

House Study Bill 257

Conference Committee Text

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1 1 Section 1. NEW SECTION. 909A.1 PILOT PROGRAM ESTABLISHED
1 2 &endash; DURATION.
1 3 The department of human rights, division of criminal and
1 4 juvenile justice planning, in cooperation with selected
1 5 governmental entities, may establish a pilot program to expand
1 6 the use of the structured fines concept in counties and
1 7 judicial districts also wishing to participate in the pilot
1 8 program. Sections 909A.2 through 909A.5 shall apply only
1 9 within those counties which have previously contracted with
1 10 the department of human rights, division of criminal and
1 11 juvenile justice planning, to operate a structured fines pilot
1 12 project and currently have a structured fines pilot site in
1 13 operation, and in those counties and judicial districts with
1 14 whom the department of human rights, division of criminal and
1 15 juvenile justice planning has a current agreement regarding
1 16 participation in the structured fines pilot program, from the
1 17 effective date of this Act through June 30, 1998.
1 18 The department of human rights, division of criminal and
1 19 juvenile justice planning, shall enter into agreements of
1 20 participation in the pilot program with interested
1 21 governmental entities to the extent that start-up funding is
1 22 available to the division, and shall choose from among
1 23 interested sites following an open and competitive selection
1 24 process involving selection criteria to be adopted by the
1 25 division. To be eligible for consideration, an interested
1 26 site must be able to assure the involvement and cooperation of
1 27 the site's county attorney and court officials, including the
1 28 clerk of the district court; the appropriate judicial district
1 29 department of correctional services; and any other agency or
1 30 official to be affected by the pilot site activities.
1 31 Sec. 2. NEW SECTION. 909A.2 PAYMENT IN INSTALLMENTS OR
1 32 ON A FIXED FUTURE DATE &endash; INSTALLMENT FEE AND INTEREST &endash;
1 33 STRUCTURED CIVIL PENALTY.
1 34 1. If the district court orders a structured fine,
1 35 structured civil penalty, or structured civil penalty
2 1 surcharge imposed pursuant to this chapter, the criminal
2 2 penalty surcharge for a structured fine imposed pursuant to
2 3 chapter 911, indigent defense fees assessed as restitution
2 4 pursuant to chapter 910 for a case in which a structured fine
2 5 or structured civil penalty was imposed, or court costs
2 6 assessed pursuant to chapter 602 for a case in which a
2 7 structured fine or structured civil penalty was imposed, to be
2 8 paid in installments or at a fixed date in the future, the
2 9 court shall do all of the following:
2 10 a. Impose a time payment fee in the amount of twenty-five
2 11 dollars.
2 12 b. Impose interest charges on the unsatisfied judgment
2 13 from the date of sentencing at the rate provided in section
2 14 535.3 for court judgments.
2 15 2. Notwithstanding any other provision of law to the
2 16 contrary, when a deferred judgment or deferred sentence is
2 17 entered by the court pursuant to chapter 907, the court may
2 18 impose a structured civil penalty that is calculated in the
2 19 same manner as a structured fine. The structured civil
2 20 penalty shall be subject to a structured civil penalty
2 21 surcharge equal to the criminal penalty surcharge under

2 22 section 911.2. The structured civil penalty and the
2 23 structured civil penalty surcharge shall be disbursed in the
2 24 manner provided for in section 909A.4, subsection 2.

2 25 Sec. 3. NEW SECTION. 909A.3 NO MINIMUM FINE.

2 26 Notwithstanding any other provisions of law, a structured
2 27 fine imposed pursuant to this chapter in a county
2 28 participating in the structured fines pilot program shall not
2 29 be required to be imposed in any minimum amount.

2 30 Sec. 4. NEW SECTION. 909A.4 DISTRIBUTION OF CERTAIN FEES
2 31 UNDER THE STRUCTURED FINES PILOT PROGRAM.

2 32 1. Upon receiving payment of the time payment fee, the
2 33 clerk of the district court shall remit all time payments fees
2 34 collected by the fifteenth day of the month following payment
2 35 to the governmental entity having overall responsibility for
3 1 the operation of the structured fines pilot program within the
3 2 county. Upon receiving payment of interest charges, the clerk
3 3 of the district court shall remit all interest charges
3 4 collected by the fifteenth day of the month following payment
3 5 to the treasurer of state to be credited to the general fund
3 6 of the state.

3 7 2. Notwithstanding any other provision of law, the clerk
3 8 of the district court for a county participating in a
3 9 structured fines pilot program shall remit by the fifteenth
3 10 day of the month following payment fifteen percent of all
3 11 structured fines, criminal penalty surcharges, structured
3 12 civil penalties, structured civil penalty surcharges, indigent
3 13 defense fees, court costs, and any other assessed fees, other
3 14 than payment of pecuniary damages to a victim as defined in
3 15 section 910.1, collected in cases where a structured fine or
3 16 structured civil penalty was imposed, to the governmental
3 17 entity having overall responsibility for the operation of the
3 18 structured fines pilot program within the county and the
3 19 remaining eighty-five percent to the treasurer of state for
3 20 deposit in the general fund of the state.

3 21 3. The governmental entity having overall responsibility
3 22 for the operation of the structured fines pilot program within
3 23 the county and receiving structured fines moneys from the
3 24 clerk of the district court pursuant to this section shall:

3 25 a. Establish a separate accounting or bank account, into
3 26 which only the structured fines moneys received from the clerk
3 27 of the district court shall be recorded or deposited. A
3 28 system shall be established to provide adequate fund
3 29 accountability so as to ensure that structured fines moneys
3 30 received from the clerk of the district court are accounted
3 31 for separately from other funds. The moneys in the structured
3 32 fines account shall be used only to pay the costs of
3 33 structured fines pilot program operations.

3 34 b. Ensure that the balance in the structured fines account
3 35 does not exceed, at the end of the fiscal year, the total
4 1 amount of the structured fines moneys received from the clerk
4 2 of the district court within the preceding three calendar
4 3 months. For purposes of complying with this maximum balance
4 4 provision, moneys expended or obligated by the end of the
4 5 current fiscal year, or moneys budgeted for expenditure during
4 6 the first quarter of the next fiscal year, shall be considered
4 7 to have reduced the structured fines account whether or not
4 8 actually charged by the bank or credited to the accounting
4 9 records. Any moneys in excess of the maximum account balance
4 10 provision at the end of the fiscal year shall be remitted to
4 11 the treasurer of state to be credited to the general fund of
4 12 the state.

4 13 c. Ensure that upon the termination of structured fines
4 14 operations within the county, all unexpended and unobligated
4 15 moneys contained in the structured fines account are remitted
4 16 within sixty days of the termination of structured fines
4 17 operations to the treasurer of state to be credited to the
4 18 general fund of the state.

4 19 Sec. 5. NEW SECTION. 909A.5 STRUCTURED FINE AND
4 20 STRUCTURED CIVIL PENALTY AS JUDGMENT.

4 21 If a court has imposed a structured fine or structured
4 22 civil penalty on a defendant, the judgment in the case shall
4 23 state the amount of the structured fine or structured civil
4 24 penalty assessed, the amount of the criminal penalty surcharge
4 25 or structured civil penalty surcharge assessed, the amount of
4 26 the court costs assessed, the amount of any time payment fee
4 27 assessed, the amount of any indigent defense fees assessed as
4 28 restitution, and the type and amount of any other applicable
4 29 fees assessed in the case. At the time of imposing sentence,
4 30 the court shall inform the defendant of the type and amount of
4 31 the assessments imposed, and that the assessments have the
4 32 force and effect of a judgment against the defendant in the
4 33 total amount of the assessments imposed. The court shall also
4 34 inform the offender of the duty to pay the judgment in a
4 35 timely manner.

5 1 The law relating to judgment liens, executions, and other
5 2 process available to creditors for the collection of debts
5 3 shall be applicable to such judgments. However, no law
5 4 exempting the personal property of the offender from any lien
5 5 or legal process shall be applicable to such judgments.

5 6 Sec. 6. NEW SECTION. 909A.6 REPEAL.

5 7 This chapter is repealed July 1, 1998.

5 8 Sec. 7. REPEALS.

5 9 1. 1992 Iowa Acts, chapter 1202, is repealed.

5 10 2. 1993 Iowa Acts, chapter 81, is repealed.

5 11 Sec. 8. EFFECTIVE DATE. This Act, being deemed of
5 12 immediate importance, takes effect upon enactment.

5 13 EXPLANATION

5 14 This bill amends and codifies the structured fines pilot
5 15 program created in 1992 Iowa Acts, chapter 1202, as amended by
5 16 1993 Iowa Acts, chapter 81. The bill creates a new chapter
5 17 909A for the pilot program.

5 18 The bill provides that when a court imposes a structured
5 19 fine, civil penalty, or surcharge or indigent defense fees or
5 20 court costs assessed as restitution in a case in which a
5 21 structured fine or civil penalty is imposed, and orders
5 22 payment in installments or at a fixed future date, a time
5 23 payment fee of \$25 will be imposed and interest at the rate
5 24 required for court judgments shall be assessed against the
5 25 unpaid balance from the date of sentencing. The bill also
5 26 provides that a structured civil penalty may be imposed in
5 27 cases where a deferred judgment or deferred sentence is
5 28 entered by the court.

5 29 The bill retains the provision in the existing pilot
5 30 program allowing a structured fine to be imposed without
5 31 regard for any minimum fine amount provisions contained
5 32 elsewhere in state law. The bill provides for the
5 33 distribution of time payment fees and 15 percent of the
5 34 structured fines, penalties, and surcharges and indigent
5 35 defense fees and court costs in structured fine or penalty
6 1 cases, to the governmental entity operating the pilot program,
6 2 if not the county, and the remaining 85 percent as well as all
6 3 interest received to the treasurer of state for deposit in the
6 4 general fund of the state. The bill also provides that a
6 5 structured fine or penalty shall be considered a judgment
6 6 allowing normal means of collection of judgments to apply.

6 7 The bill authorizes the division of criminal and juvenile
6 8 justice planning to enter into agreements with interested
6 9 governmental entities regarding joining the pilot program.

6 10 The bill takes effect immediately and is repealed effective
6 11 July 1, 1998.

6 12 BACKGROUND STATEMENT

6 13 SUBMITTED BY THE AGENCY

6 14 Preliminary data from the existing structured fines pilot
6 15 site tend to indicate success in achieving many of the

6 16 project's goals. The number of cases wherein the fine was
6 17 paid in full and the percentage of fine dollars collected in
6 18 comparison to the total fine dollars assessed has
6 19 approximately doubled when compared to the collection data
6 20 from the pilot site in the year immediately preceding the
6 21 start of the pilot project. Offender accountability as
6 22 measured by paying at least a portion of the fine imposed has
6 23 almost doubled. The data tend to indicate that more offenders
6 24 are being held accountable, and fines are being collected at a
6 25 substantially higher rate. Based on the apparent successes of
6 26 the existing pilot project, it is proposed that the use of
6 27 structured fines be expanded by the establishment of
6 28 additional pilot sites.

6 29 The changes proposed in this legislation would extend the
6 30 sunset date of the enabling legislation for a three-year
6 31 period, thereby allowing the continued operation of the
6 32 existing pilot site as well as the establishment of additional
6 33 pilot sites within the state. If additional pilot sites are
6 34 established, this legislation would allow for the funding of
6 35 pilot site operations from the project-generated collection of
7 1 imposed financial sanctions to the governmental entity with
7 2 overall responsibility for structured fines operations within
7 3 a county. Data obtained from the continued operation of the
7 4 existing pilot site and the additional pilot sites to be
7 5 established would provide the basis on which to base any
7 6 recommendations for further expansion of the use of structured
7 7 fines within the state.

7 8 Another proposed change would extend the provisions of
7 9 section [909.6](#), Code 1995, as applies to criminal fines, to
7 10 structured fines and structured civil penalties by designating
7 11 them as judgments that could be collected through civil
7 12 proceedings such as judgment liens, executions, and other
7 13 process available to creditors for the collection of debts.

7 14 Another proposed change would raise the time payment fee
7 15 imposed from \$10 to \$25, thereby generating additional revenue
7 16 to fund pilot site operations.

7 17 Other proposed changes would improve fiscal accountability
7 18 by requiring the governmental entity responsible for operating
7 19 a structured fines pilot project to establish a separate
7 20 account for the deposit and disbursement of all structured
7 21 fines moneys. A "cap" would be established for the structured
7 22 fines account, and any moneys in excess of the "cap" would
7 23 revert to the state general fund. Another provision would
7 24 require all unexpended or unobligated funds in the structured
7 25 fine account to revert to the state general fund in the event
7 26 of cessation of structured fines operations within a county.

7 27 Finally, the changes proposed delete the reference to the
7 28 federal discretionary grant program which has ended, and
7 29 permit the division of criminal and juvenile justice planning
7 30 to participate in the proposed pilot project to expand the use
7 31 of structured fines through the establishment of additional
7 32 pilot sites. These sites would be authorized through separate
7 33 appropriation legislation to provide state funds to support
7 34 project start-up activities of the division of criminal and
7 35 juvenile justice planning and a limited number of pilot sites.

8 1 It is projected that the cost of such start-up activities
8 2 would be offset through an increase in fine revenue generated
8 3 by the pilot sites. The pilot sites would become self-
8 4 supporting by the end of their first year of operation through
8 5 the legislation proposed in this bill.

8 6 LSB 1233DP 76

8 7 mk/jw/5.3