

SENATE FILE 4

Judiciary
Mann. Chair
Gentleman
Horn

To Pass 1/30 (p. 264)

House Judiciary 2/8 To Pass 2/25 (p. 530)

JAN 10 1983

SENATE FILE 4

By DOYLE

Senate File 4

Judiciary and Law Enforcement. Parker. Chair: Clark and Holveck.

Passed Senate, Date 1-31-83 (p. 285) Passed House, Date 3-11-83 (p. 299)

Vote: Ayes 41 Nays 0 Vote: Ayes 93 Nays 0

Approved March 29 1983 (p. 1011)

A BILL FOR

1 An Act relating to the performance of public service as restitu-
2 tion by offenders not reasonably able to pay all or part of
3 court costs, court-appointed attorney's fees, or the expense
4 of a public defender.

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

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S.F. 4

1 Section 1. Section 910.1, subsection 4, Code 1983, is
2 amended to read as follows:

3 4. "Restitution" means payment of pecuniary damages to
4 a victim in an amount and in the manner provided by the of-
5 fender's plan of restitution. Restitution shall also include
6 the payment of court costs, court-appointed attorney's fees
7 or the expense of a public defender, and the performance of
8 a public service by an offender in an amount set by the court
9 when ~~no-victim-has-suffered-pecuniary-damages-and~~ the offender
10 cannot reasonably pay all or part of the court costs, court-
11 appointed attorney's fees, or the expense of a public defender.

12 Sec. 2. Section 910.2, Code 1983, is amended to read as
13 follows:

14 910.2 RESTITUTION ORDERED BY SENTENCING COURT. In all
15 criminal cases except simple misdemeanors under chapter 321,
16 in which there is a plea of guilty, verdict of guilty, or
17 special verdict upon which a judgment of conviction is ren-
18 dered, the sentencing court shall order that restitution be
19 made by each offender to the victims of ~~his-or-her~~ the
20 offender's criminal activities and, to the extent that the
21 offender is reasonably able to do so, to the county where
22 conviction was rendered for court costs, court-appointed
23 attorney's fees or the expense of a public defender when
24 applicable. However, victims shall be paid in full before
25 restitution payments are paid to the county for court costs,
26 court-appointed attorney's fees or for the expense of a public
27 defender. When ~~no-victim-has-suffered-pecuniary-damages-and~~
28 the offender is not reasonably able to pay all or a part of
29 the court costs, court-appointed attorney's fees or the expense
30 of a public defender, the court may require the offender in
31 lieu of that portion of the court costs, court-appointed
32 attorney's fees, or expense of a public defender for which
33 the offender is not reasonably able to pay, to perform a
34 needed public service for any governmental agency or for a
35 private, nonprofit agency which provides a service to the

1 youth, elderly or poor of the community. When community
2 service is ordered, the court shall set a specific number
3 of hours of service to be performed by the offender. The
4 judicial district department of correctional services shall
5 provide for the assignment of the offender to a public agency
6 or private nonprofit agency to perform the required service.

7 Sec. 3. This Act applies only to persons sentenced on
8 or after its effective date.

9 EXPLANATION

10 This bill provides that the performance of public service
11 may be made as restitution for the payment of all or part
12 of court costs, court-appointed attorney's fees, or the expense
13 of a public defender, when the offender is not reasonably
14 able to pay those costs. The bill does not alter the
15 offender's obligation to the victim to pay restitution.
16 Presently, public service sentencing in lieu of the payment
17 of all or part of court costs, court-appointed attorney's
18 fees or the expense of a public defender by an offender not
19 reasonably able to pay the same, is available only when no
20 victim has suffered pecuniary damages.

21 This Act takes effect July 1 following its enactment and
22 applies to persons sentenced on or after that date.

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SENATE FILE 4

AN ACT

RELATING TO THE PERFORMANCE OF PUBLIC SERVICE AS RESTITUTION
BY OFFENDERS NOT REASONABLY ABLE TO PAY ALL OR PART OF
COURT COSTS, COURT-APPOINTED ATTORNEY'S FEES, OR THE EX-
PENSE OF A PUBLIC DEFENDER.

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

Section 1. Section 910.1, subsection 4, Code 1983, is
amended to read as follows:

4. "Restitution" means payment of pecuniary damages to
a victim in an amount and in the manner provided by the of-
fender's plan of restitution. Restitution shall also include
the payment of court costs, court-appointed attorney's fees
or the expense of a public defender, and the performance of

a public service by an offender in an amount set by the court
~~when no-victim-has-suffered-pecuniary-damages-and~~ the offender
cannot reasonably pay all or part of the court costs, court-
appointed attorney's fees, or the expense of a public defender.

Sec. 2. Section 910.2, Code 1983, is amended to read as
follows:

910.2 RESTITUTION ORDERED BY SENTENCING COURT. In all
criminal cases except simple misdemeanors under chapter 321,
in which there is a plea of guilty, verdict of guilty, or
special verdict upon which a judgment of conviction is ren-
dered, the sentencing court shall order that restitution be
made by each offender to the victims of ~~his-or-her~~ the
offender's criminal activities and, to the extent that the
offender is reasonably able to do so, to the county where
conviction was rendered for court costs, court-appointed
attorney's fees or the expense of a public defender when
applicable. However, victims shall be paid in full before
restitution payments are paid to the county for court costs,
court-appointed attorney's fees or for the expense of a public
defender. When ~~no-victim-has-suffered-pecuniary-damages-and~~
the offender is not reasonably able to pay all or a part of
the court costs, court-appointed attorney's fees or the expense
of a public defender, the court may require the offender in
lieu of that portion of the court costs, court-appointed
attorney's fees, or expense of a public defender for which
the offender is not reasonably able to pay, to perform a
needed public service for any governmental agency or for a
private, nonprofit agency which provides a service to the
youth, elderly or poor of the community. When community
service is ordered, the court shall set a specific number
of hours of service to be performed by the offender. The
judicial district department of correctional services shall
provide for the assignment of the offender to a public agency
or private nonprofit agency to perform the required service.

Sec. 3. This Act applies only to persons sentenced on or after its effective date.

ROBERT T. ANDERSON
President of the Senate

DONALD D. AVENSON
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 4, Seventieth General Assembly.

K. MARIE THAYER
Secretary of the Senate

Approved March 29, 1983

TERRY E. BRANSTAD
Governor