

Judiciary
Doyle, Chairperson
Delahery
Taylor

*Amend for 5038
2/26 Passed 2/24/82 (p. 321)*

Reprinted 2/11/82

FILED MAR 6 1987

SENATE FILE 367

BY RAMSEY, LURA, MILLER of
Des Moines, JENSEN, NYSTROM,
JUNKINS, CARR, SCHWENGELS,
RUSH, RODGERS, BAUGHER AND
BISENIUS

Passed Senate, Date 2-8-82 (p. 321) Passed House, Date _____
Vote: Ayes 46 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to money received by criminals as a result
2 of the commission of crime.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SENATE FILE 367

S-5058

- 1 Amend Senate File 367 as follows:
- 2 1. Page 1, line 14, by striking the word "benefit"
- 3 and inserting in lieu thereof the word "benefit".
- 4 2. Page 1, line 27, by inserting after the period
- 5 the following: "Costs of publication of this legal
- 6 notice shall be paid from the escrow account."
- 7 3. Page 2, line 4, by inserting after the word
- 8 "the" the word "criminal".

S-5058 FILED
FEBRUARY 3, 1982
Adopted 2/5 (p. 321)

BY LUCAS J. DeKOSTER

SENATE FILE 367

S-5038

- 1 Amend Senate File 367 as follows:
- 2 1. Page 1, line 5, by striking the word "accused"
- 3 and inserting in lieu thereof the words "initially
- 4 convicted".
- 5 2. Page 1, lines 16 and 17, by striking the words
- 6 " , provided that the person is eventually convicted of
- 7 the crime and".
- 8 3. Page 1, line 17, by striking the word "further".

S-5038 FILED
JANUARY 26, 1982
Adopted 2/8 (p. 321)

BY COMMITTEE ON JUDICIARY
LUCAS J. DE KOSTER, CHAIR

1 Section 1. NEW SECTION. DISTRIBUTION OF MONEYS RECEIVED
2 AS A RESULT OF THE COMMISSION OF CRIME.

3 1. Every person, firm, corporation, partnership,
4 association, or other legal entity contracting with any person
5 or the representative or assignee of any person, accused of
6 a crime in this state, shall pay over to the attorney general
7 any money received from the reenactment of the crime, by way
8 of a movie, book, magazine article, radio or television
9 presentation, live entertainment of any kind, or from the
10 expression of the person's thoughts, feelings, opinions, or
11 emotions regarding the crime, which money would otherwise,
12 by terms of the contract, be owing to the person so convicted
13 or the person's representatives. The attorney general shall
14 deposit the money in an escrow account for the benefit of and
15 payable to any victim or representative of the victim of
16 crimes committed by the person, provided that the person is
17 eventually convicted of the crime and provided further that
18 the victim, within five years of the date of the crime, brings
19 a civil action in a court of competent jurisdiction and
20 recovers a money judgment against the person or the person's
21 representatives.

22 2. The attorney general, at least once every six months
23 for five years from the date the money is received, shall
24 publish a legal notice in the newspapers of general circulation
25 in each county of the state advising the victims that the
26 escrow money is available to satisfy money judgments pursuant
27 to this section.

28 3. Upon disposition of charges favorable to any person
29 accused of committing a crime, or upon a showing by the person
30 that five years have elapsed from the establishment of the
31 escrow account and further that no actions are pending against
32 the person, the attorney general shall immediately pay over
33 any money in the escrow account to the person.

34 4. Notwithstanding the other provisions of this section,
35 the attorney general shall make payments from the escrow

1 account to the person accused of the crime upon the order
2 of a court of competent jurisdiction after a showing by the
3 person that the money shall be used for the exclusive purpose
4 of retaining legal representation at any stage of the
5 proceedings against the person, including the appeals process.

6 5. An action taken by a person convicted of a crime,
7 whether by way of execution of a power of attorney, creation
8 of corporate entities, or otherwise, to defeat the purpose
9 of this section is null and void as against the public policy
10 of this state.

11 EXPLANATION

12 This bill provides for the establishment of an escrow
13 account for money which otherwise would be received by a
14 person who attempts to commercially profit from the person's
15 crime.

16 The money would be held in the account for five years
17 unless charges against the person were disposed of favorably
18 to the person. The money would be payable to the victim of
19 the crime upon the successful bringing of a civil action by
20 the victim. The money could also be used for the defense
21 of the accused.

22 The attorney general is required to periodically publish
23 a legal notice of the escrow money available to satisfy the
24 money judgment.

25 The bill would take effect July 1 following its enactment.

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SENATE FILE 367
FISCAL NOTE

REQUESTED BY SENATOR DE KOSTER

In compliance with a written request there is hereby submitted a Fiscal Note for Senate File 367 pursuant to Joint Rule 16.

S.F. 367 is An Act relating to money received by criminals as a result of the commission of crime.

The fiscal effect would be minimal.

SOURCE: ATTORNEY GENERAL

FILED:
FEBRUARY 3, 1982

BY GERRY RANKIN, DIRECTOR
LEGISLATIVE FISCAL BUREAU

Judiciary and Law Enforcement: Trucano, Chair; Pelton and Jay.

SENATE FILE 367

Do Pass per 5471 3/18 (p. 894)

BY RAMSEY, LURA, MILLER of
Des Moines, JENSEN, NYSTROM,
JUNKINS, CARR, SCHWENGELS,
RUSH, RODGERS, BAUGHER AND
BISENIUS

(AS AMENDED AND PASSED BY THE SENATE FEBRUARY 8, 1982)

Re Passed Senate, Date 4-12-82 (p. 1134) Passed House, Date 3-29-82 (p. 1074)

Vote: Ayes 49 Nays 0 Vote: Ayes 91 Nays 0

Approved 5-19-82

A BILL FOR

1 An Act relating to money received by criminals as a result
2 of the commission of crime.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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————— = New Language
by the Senate
* = Language Stricken
by the Senate

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2 AS A RESULT OF THE COMMISSION OF CRIME.

3 1. Every person, firm, corporation, partnership,
4 association, or other legal entity contracting with any person
5 or the representative or assignee of any person, initially
6 convicted of a crime in this state, shall pay over to the
7 attorney general any money received from the reenactment of
8 the crime, by way of a movie, book, magazine article, radio
9 or television presentation, live entertainment of any kind,
10 or from the expression of the person's thoughts, feelings,
11 opinions, or emotions regarding the crime, which money would
12 otherwise, by terms of the contract, be owing to the person
13 so convicted or the person's representatives. The attorney
14 general shall deposit the money in an escrow account for the
15 benefit of and payable to any victim or representative of
* 16 the victim of crimes committed by the person provided that
17 the victim, within five years of the date of the crime, brings
18 a civil action in a court of competent jurisdiction and
19 recovers a money judgment against the person or the person's
20 representatives.

21 2. The attorney general, at least once every six months
22 for five years from the date the money is received, shall
23 publish a legal notice in the newspapers of general circulation
24 in each county of the state advising the victims that the
25 escrow money is available to satisfy money judgments pursuant
26 to this section. Costs of publication of this legal notice
27 shall be paid from the escrow account.

28 3. Upon disposition of charges favorable to any person
29 accused of committing a crime, or upon a showing by the person
30 that five years have elapsed from the establishment of the
31 escrow account and further that no actions are pending against
32 the person, the attorney general shall immediately pay over
33 any money in the escrow account to the person.

34 4. Notwithstanding the other provisions of this section,
35 the attorney general shall make payments from the escrow

1 account to the person accused of the crime upon the order
2 of a court of competent jurisdiction after a showing by the
3 person that the money shall be used for the exclusive purpose
4 of retaining legal representation at any stage of the criminal
5 proceedings against the person, including the appeals process.

6 5. An action taken by a person convicted of a crime,
7 whether by way of execution of a power of attorney, creation
8 of corporate entities, or otherwise, to defeat the purpose
9 of this section is null and void as against the public policy
10 of this state.

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SENATE FILE 367

H-5477

- 1 Amend Senate File 367 as amended, passed and
2 reprinted by the Senate, as follows:
- 3 1. Page 1, line 7, by inserting after the word
4 "money" the words "or other compensation".
- 5 2. Page 1, line 11, by inserting after the word
6 "money" the words "or other compensation".
- 7 3. Page 1, line 14, by inserting after the word
8 "money" the words "or other compensation".
- 9 4. Page 1, by striking lines 16 through 20 and
10 inserting in lieu thereof the following: "the victim,
11 who recovers a money judgment against the person or
12 the person's representatives. Notwithstanding section
13 614.1, a victim or the victim's representative who
14 has a cause of action for a crime for which an escrow
15 account or receivership is established pursuant to
16 this section, may bring the action against the escrow
17 account or against the property in receivership within
18 five years of the date the escrow account is
19 established.
- 20 When the nature of the compensation to the person
21 initially convicted of the crime is such that it
22 cannot be placed in an escrow account, the attorney
23 general shall assume the powers of a receiver under
24 chapter 680 in taking charge of the property for
25 benefit of and payable to any victim or representative
26 of the victim. In those instances, the date the
27 attorney general assumed the power of a receiver,
28 shall be considered the date an escrow account was
29 established for purposes of this section."
- 30 5. Page 1, by striking lines 21 through 27 and
31 inserting in lieu thereof the following:
- 32 "2. Once an escrow account or receivership is
33 established, the attorney general shall make reasonable
34 efforts to notify victims and representatives of
35 victims of the escrow account or receivership and
36 their possible rights under this section. The
37 reasonable efforts shall include but are not limited
38 to mailing the notification to known victims or
39 representatives of known victims. The cost of
40 notification shall be paid from the escrow account
41 or from the sale of property held in receivership."
- 42 6. Page 1, line 30, by inserting after the words
43 "from the" the words "date of".
- 44 7. Page 2, line 1, by inserting after the word
45 "account" the words "or property held in receivership".
- 46 8. Page 2, line 3, by inserting after the word
47 "money" the words "or other property".



H-5099

1 Amend Senate File 367 as amended, passed and
2 reprinted by the Senate, as follows:

3 1. Page 2, by inserting after line 10 the
4 following:

5 "Sec. ____ . NEW SECTION. A person committed to
6 the custody of the division of adult corrections shall
7 pay to the department of social services from income
8 which is not earned as a result of the person working
9 in an institution under the control of the division
10 of adult corrections and which is not needed to support
11 dependents of the person committed, the costs of
12 maintaining that person as an inmate in the state
13 institution. The director of the division of adult
14 corrections shall determine the income of the inmate
15 available for payment and the income which is eligible
16 to be used to reimburse the state, and take action
17 pursuant to legal procedures to have the inmate's
18 eligible income placed under control of the state
19 and deposited in a special fund in the state treasury
20 to be used to reimburse the state for the actual cost
21 of maintaining the inmate. The director of the
22 division of adult corrections may initiate legal
23 remedies provided by law for the collection of debts
24 to enforce this section.

25 Funds deposited in the special fund may be invested
26 on behalf of the inmate and the state in financial
27 instruments insured by the federal deposit insurance
28 corporation or guaranteed by the United States
29 government. Income earned on the principal shall
30 first be used to reimburse the state before the
31 principal is used. The balance of funds remaining
32 in the special fund and credited to the inmate shall
33 be returned to the inmate when the inmate is discharged
34 and no longer is a financial burden to the state."

35 2. Title page, line 1, by inserting after the
36 word "money" the words "available to persons under
37 the custody of the division of adult corrections
38 through legitimate means or".

H-5099 FILED FEBRUARY 11, 1982

BY TYRRELL of Iowa

H/O 3/29 (p. 1074)

SENATE FILE 367

H-5587

1 Amend Senate File 367, as follows:

2 1. Title page, line 1, by inserting, after the
3 word "money" the words "or other compensation".

H-5587 FILED MARCH 29, 1982

ADOPTED BY UNANIMOUS CONSENT

BY TRUCANO of Polk

(p. 1074)

HOUSE AMENDMENT TO SENATE FILE 367

S-5419

Amend Senate File 367 as amended, passed and reprinted by the Senate, as follows:

1. Page 1, line 7, by inserting after the word "money" the words "or other compensation".
2. Page 1, line 11, by inserting after the word "money" the words "or other compensation".
3. Page 1, line 14, by inserting after the word "money" the words "or other compensation".
4. Page 1, by striking lines 16 through 20 and inserting in lieu thereof the following: "the victim, who recovers a money judgment against the person or the person's representatives. Notwithstanding section 614.1, a victim or the victim's representative who has a cause of action for a crime for which an escrow account or receivership is established pursuant to this section, may bring the action against the escrow account or against the property in receivership within five years of the date the escrow account is established.

When the nature of the compensation to the person initially convicted of the crime is such that it cannot be placed in an escrow account, the attorney general shall assume the powers of a receiver under chapter 680 in taking charge of the property for benefit of and payable to any victim or representative of the victim. In those instances, the date the attorney general assumed the power of a receiver, shall be considered the date an escrow account was established for purposes of this section."

5. Page 1, by striking lines 21 through 27 and inserting in lieu thereof the following:
"2. Once an escrow account or receivership is established, the attorney general shall make reasonable efforts to notify victims and representatives of victims of the escrow account or receivership and their possible rights under this section. The reasonable efforts shall include but are not limited to mailing the notification to known victims or representatives of known victims. The cost of notification shall be paid from the escrow account or from the sale of property held in receivership."

6. Page 1, line 30, by inserting after the words "from the" the words "date of".
7. Page 2, line 1, by inserting after the word "account" the words "or property held in receivership".
8. Page 2, line 3, by inserting after the word "money" the words "or other property".
9. Title page, line 1, by inserting, after the word "money" the words "or other compensation".

S-5419 FILED
MARCH 31, 1982

RECEIVED FROM THE HOUSE

Senate concurred 4/12 (p. 1133)

SENATE FILE 367

AN ACT

RELATING TO MONEY OR OTHER COMPENSATION RECEIVED BY CRIMINALS
AS A RESULT OF THE COMMISSION OF CRIME.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

Section 1. NEW SECTION. DISTRIBUTION OF MONEYS RECEIVED
AS A RESULT OF THE COMMISSION OF CRIME.

1. Every person, firm, corporation, partnership, association, or other legal entity contracting with any person, or the representative or assignee of any person, initially convicted of a crime in this state, shall pay over to the attorney general any money or other compensation received from the reenactment of the crime, by way of a movie, book, magazine article, radio or television presentation, live entertainment of any kind, or from the expression of the person's thoughts, feelings, opinions, or emotions regarding the crime, which money or other compensation would otherwise, by terms of the contract, be owing to the person so convicted or the person's representatives. The attorney general shall deposit the money or other compensation in an escrow account for the benefit of and payable to any victim or representative of the victim, who recovers a money judgment against the person or the person's representatives. Notwithstanding section 514.1, a victim or the victim's representative who has a cause of action for a crime for which an escrow account or receivership is established pursuant to this section, may bring the action against the escrow account or against the property in receivership within five years of the date the escrow account is established.

When the nature of the compensation to the person initially convicted of the crime is such that it cannot be placed in an escrow account, the attorney general shall assume the powers of a receiver under chapter 680 in taking charge of the property for benefit of and payable to any victim or representative of the victim. In those instances, the date the attorney general assumed the power of a receiver, shall be considered the date an escrow account was established for purposes of this section.

2. Once an escrow account or receivership is established, the attorney general shall make reasonable efforts to notify victims and representatives of victims of the escrow account or receivership and their possible rights under this section. The reasonable efforts shall include but are not limited to mailing the notification to known victims or representatives of known victims. The cost of notification shall be paid from the escrow account or from the sale of property held in receivership.

3. Upon disposition of charges favorable to any person accused of committing a crime, or upon a showing by the person that five years have elapsed from the date of establishment of the escrow account and further that no actions are pending against the person, the attorney general shall immediately pay over any money in the escrow account to the person.

4. Notwithstanding the other provisions of this section, the attorney general shall make payments from the escrow account or property held in receivership to the person accused of the crime upon the order of a court of competent jurisdiction after a showing by the person that the money or other property shall be used for the exclusive purpose of retaining legal representation at any stage of the criminal proceedings against the person, including the appeals process.

5. An action taken by a person convicted of a crime, whether by way of execution of a power of attorney, creation of corporate entities, or otherwise, to defeat the purpose

of this section is null and void as against the public policy of this state.

TERRY E. BRANSTAD
President of the Senate

DELWYN STROMER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 367, Sixty-ninth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved May 19, 1982

ROBERT D. RAY
Governor