

SENATE FILE 2198
BY HUSAK

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to pecuniary damages recoverable under an order
2 of criminal victim restitution.

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

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S.F. 2198

1 Section 1. Section 910.1, subsections 2, 3, and 4, Code
2 1995, are amended to read as follows:

3 2. "Pecuniary damages" means all damages ~~to-the-extent-not~~
4 ~~paid-by-an-insurer,~~ which a victim could recover against the
5 offender in a civil action arising out of the same facts or
6 event, except punitive damages and damages for pain,
7 suffering, mental anguish, and loss of consortium. Without
8 limitation, "pecuniary damages" includes damages for wrongful
9 death and expenses incurred for psychiatric or psychological
10 services or counseling or other counseling for the victim
11 which became necessary as a direct result of the criminal
12 activity.

13 3. "Restitution" means payment of pecuniary damages to a
14 victim in an amount and in the manner provided by the
15 offender's plan of restitution. Restitution also includes
16 fines, penalties, and surcharges, the payment of insurance or
17 crime victim compensation program reimbursements, court costs,
18 court-appointed attorney's fees, or the expense of a public
19 defender, and the performance of a public service by an
20 offender in an amount set by the court when the offender
21 cannot reasonably pay all or part of the court costs, court-
22 appointed attorney's fees, or the expense of a public
23 defender.

24 4. "Victim" means a person who has suffered pecuniary
25 damages as a result of the offender's criminal activities.
26 ~~However,-for-purposes-of-this-chapter,-an~~ An insurer ~~is-not-a~~
27 ~~victim-and~~ does not have a right of subrogation, and may
28 receive payments under an order of restitution. ~~The-crime~~
29 ~~victim-compensation-program-is-not-an-insurer-for-purposes-of~~
30 ~~this-chapter,-and-the~~ The right of subrogation provided by
31 section 912.12 ~~does-not-prohibit~~ permits restitution to the
32 crime victim compensation program.

33 EXPLANATION

34 This bill amends the definition of pecuniary damages within
35 the Code section on restitution. Currently, the court must

1 exclude from an order of restitution any amounts paid by the
2 victim's insurance. The proposed changes would allow a court
3 to order restitution based on all damages suffered by a crime
4 victim that are recoverable in a tort action, except for
5 certain special damages. The court could order payments to be
6 made directly to an insurer under an order of restitution.

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