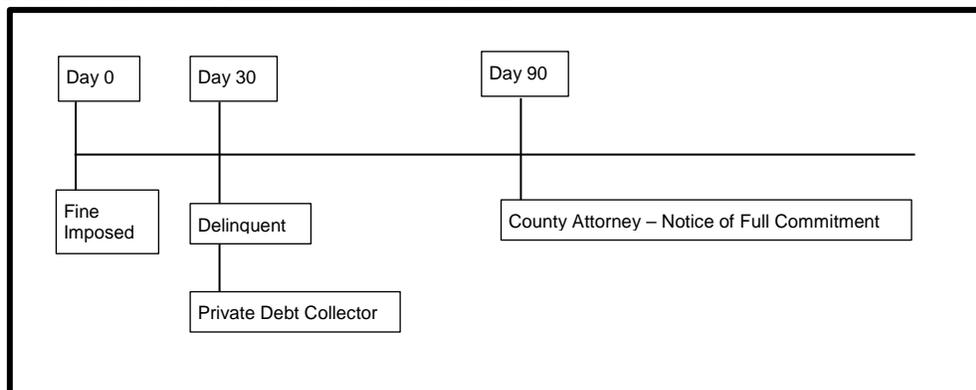
Prior to the passage of [SF 510](#), debt was placed with the CCU 30 days after being assessed if it had not been paid or placed in a payment plan with the County Clerk of Court. Sixty days after that, the county attorney could file a notice of full commitment to have the debt assigned to them for collection. After one year, if the debt had not been assigned to the county attorney and the debt was not in an established payment plan with the CCU, the debt was turned over to a private debt collector. This process is illustrated in the following chart.



**CURRENT SYSTEM FOR COURT DEBT COLLECTION**

[Senate File 510](#) made several changes to the collection of outstanding court debt, most notably eliminating the CCU from a debt collection role. Court debt is still deemed delinquent if not paid within 30 days of assessment, or 30 days after an installment payment is due. Rather than placing debt with the CCU, it is assigned to a private debt collector if it has not been paid or entered into a payment plan with the county clerk. The County Attorney can still file a notice of commitment after 90 days to collect the debt. The current debt collection timeline is illustrated below:

**Debt Collection Timeline Current Law**



The following table shows actual debt collection for the last three fiscal years by entity collecting the debt. The revenues collected have decreased by \$729,728 (1.1%) from FY 2013 to FY 2015.

### Actual Court Debt Collections

			Difference		Difference	
	Actual FY 2013	Actual FY 2014	FY 2013 to FY 2014	Actual FY 2015	FY 2014 to FY 2015	
Centralized Collections Unit (CCU)	\$29,430,533	\$29,953,334	\$522,801	\$27,542,139		(\$2,411,195)
Private Debt Collector	4,500,000	4,854,831	354,831	5,057,678		202,847
County Attorneys	16,363,217	16,270,620	(92,597)	16,594,381		323,761
Judicial Offsets	10,200,000	14,000,000	3,800,000	13,900,000		(100,000)
County Treasurer - Court Debt	324,500	267,617	(56,883)	268,339		722
Professional Licensing	5,200,000	1,456,324	(3,743,676)	1,925,985		469,661
	<u>\$66,018,250</u>	<u>\$66,802,726</u>	<u>\$784,476</u>	<u>\$65,288,522</u>		<u>(\$1,514,204)</u>

NOTES:

1. The CCU amounts include a 10.0% add-on fee.
2. The private debt collector amounts include a 25.0% add-on fee.
3. The county attorney amounts include both the State portion and the portion retained by the counties.

### PRIVATE DEBT COLLECTOR

[Senate File 510](#) changed the process of court debt collection by eliminating the role of the CCU, and after the debt is 30 days old, the law now requires that it be sent to a private debt collector. The Act also allows the private debt collector to charge a collection fee of up to 25.0% of the total debt, in addition to the total debt owed.

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 in Kansas City, Missouri. The contract allows the Judicial Branch to grant up to three one-year extensions. At the end of the third extension (June 30, 2015), the contract was continued on a month-to-month basis. The Judicial Branch will not issue a new Request for Proposals (RFP) for debt collection until after the close of the 2016 Legislative Session.

Linebarger began collecting debt in July 2011. Since then, \$406.1 million has been placed with Linebarger, and they have collected \$17.6 million (4.3%) through June 30, 2015. Debt is easiest to collect in the first two years of assessment, and prior to June 30, 2015, a full year would have elapsed before outstanding debt was assigned to the private debt collector. Of the current \$682.2 million in debt, \$152.8 million (22.4%) is two years old or less. The following shows the amount collected by Linebarger:

- FY 2012 - \$3.2 million
- FY 2013 - \$4.5 million
- FY 2014 - \$4.9 million
- FY 2015 - \$5.1 million
- FY 2016 through September 30 - \$3.0 million

### COLLECTION BY COUNTY ATTORNEY

The county attorneys began collecting court debt in 1992. Under the current formula, the state receives 60.0% and the counties retain 40.0% of the debt collected. After a threshold based on county population is met, the state receives 48.0% and the counties receive 52.0% of the debt collected. County attorney debt collection statistics include:

- County population greater than 150,000: \$500,000 – three counties participated.
- County population 100,000 to 150,000: \$400,000 – three counties participated.
- County population 50,000 to 100,000: \$250,000 – three counties participated.
- County population 26,000 to 50,000: \$100,000 – 12 counties participated.

- County population 15,000 to 26,000: \$50,000 – 13 counties participated.
- Population less than or equal to 15,000: \$25,000 – 15 counties participated.
- No participation: 50 counties.

County attorneys must annually submit a notice of full commitment containing a list of procedures initiated by them to collect debt for all cases assigned to the county for collection by the court. [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 will remain with the private debt collector. Counties that fall below the threshold can reapply with the Judicial Branch to reenter the program the following year.

Counties are also permitted to form Iowa Code chapter [28E](#) agreements for debt collections. In those cases the threshold is determined by the largest county participating in the agreement. To date, the following 28E agreements are in place:

- Decatur, Fremont, Ringgold, and Taylor counties.
- O’Brien and Cherokee counties.
- Tama and Benton counties.

For FY 2015, a total of \$16.6 million was collected through the County Attorney Program. Of this amount, \$8.6 million was deposited with the state and \$8.0 million was deposited with the counties. County attorney debt collections for the past three years are shown below. County attorneys do not receive any portion of funds 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 Department of Transportation Civil Penalty, setoff procedures under Iowa Code section [8A.504](#), or sheriff’s fees. **Attachment A** is a map of Iowa representing county attorney collection participation by county.

**County Attorney Court Collections**

(in millions)

<u>Fiscal Year</u>	<u>Total Collected</u>	<u>State</u>	<u>County Attorneys</u>
2013	\$16.4	\$8.5	\$7.9
2014	\$16.3	\$8.4	\$7.9
2015	\$16.6	\$8.6	\$8.0

**JUDICIAL OFFSETS**

The Department of Administrative Services (DAS) operates the Income Tax and Vendor Offset Program. Money recovered through this program is returned to the respective department or agency and applied to the various funding sources. The DAS collects funds monthly through income tax offset, vendor offset, lottery winnings, and casino and racetrack winnings. Anyone with winnings of at least \$1,200 is verified prior to payout to determine that the person does not have any outstanding debt owed to the State of Iowa. The DAS charges an additional \$7 to the debtor for each offset held and it is used to cover expenses for the offset program. The table to the right shows offsets since FY 2009.

<b>Department of Administrative Services State of Iowa Offset Program</b>		
(dollars in millions)		
<u>Fiscal Year</u>	<u>Total Offsets</u>	<u>Judicial Offsets</u>
2009	\$ 25.3	\$ 7.1
2010	25.5	7.7
2011	29.4	9.3
2012	34.1	10.2
2013	33.9	10.2
2014	43.7	14.0
2015	47.2	13.9

**COUNTY TREASURER RESTITUTION THROUGH VEHICLE REGISTRATION**

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 allows renewal of the registration. Payment is permitted at the county treasurer's office rather than the Clerk of Court. A \$5 processing fee is paid to the county treasurer and deposited in the county general fund. This program includes all debt, including civil cases such as dissolutions, probate, small claims, and other unpaid court costs due to the state. In FY 2014 and FY 2015, a total of \$267,617 and \$268,339 was collected respectively.

**PROFESSIONAL LICENSING**

The CCU is also required to notify licensees of nonrenewal unless their outstanding court debt is 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 that exceed \$1,000, and warning letters are sent out on any new matches. In FY 2015, there were 9,963 total matches, including 3,054 warning letters sent and 6,909 license sanctions requested.

**FINDINGS**

The Michigan Trial Court Collections Standards and Guidelines from July 2007 state that court collections programs should be designed with several goals in mind:

- Hold defendants accountable for their actions
- Improve the enforcement of court judgments
- Reduce judicial and clerical efforts required to collect court-ordered financial obligations
- Ensure prompt disbursement of court collections to receiving agencies and individuals
- Achieve timely case processing

The State of Iowa uses many of the practices recommended by the National Center for State Courts and practiced in other states. Eliminating the CCU from the debt collection process and turning over debt to private collectors after just 30 days from the original court due date creates new issues to consider. A private debt collector can charge and retain an additional 25.0% of the outstanding debt. This could create more of a burden to a population with insufficient resources to settle court debt for a variety of reasons. Private debt collectors can also possibly resort to heavy-handed tactics. Collection of outstanding court debt should not be viewed as applying additional punishment that would eclipse the initial goal of compliance with court judgments.

It is important for fines, penalties, court costs, fees, forfeited bail, and surcharges to be paid as quickly as possible. The longer the delay, the less likely it is that the defendant will pay. Judicial support is necessary for an early successful collection program, and the court should encourage immediate payment, beginning at adjudication. Developing the expectation and practice that at least partial payment must be remitted immediately should be accomplished across all judicial districts. The more collection that is completed at the local level earliest in the process means less cost is expended at a later date for collection. Court leaders may want to look at establishing a fine collection task force to set goals for increasing collections at the very start of the process to free up resources, time, and effort in the long term.

There is a financial incentive for the county attorneys to claim unpaid court debt since the counties receive 40.0% of the court debt collected through this mechanism (52.0% after the county has reached a threshold based upon county population). County attorneys are currently holding approximately \$690.0 million in court debt, restitution owed, and amounts owed to cities and counties. Much of this is being held on the speculation that they will be able to collect it at a later date, with no current ongoing efforts to achieve collection. Often, after adjudication, county attorneys will encourage defendants to delay making payment until they are approached by the county at a later date to establish a payment plan, as then there will be no additional collection

costs added to the amount outstanding. This practice encourages nonpayment early in the process when it is usually the easiest to receive payment. It may be useful to enact legislation that limits the amount of time counties can maintain uncollected debt to encourage county attorneys to take action to collect the debt sooner rather than later. Also, 50 counties did not participate in debt collection during FY 2015. The Judicial Branch and the County Attorney's Association should take additional steps to inform and train those counties on the benefits of entering into this program. If they are a small county with limited resources, assistance in establishing 28E agreements with other counties might be helpful.

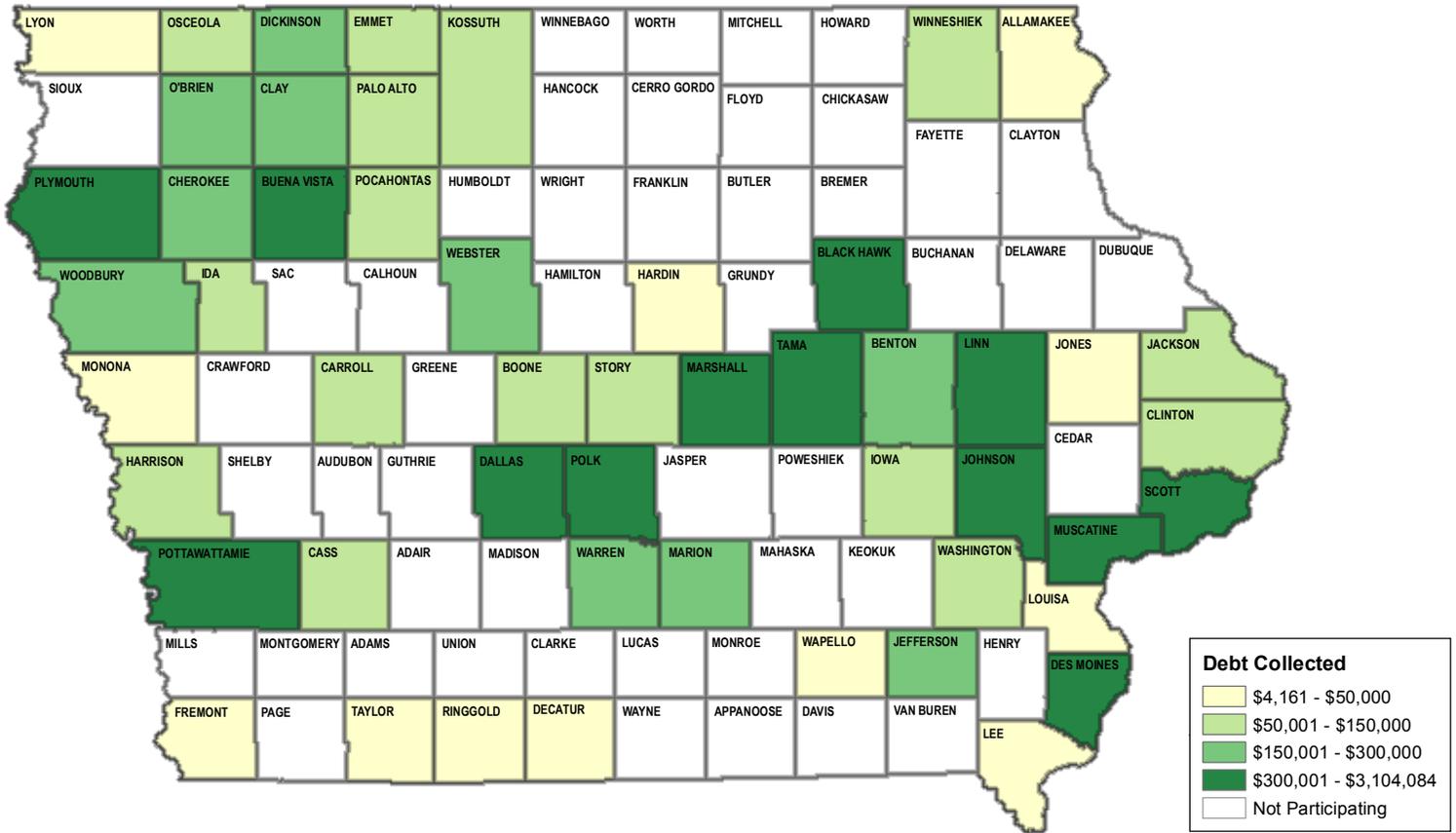
Of the total \$682.2 million in court debt, \$197.8 million (29.0%) is more than 10 years old. A portion of that is owed by individuals serving life sentences in the Iowa prison system with limited opportunities to earn a wage to pay back the debt owed. At the present time, it is not known how much of the debt is held by life sentence inmates. It may be worthwhile to determine what this amount is and remove it from expected collections. 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 recently undertaken the process of identifying outstanding debt of deceased individuals and removing it from the system.

Another option to consider is a court debt amnesty program. The last court debt amnesty program was authorized in 2010. 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 and a total of \$3.4 million was collected with an additional \$3.4 million forgiven (\$6.8 million total).

With the legislative changes undertaken for FY 2016, further monitoring of the incoming revenues and collection issues resulting from those changes should be done by the Judicial Branch and the LSA. This *Issue Review* will be updated if and when further legislation is enacted modifying the current process of court debt collection.

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### COURT DEBT COLLECTED BY COUNTY – FY 2015



### COURT DEBT HELD BY COUNTY – FY 2015

