

Court Debt Collection

ISSUE

This **Issue Review** provides historical information regarding the collection of outstanding court debt, highlights current collection efforts and revenues received, and details law changes made during the 2016 Legislative Session. This document is an update of an **Issue Review** published by the Legislative Services Agency (LSA) in February 2016.¹

AFFECTED AGENCIES

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

CODE AUTHORITY

Iowa Code sections [8A.504](#), [232.142](#), [272D](#), [321.210A](#), [321.210B](#), [321A.32A](#), [321J.17](#), [602](#), and [911](#).

BACKGROUND

Court debt consists of all of unpaid fines, penalties, court costs, fees, forfeited bail, criminal 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), and fees charged pursuant to Iowa Code section [356.7](#) (County Sheriff Room and Board) or Iowa Code section [904.108](#) (Department of Corrections).

Restitution and all other fines, penalties, fees, court costs, and surcharges are paid to the Clerk of the District Court. The payments are applied in the following priority order:²

1. Pecuniary damages as defined in Iowa Code section [910.1](#)(3).
2. Fines or penalties, the 35.0% criminal penalty surcharge, and law enforcement initiative surcharges.
3. Reimbursement to the Crime Victim Compensation Program.
4. Court costs, county sheriff administrative costs and room and board, administrative costs and room and board to the Department of Corrections, court-appointed attorney fees or public defender expenses, and any other court orders.

¹ Alice Wisner, Fiscal Services Division, Legislative Services Agency, **Issue Review**: Court Debt Collection (February 17, 2016), www.legis.iowa.gov/docs/publications/IR/711294.pdf.

² Iowa Code §[602.8107](#)(2)(c).

Court Debt Amnesty. 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 a court debt amnesty program. The program was administered by the Iowa Department of Revenue (DOR) 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](#). 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. 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 variety 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	Where is the Revenue Deposited?
Income Tax and Vendor Offsets	8A.504 , 99D.28 , 99F.19 , 99G.38 , 422.73	Department of Administrative Services (DAS)	State General Fund; a \$7 administrative fee is added on and maintained by the DAS to offset the costs of administering the program.
Judicial Branch Clerk of Court Set Off	602.8103 (6)	Judicial Branch	State General Fund.
Centralized Collection Unit (CCU)	321.210A , 321.210B , 421.17 (27), 602.8107	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. <i>The CCU is no longer collecting new debt as of July 1, 2015.</i>
County Attorney Collection Program	321.210A , 321.210B , 602.8107	County Attorneys	72.0% of the revenue is deposited in the State General Fund and 28.0% of the revenue is maintained by the county for deposit in the county general fund. Once the threshold is met, the State receives 67.0%, the county general fund receives 28.0%, and the office of the county attorney receives 5.0%.
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 may maintain a 25.0% add-on fee to help offset the costs of administering the program.

COURT DEBT SINCE FY 1998

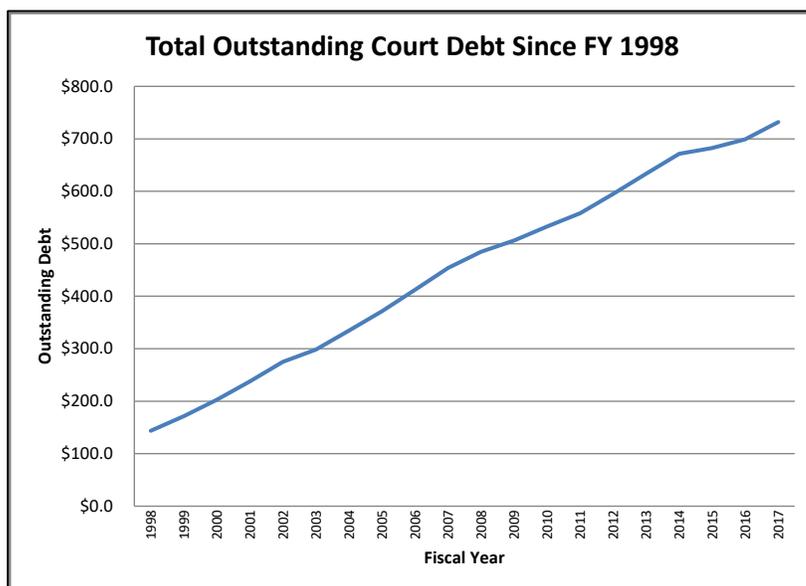
The total outstanding court debt at the end of FY 2017 was \$731.9 million.³ Outstanding court debt has grown by 410.4% since FY 1998. **Table 1** shows outstanding court debt by fiscal year and **Chart 1** shows the steady increase in court debt since FY 1998. These numbers reflect what is owed to the State of Iowa and do not include debt such as restitution and money owed to counties, cities, or sheriffs.

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%
2014	\$671.5	\$38.0	6.0%
2015	\$682.2	\$10.7	1.6%
2016	\$699.2	\$17.0	2.5%
2017	\$731.9	\$32.7	4.7%

Source: Judicial Branch

Chart 1

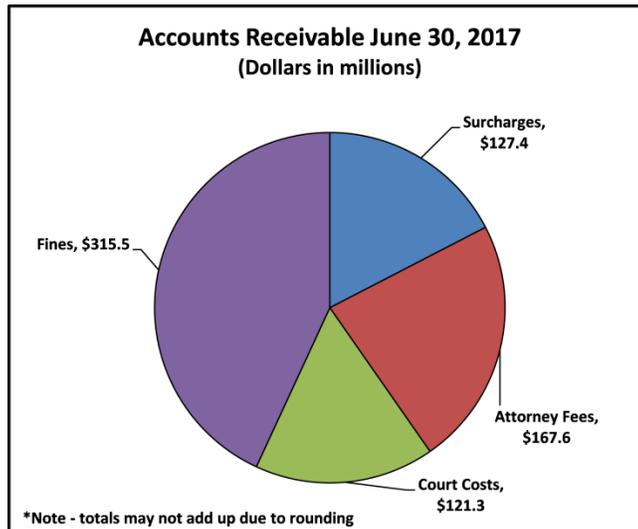


Outstanding debt increased by 4.7% from FY 2016 to FY 2017. The transition period of removing CCU from court debt collection and assigning it to the private debt collector and county attorneys may be a contributing factor to this increase (See History of Court Debt Collection System section, p.4). Despite the increase from FY 2015 and FY 2016, the FY 2017 percent increase still follows the slowing trend of outstanding court debt added each year. This may be due to court efforts to remove debt owed by deceased persons and because total case filings in general have decreased.

Chart 2 shows the June 30, 2017, court debt owed by category, as reported by the Judicial Branch. Over half of the outstanding court debt at the end of FY 2017 consisted of fines and court costs.

³ Judicial Branch Accounts Receivable Report (June 30, 2017), www.legis.iowa.gov/docs/publications/DF/860848.pdf.

Chart 2



FY 2017 COURT DEBT BY TYPE

The total outstanding court debt owed to the State is \$731.9 million. Criminal debt and traffic debt comprise a large portion of the total outstanding debt at \$524.4 million (72.0%) and \$168.7 million (23.0%), respectively. Debt that is up to one year old accounts for \$87.3 million (12.0%) of the total and debt 10 years or older accounts for \$248.3 million (34.0%). The following table shows the FY 2017 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	10.0%
Aggravated Misdemeanor	12.3%
Serious Misdemeanor	18.8%
Law Enforcement Initiative Surcharge	19.7%
DARE Surcharge	24.5%
Simple Misdemeanor	28.2%
OWI	30.7%
Municipal Infractions	30.9%
Criminal Penalty Surcharge	39.9%
Speeding	72.0%

Source: Criminal and Juvenile Justice Planning Division

HISTORY OF COURT DEBT COLLECTION SYSTEM

Centralized Collection Unit (CCU). The CCU is housed in the DOR and is a self-supporting, centralized debt collection program for State agencies. It charges for all direct and indirect costs that are permissible for CCU activities. The CCU collects debt for the DOR tax receivables, the Department of Human Services Child Support Recovery Unit, and the Department of Natural Resources.

The CCU began collecting court debt in 1996. 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). As of July 1, 2015, the CCU is no longer collecting new debt for the Judicial Branch because of changes made in [SF 510](#) (FY 2016 Standing Appropriations Act) enacted during the 2015 Legislative Session. In FY 2017, the CCU reassigned most of its court debt accounts to the Judicial Branch, but still collected \$2.4 million from the court debt that remained assigned to the CCU. Eventually, the CCU will no longer collect on any court debt cases. An annual report regarding implementation of the program is required under Iowa Code section [421.17\(27\)\(h\)](#). The table on the right shows the court debt collected by the CCU since FY 2005.

CCU Collections FY 2005 – FY 2017

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%
2014	160,581,278	29,953,334	18.7%
2015	121,663,553	27,542,139	22.6%
2016	N/A	9,055,283	N/A
2017	N/A	2,392,863	N/A
	<u>N/A</u>	<u>\$ 263,867,258</u>	<u>N/A</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.

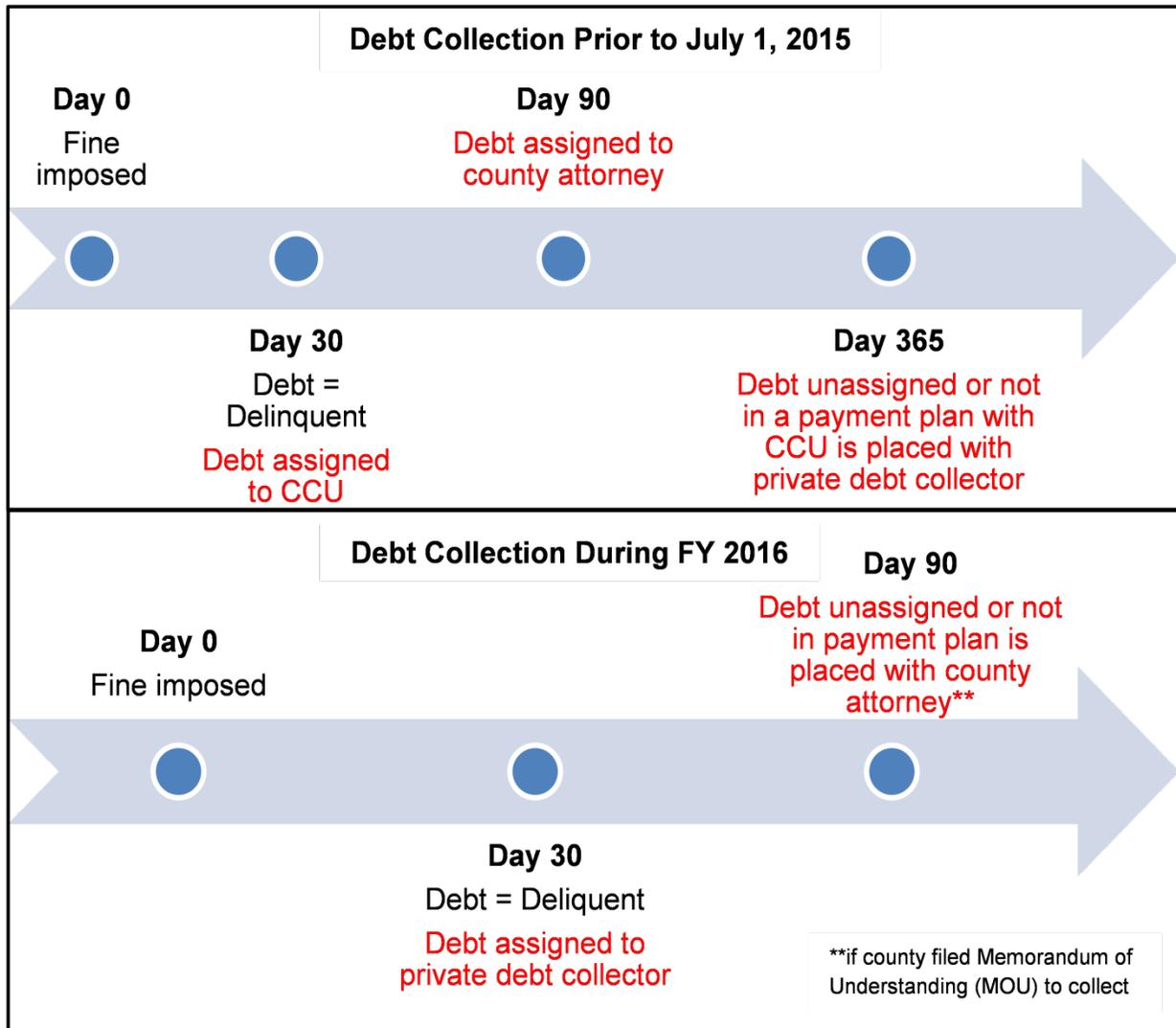
FY 2013 - The increase in collections was the result of higher placements and several enhancements to the CCU collection system.

FY 2016 - There was a large decrease in collections due to the law change removing the CCU from the court collections process. Debt is no longer placed with the CCU, but the CCU still collects any remaining debt assigned before the law change.

FY 2017 - Most of the debt previously placed with the CCU was reassigned to the Judicial Branch.

Debt Collection Timelines. The timeline for debt placement with collection entities has been modified several times. Prior to the 2015 Legislative Session, assessed debt was placed with the CCU if it had not been paid or placed in a payment plan with the Clerk of the District Court. Sixty days after that, the county attorney could file a notice of full commitment to have the debt assigned to that office 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 the private debt collector.

During the 2015 Legislative Session, [SF 510](#) (FY 2016 Standing Appropriations Act) changed the process of court debt collection by eliminating the role of the CCU. After the debt was delinquent, the law required that it be sent to a private debt collector. If by Day 90 the debt has not been paid or placed in a payment plan, it was assigned to the county attorney. The Act also allowed 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. The processes are illustrated in the following chart.



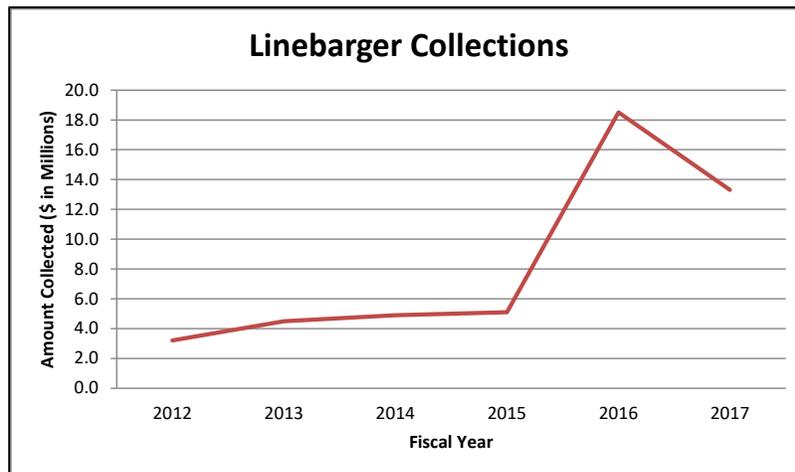
Private Collector. An initial contract was signed for the period of December 1, 2010, to June 30, 2012, with Linebarger, Goggan, Blair & Sampson LLP (Linebarger), a law firm in Kansas City, Missouri. The contract allows the Judicial Branch to grant up to three one-year extensions. At the end of the third extension (June 30, 2015), the contract was continued on a month-to-month basis. To date, the Judicial Branch has not issued a new Request for Proposal (RFP).

Linebarger began collecting debt in July 2011. Since then, a total of \$686.9 million has been placed with Linebarger, and it has collected \$49.4 million (5.6%) through June 30, 2017. Prior to July 1, 2015, 365 days would have passed before outstanding debt was assigned to the private debt collector. As of FY 2016, debt is permitted to be assigned to the private debt collector once the debt becomes delinquent (30 days from imposition or failure to pay installment). The CCU was also removed from the court debt collection process, which resulted in the increased placement and collection of court debt for FY 2016. The impact of these changes in FY 2016 is reflected in the following table.

Due to further changes to the collections process in FY 2017 (see Current System for Court Debt Collection section, p. 10), both the private debt collector and county attorneys were eligible to be assigned and collect court debt at delinquency. As a result, the amount of debt assigned to Linebarger decreased in FY 2017. Consequently, Linebarger collected \$13.3 million in FY 2017, a decrease of \$5.2 million from FY 2016. Although the collection rate decreased from FY 2017 to FY 2016, the amount collected by Linebarger still shows a large collections increase from prior fiscal years.

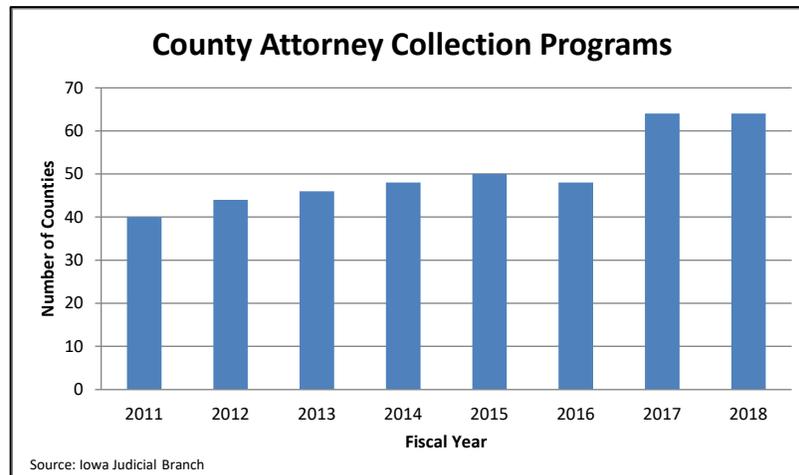
Linebarger Collections			
Fiscal Year	Amount Placed	Amount Collected	Percent Collected
2012	\$149,651,876	\$3,169,161	2.12%
2013	123,196,486	4,455,659	3.62%
2014	50,563,858	4,854,833	9.60%
2015	67,024,513	5,057,677	7.55%
2016	259,788,128	18,533,076	7.13%
2017	36,723,647	13,349,788	36.35%
Total:	\$686,948,508	\$49,420,194	5.55%

Debt is easiest to collect in the first two years of assessment, and in FY 2016, Linebarger started receiving the debt at the time of delinquency, instead of a year later. The newer debt contributed to the large increase in collections by Linebarger in FY 2016. Although the amount of collections increased, the overall percent collected has remained around the average, with a temporary increase in FY 2017 due to the smaller amount placed than the year before. The following chart shows the increase in collections by Linebarger. As noted previously, Linebarger collections in FY 2017 decreased due to a law change allowing the assignment of court debt to be made to the county attorneys at the time of delinquency.



County Attorney. County attorneys began collecting court debt in 1992. As a part of participating in collection, county attorneys are able to retain a portion of the collection (see Current System for Court Debt Collection section, p. 10). All collecting counties are required to file notice for the fiscal year in which they wish to collect. In FY 2016, 48 counties collected debt, and in FY 2017 and FY 2018, 63 counties filed noticed to collect. This is the highest number of counties to ever participate in the program. The increase is presumably due to the

fact that county attorneys are now assigned newer debt and are likely to collect more than they did under the previous system. The following chart shows the number of counties that filed notice to collect each fiscal year since FY 2010.



Counties are also permitted to form Iowa Code chapter [28E](#) agreements for debt collections. These agreements are entered into by two or more counties to jointly use their services and facilities to collect court debt in those counties. To date, the following [28E](#) agreements are in place:

1. Adams, Fremont, Ringgold, and Taylor counties.
2. Allamakee and Winneshiek counties.
3. Cherokee and O'Brien counties.
4. Benton, Bremer, Buchanan, and Tama counties.

In FY 2016, delinquent court debt was placed with the private debt collector before the county attorneys. As of FY 2017, the county attorneys may collect court debt at the time of delinquency, which increased the amount held and collected by the county attorneys in FY 2017. In FY 2017, about \$2.687 billion in court debt was held by all of the counties. This figure is significantly greater than the total amount of outstanding court debt (referenced at the beginning of this document) because it includes restitution, money owed to counties, cities, and sheriffs, and any other remaining debt that is not owed to the State, but is still collected.

Out of the total court debt held by county attorneys, \$23.9 million was collected and deposited as revenue for the State and participating counties in FY 2017. This number does not reflect the total amount collected because 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.

<u>Fiscal Year</u>	<u>Amount Held</u>	<u>Amount Collected*</u>
2012	\$ 303.0	\$ 12.9
2013	595.5	16.4
2014	648.0	16.3
2015	690.5	16.6
2016	762.0	17.5
2017	2,686.8	23.9

*Does not include funds ineligible for retention by county or State

Of the total revenue collected in FY 2017 by county attorneys, \$16.4 million was deposited with the State and \$7.5 million was deposited with the counties. The distribution of county attorney debt collection revenue for the past five years is shown below.

<u>Fiscal Year</u>	<u>State</u>	<u>County</u>	<u>Total Revenue</u>	<u>% Change</u>
2013	\$ 8.5	\$ 7.9	\$ 16.4	-
2014	8.4	7.9	16.3	-0.61%
2015	8.6	8.0	16.6	1.84%
2016	9.1	8.4	17.5	5.42%
2017	16.4	7.5	23.9	36.57%

As required by section 7 of [SF 2316](#) (Court Debt Collection Act) enacted during the 2016 Legislative Session, the State Auditor has submitted a review of county attorney court debt collections for FY 2017 to the Governor and the General Assembly. A copy of the report is available on the State Auditor's [website](#).

FY 2017 Collection Rates

The effects of the current collection process implemented in FY 2017 are evident in the following actual court debt collection table. Less debt was collected in FY 2017 than both FY 2016 and FY 2015. This downward trend may be due to the transition phase of removing CCU from the process and assigning debt to only county attorneys and the private debt collector instead. Since the current debt collection system has only been in place for one full fiscal year, it is difficult to compare the collection rates of the private collector and county attorneys with the CCU and how the change in collectors will affect court debt collections revenue.

As shown below, the CCU collections continue to decrease because the unit is only collecting debt assigned to it prior to the FY 2016 law change. During FY 2016, the private debt collector was the only entity to collect at delinquency, which accounts for the substantial increase in collections during that year. The current system allowing county attorneys to collect at delinquency was implemented in FY 2017, which accounts for the increased county attorney collections and the slight decrease in private debt collector collections. The Professional Licensing Program (see Other Debt Collection Programs section, p.13) ceased collection of

court debt in FY 2017. The totals collected by other entities had no significant change over prior years since their role or placement in the collections process was not modified.

Actual Court Debt Collections Revenue

	<u>Actual FY 2015</u>	<u>Actual FY 2016</u>	<u>Difference FY 2015 to FY 2016</u>	<u>Actual FY 2017</u>	<u>Difference FY 2016 to FY 2017</u>
Centralized Collections Unit (CCU)	\$24,787,925	\$8,149,755	(\$16,638,170)	\$2,153,577	(\$5,996,178)
<i>CCU 10.0% add-on fee</i>	2,754,214	905,528	(1,848,686)	239,286	(666,242)
Private Debt Collector	5,057,677	18,533,076	13,475,399	13,349,788	(5,183,288)
<i>Private Debt Collector 25.0% add-on fee</i>	1,050,000	3,706,615	2,656,615	2,450,460	(1,256,155)
County Attorneys	16,594,381	17,487,308	892,927	23,843,986	6,356,678
Judicial Offsets	13,900,000	13,930,873	30,873	13,165,153	(765,720)
County Treasurer - Court Debt	268,339	243,036	(25,303)	184,855	(58,181)
Professional Licensing	186,261	183,579	(2,682)	0	(183,579)
Total	<u>\$60,794,583</u>	<u>\$58,527,627</u>	<u>(\$2,266,955)</u>	<u>\$52,697,359</u>	<u>(\$5,830,268)</u>

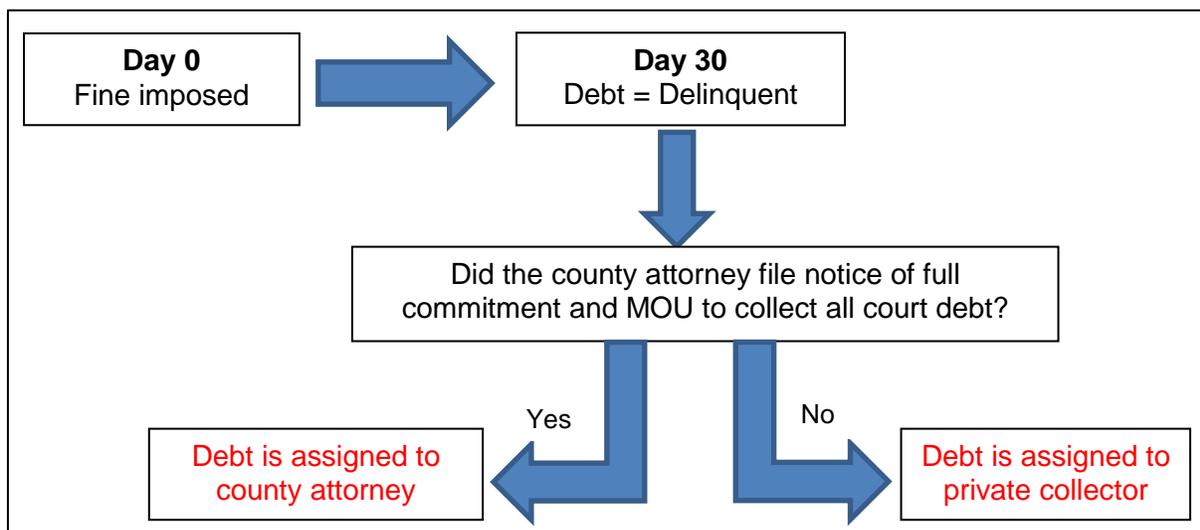
Notes:

1. The CCU is permitted to collect a 10.0% add-on fee.
2. The private debt collector is permitted to collect a 25.0% add-on fee.
3. The county attorney amounts include only revenue eligible to be retained by the State and counties.
4. Total does not include the CCU or Private Debt Collector add-on fees.

CURRENT SYSTEM FOR COURT DEBT COLLECTION

During the 2016 Legislative Session, [SF 2316](#) (Court Debt Collection Act) made several changes to the court debt collection system. The 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. The process is illustrated in the following chart.

Current Timeline for Court Debt Collection



County Attorney Requirements. In order to collect court debt after the debt is deemed delinquent, the county attorney must first file with the Clerk of the District Court on or before July 1 of the first fiscal year the county plans to collect debt, a notice of full commitment to collect, and a MOU with the State Court Administrator for all cases assigned to the county for collection. The county attorney is only required to file the initial notice. Previously, the county attorney had to file the notice annually. In order to stop collecting, the county attorney must file a notice of intent to cease collection of delinquent court debt at the start of the next fiscal year with the Clerk of the District Court on or before May 15.

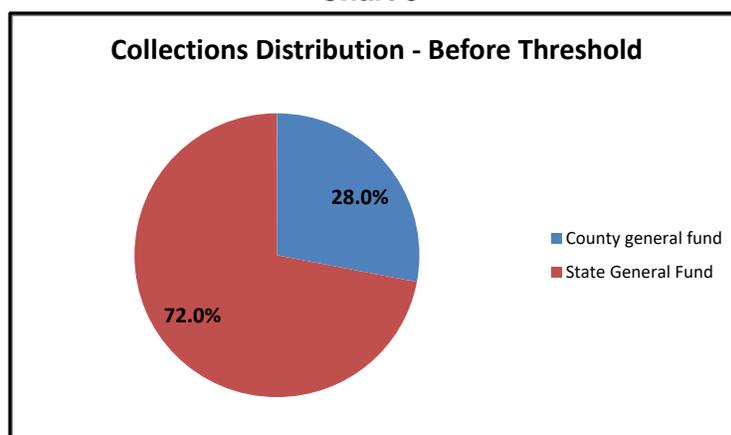
County Thresholds and Distribution of Collections. [Senate File 2316](#) (Court Debt Collection Act) made several changes to the county attorney collection thresholds in Iowa Code section [602.8107\(4\)\(c\)](#). When a county attorney elects to collect court debt, they must meet a certain collection threshold as determined by the county’s population. Once the county surpasses that collection threshold, the excess is distributed between the county and the Clerk of the District Court according to Iowa Code section [602.8107\(4\)\(d\)](#). The following chart shows the threshold amounts assigned by county:

<u>Collection Thresholds</u>		
<u>Population</u>	<u>Qualifying Counties</u>	<u>Threshold</u>
150,001 and above	3	\$1,000,000
100,001 – 150,000	3	600,000
50,001 – 100,000	3	300,000
26,001 – 50,000	12	100,000
15,001 – 26,000	20	50,000
Less than or equal to 15,000	22	25,000

[Senate File 2316](#) (Court Debt Collection Act) increased the threshold levels for the four largest categories of counties, due to the fact that larger counties were often reaching their threshold levels toward the beginning of the fiscal year. In order to qualify, any county in a [28E](#) agreement must collect an amount of debt that originated in its own jurisdiction that is equal to its applicable population threshold.

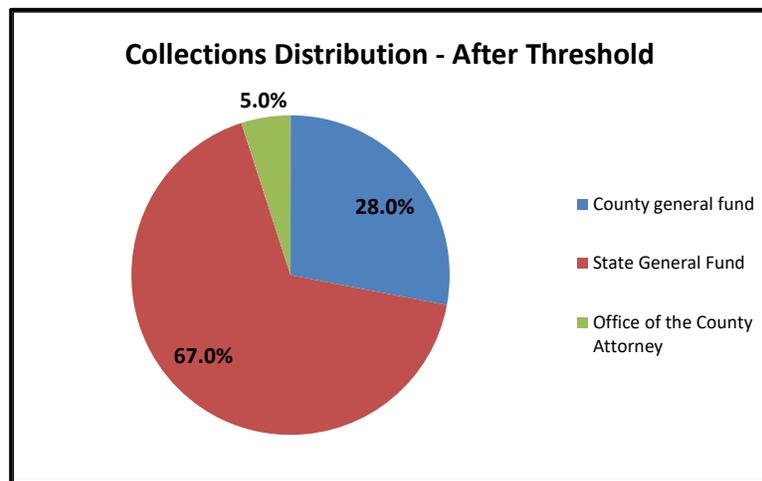
In addition to the increased thresholds, the distribution of the revenue collected by the county attorney was also adjusted. **Chart 3** shows the current distribution of county attorney collections before the county meets its collection threshold. A portion of the funds is paid to the county general fund and the remainder is paid to the Clerk of the District Court and deposited in the State General Fund.

Chart 3



After the county has collected its threshold amount, all additional moneys collected beyond that amount are divided as shown in **Chart 4**.

Chart 4



Program Eligibility Requirements. In order for a county attorney to remain eligible to collect, the county attorney must collect 100.0% of the applicable collection threshold within two years of beginning to collect delinquent court debt, beginning July 1, 2016. If the county attorney collects more than 80.0% but less than 100.0% of the applicable threshold, the State Court Administrator must provide notice to the county attorney specifying that in order to remain eligible to collect, the county attorney must collect at least 125.0% of the applicable threshold by the end of the next fiscal year. If the county attorney fails to meet the threshold, the State Court Administrator must provide notice to the county attorney that the county is ineligible to collect for the next two fiscal years, and all existing and future cases are assigned to the private debt collector.

License Suspension. In 2016, [Senate File 2316](#) (Court Debt Collection Act) modified Iowa Code section [321.210B](#) to permit a person with delinquent court debt to enter into an installment agreement with the county attorney or the private collection designees if the Clerk of the District Court has reported the delinquency to the DOT. Previously, the person could only enter into the installment agreement after the license had been suspended. This change allows the person with delinquent debt to enter into an agreement more quickly and prevent the license suspension.

Financial Statement. A person with delinquent court debt is now permitted to provide a new financial statement within 15 days of the determination of delinquency. The financial statement must indicate that the person's financial condition has changed to such an extent that lower installment payments would have been required prior to the execution of the initial installment agreement. The county attorney or the private debt collector has the discretion to determine whether the change in the person's financial condition requires lower payments. After receipt and acceptance of the financial statement, the county attorney or the private collection designee is prohibited from notifying the Clerk of the District Court of the delinquency, and the person is no longer considered in default.

OTHER DEBT COLLECTION PROGRAMS

Judicial Offsets. The DAS operates the Income Offset Program. Moneys recovered through this Program are returned to the respective department or agency and applied to the various funding sources.⁴ 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 fee to the debtor for each offset held and the fee is used to cover expenses for the Income Offset Program. The table to the right shows offsets since FY 2010. In FY 2017, \$13.2

million was recovered on behalf of the Judicial Branch, which is 28.8% of all revenue collected through the Income Offset Program.

**Department of Administrative Services
State of Iowa Income Offset Program**

(Dollars in Millions)

<u>Fiscal Year</u>	<u>Total Offsets</u>	<u>Judicial Offsets</u>
2010	\$ 25.5	\$ 7.7
2011	29.4	9.3
2012	34.1	10.2
2013	33.9	10.2
2014	43.7	13.7
2015	47.2	13.9
2016	46.9	13.9
2017	45.8	13.2

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 the District Court. An optional \$5 processing fee may be charged by and 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 owed the State. In FY 2016 and FY 2017, respectively, totals of \$243,036 and \$184,855 were collected. Out of the 25 counties collecting, Polk County collected the most with a total of \$96,633 in FY 2017.

Professional Licensing. If an individual owes at least \$1,000 in debt collected by the CCU, the CCU can request that the professional license of the individual be suspended, revoked, denied issuance, or denied renewal, unless the individual's court debt is paid or placed in a payment plan. The procedure for license sanctions is set out in Iowa Code chapter [272D](#). In FY 2015, there were 1,242 license sanction warning letters, and 392 license sanctions requested for failure to pay. In FY 2016, there were only seven license sanction warning letters sent and 72 license sanctions requested due to the new law removing the CCU from the collections process.

In FY 2017, the CCU returned all remaining court debt accounts to the Judicial Branch and no longer collects court debt through this Program. However, the CCU is currently used to collect unpaid taxes and debt owed to the Department of Natural Resources.

Driver's License Sanctions. If an individual has delinquent court debt, the Clerk of the District Court sends a notification letter requesting payment or entrance into a payment plan within 60 days from the date of the mailing. If the individual does not comply, the Clerk of the

⁴ A majority of the income offset revenue is from delinquent debt owed to the Judicial Branch and the DOR. Other entities recovering delinquent debt through the Program include: the Department of Human Services, Iowa Workforce Development, Department of Inspections and Appeals, Internal Revenue Service, Iowa State University, University of Iowa, University of Northern Iowa, and Political Subdivisions (cities, community colleges, municipal utilities, counties, and housing authorities).

District Court will notify the DOT of the individual's failure to pay. Once the DOT has been notified of the delinquency, the DOT sends an official notice of driver's license suspension to that individual.

After a license suspension, an individual may only have a license reinstated once the DOT receives proof that the fine or debt has been paid in full, or the Clerk of the District Court asks the DOT to withdraw the suspension because the fine or debt has been paid in full or placed in a payment plan. Once the suspension for failure to pay has ended, the person may reinstate his or her driver's license by paying a \$20 reinstatement fee.⁵ In FY 2017, there were 65,375 driver's license sanctions for nonpayment of Iowa fines issued by the DOT, accounting for 45.0% of all driver's license sanctions in that fiscal year. Since individuals may have more than one non-payment of fine sanction, there were 35,210 individuals that received one or more sanctions in FY 2017.

FINDINGS

The court debt collection system implemented in FY 2017 is reflected in the actual collection totals for the private debt collector and county attorneys. Both entities have experienced an increase in revenue due to the assignment of debt at the time of delinquency, instead of at 90 days under the prior system. Although revenue has increased for both county attorneys and the private debt collector, the amount of court debt revenue in general has decreased over the past two fiscal years. This decrease may be caused by factors unrelated to the court debt collections systems, such as a decrease in filings, but the debt collection transition phases in FY 2016 and FY 2017 likely also account for the decrease. Collections by both the private debt collector and county attorneys should be monitored over the next several fiscal years to compare the current system's effectiveness to the previous collection system. As the court debt collection system continues to evolve, legislators may consider the impact on the State General Fund and the criminal justice system, as well as the amount of resources being devoted to collection.

In a 2016 criminal justice debt study by the Criminal Justice Policy Program at Harvard Law School, several legislative and judicial reforms were recommended for court debt collection.⁶ The State of Iowa has already implemented several of the reforms recommended by this study, such as the amnesty program and diversion courts. Many of these reforms are based on the consideration of fines versus fees, and whether the purpose is for punishment or to provide a source of revenue. These recommendations include:

- Eliminate surcharges imposed on criminal defendants.
- Eliminate fines and fees imposed prior to adjudication of guilt.
- Monitor and eliminate racial disparities.
- End the use of collection of mechanisms that act as "poverty traps."
- Discontinue the use of driver's license and professional license suspensions.
- Create statutes of limitation for debt collection.
- Authorize alternatives to monetary sanctions.
- Create amnesty programs.
- Create diversion courts.
- Require that criminal justice debt statements be issued to defendants.

⁵ Iowa Code §§[321.210A](#) and [321.191](#); Iowa Department of Transportation, iowadot.gov/mvd/driverslicense/suspensions-and-revocations.

⁶ Confronting Criminal Justice Debt: A Guide for Policy Reform, Criminal Justice Policy Program, Harvard Law School (September 2016) cipp.law.harvard.edu/publications/confrontingcjdebt.

The study also examines the factors that may affect a person's ability to pay off debt. In Iowa, a private debt collector can charge and retain an additional 25.0% of the outstanding debt. This could create more of a financial burden to a population with insufficient resources to settle court debt for a variety of reasons. The study also discusses the "poverty trap" that may be created by the suspension of driver's or professional licenses. Nearly 40.0% of license suspensions nationwide stem from unpaid fines, missed child support payments, and drug offenses. Those who oppose the use of these sanctions argue that it takes away a person's means of making a living and ability to pay off debts. In addition, the study notes that suspension programs are often expensive to administer and may outweigh the benefits. As a result, the study recommends phasing out these programs, at least in situations in which it is found that the defendant is unable to pay, rather than unwilling to pay.

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.⁷ The Harvard study recommends requiring that criminal justice debt statements be issued to defendants and read in court at the time of sentencing. These statements would itemize all amounts that the individual owes toward fees, fines, restitution, and other assessments, the legal basis for each amount, and the due date. It would also include clear instructions on what to do if a person is unable to pay the debt.

Of Iowa's total \$731.9 million in outstanding court debt, \$248.3 million (34.0%) is more than 10 years old. 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 from the date of imposition. In addition, the Judicial Branch receives monthly updates from the Department of Public Health in order to write off the debts of deceased persons. The Judicial Branch does not write off court debt for bankruptcy. A portion of the outstanding court debt is unrecoverable for various reasons, and it may be beneficial to determine the amount and remove it from expected collections.

With the legislative changes undertaken in FY 2017, 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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⁷ Michigan Trial Court Collections Standards and Guidelines, Michigan State Court Administrative Office, December 2016, courts.mi.gov/Administration/SCAO/Resources/Documents/standards/cl_stds.pdf