

SENATE FILE 2431
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2148)

Passed Senate, Date ^(P.754) 3/13/96 Passed House, Date _____
Vote: Ayes 49 Nays 0 Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act deleting the requirement to enter a civil judgment after
2 an order of restitution has been entered.

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

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S.F. 2431

1 Section 1. Section 910.4, Code Supplement 1995, is amended
2 to read as follows:

3 910.4 CONDITION OF PROBATION -- PAYMENT PLAN.

4 1. When restitution is ordered by the sentencing court and
5 the offender is placed on probation, restitution shall be a
6 condition of probation.

7 a. Failure of the offender to comply with the plan of
8 restitution, plan of payment, or community service
9 requirements when community service is ordered by the court as
10 restitution, shall constitute a violation of probation and
11 shall constitute contempt of court.

12 b. ~~The~~ If an offender fails to comply with restitution
13 requirements during probation, the court may hold the offender
14 in contempt, revoke probation, or extend the period of
15 probation, or upon notice of such noncompliance and hearing
16 thereon, the court may enter a civil judgment against the
17 offender for the outstanding balance of payments under the
18 plan of restitution and such judgment shall be governed by the
19 law relating to judgments, judgment liens, executions, and
20 other process available to creditors for the collection of
21 debts.

22 (1) ~~However, if~~ If the court extends the period of
23 probation, ~~is extended~~ it shall not be for more than the
24 maximum period of probation for the offense committed as
25 provided in section 907.7. After discharge from probation or
26 after the expiration of the period of probation, the failure
27 of an offender to comply with the plan of restitution ordered
28 by the court shall constitute contempt of court. ~~As part of~~
29 ~~the order discharging an offender from probation, the court~~
30 ~~shall enter a civil judgment against the offender for the~~
31 ~~balance, if any, of any restitution owed by the offender to~~
32 ~~the victim of the crime.~~

33 (2) If an offender's probation is revoked, the offender's
34 assigned probation officer shall forward to the director of
35 the Iowa department of corrections, information concerning the

1 offender's restitution plan, restitution plan of payment, the
2 restitution payment balance, and any other pertinent
3 information concerning or affecting restitution by the
4 offender.

5 2. When the offender is committed to a county jail, or to
6 an alternate facility, the office or individual charged with
7 supervision of the offender shall prepare a restitution plan
8 of payment taking into consideration the offender's income,
9 physical and mental health, age, education, employment and
10 family circumstances.

11 a. The office or individual charged with supervision of
12 the offender shall review the plan of restitution ordered by
13 the court, and shall submit a restitution plan of payment to
14 the sentencing court.

15 b. When community service is ordered by the court as
16 restitution, the restitution plan of payment shall set out a
17 plan to meet the requirement for the community service.

18 c. The court may approve or modify the plan of restitution
19 and restitution plan of payment.

20 d. When there is a significant change in the offender's
21 income or circumstances, the office or individual which has
22 supervision of the plan of payment shall submit a modified
23 restitution plan of payment to the court.

24 3. When there is a transfer of supervision from one office
25 or individual charged with supervision of the offender to
26 another, the sending office or individual shall forward to the
27 receiving office or individual all necessary information
28 regarding the balance owed against the original amount of
29 restitution ordered and the balance of public service
30 required.

31 When the offender's circumstances and income have
32 significantly changed, the receiving office or individual
33 shall submit a new plan of payment to the sentencing court for
34 approval or modification based on the considerations
35 enumerated in this section.

1 Sec. 2. Section 910.5, Code Supplement 1995, is amended to
2 read as follows:

3 910.5 CONDITION OF WORK RELEASE OR PAROLE.

4 1. a. When an offender is committed to the custody of the
5 director of the Iowa department of corrections pursuant to a
6 sentence of confinement, the sentencing court shall forward to
7 the director, a copy of the offender's restitution plan,
8 present restitution payment plan if any, and other pertinent
9 information concerning or affecting restitution by the
10 offender.

11 b. ~~However,--if~~ If the offender is committed to the custody
12 of the director after revocation of probation, this all
13 information regarding the offender's restitution plan shall be
14 forwarded by the offender's probation officer.

15 c. An offender committed to a penal or correctional
16 facility of the state shall make restitution while placed in
17 that facility.

18 d. Upon commitment to the custody of the director of the
19 Iowa department of corrections, the director or the director's
20 designee shall prepare a restitution plan of payment or modify
21 any existing plan of payment.

22 (1) The new or modified plan of payment shall reflect the
23 offender's present circumstances concerning the offender's
24 income, physical and mental health, education, employment, and
25 family circumstances.

26 (2) The director or the director's designee may modify the
27 plan of payment at any time to reflect the offender's present
28 circumstances.

29 e. After the expiration of the offender's sentence, the
30 failure of an offender to comply with the plan of restitution
31 ordered by the court shall constitute contempt of court. ~~Upon~~
32 ~~the-expiration-of-the-offender's-sentence,--the-department~~
33 ~~shall-notify-the-court-which-sentenced-the-offender-and-the~~
34 ~~court-shall-enter-a-civil-judgment-against-the-offender-for~~
35 ~~the-balance,--if-any,--of-any-restitution-owed-by-the-offender~~

1 ~~to-the-victim-of-the-crime.~~

2 2. If an offender is to be placed on work release from an
3 institution under the control of the director of the Iowa
4 department of corrections, restitution shall be a condition of
5 work release.

6 a. The chief of the bureau of community correctional
7 services of the Iowa department of corrections shall prepare a
8 restitution plan of payment or may modify any previously
9 existing restitution plan of payment.

10 (1) The new or modified plan of payment shall reflect the
11 offender's present circumstances concerning the offender's
12 income, physical and mental health, education, employment, and
13 family circumstances.

14 (2) The bureau chief may modify the plan of payment at any
15 time to reflect the offender's present circumstances.

16 b. Failure of the offender to comply with the restitution
17 plan of payment, including the community service requirement,
18 if any, shall constitute a violation of a condition of work
19 release and the work release privilege may be revoked.

20 c. After the expiration of the offender's sentence, the
21 failure of an offender to comply with the plan of restitution
22 ordered by the court shall constitute contempt of court. Upon
23 ~~the-expiration-of-the-offender's-sentence, the-bureau-chief~~
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27 ~~to-the-victim-of-the-crime.~~

28 3. If an offender is to be placed on work release from a
29 facility under control of a county sheriff or the judicial
30 district department of correctional services, restitution
31 shall be a condition of work release.

32 a. The office or individual charged with supervision of
33 the offender shall prepare a restitution plan of payment or
34 may modify any previously existing restitution plan of
35 payment.

1 (1) The new or modified plan of payment shall reflect the
2 offender's present circumstances concerning the offender's
3 income, physical and mental health, education, employment and
4 family circumstances.

5 (2) Failure of the offender to comply with the restitution
6 plan of payment including the community service requirement,
7 if any, constitutes a violation of a condition of work
8 release.

9 (3) The office or individual charged with supervision of
10 the offender may modify the plan of restitution at any time to
11 reflect the offender's present circumstances.

12 b. After the expiration of the offender's sentence, the
13 failure of an offender to comply with the plan of restitution
14 ordered by the court shall constitute contempt of court. Upon
15 ~~the expiration of the offender's sentence, the office or~~
16 ~~individual charged with supervision of the offender shall~~
17 ~~notify the court which sentenced the offender and the court~~
18 ~~shall enter a civil judgment against the offender for the~~
19 ~~balance, if any, of any restitution owed by the offender to~~
20 ~~the victim of the crime.~~

21 4. If an offender is to be placed on parole, restitution
22 shall be a condition of parole.

23 a. The district department of correctional services to
24 which the offender will be assigned shall prepare a
25 restitution plan of payment or may modify any previously
26 existing restitution plan of payment.

27 (1) The new or modified plan of payment shall reflect the
28 offender's present circumstances concerning the offender's
29 income, physical and mental health, education, employment, and
30 family circumstances.

31 (2) Failure of the offender to comply with the restitution
32 plan of payment including a community service requirement, if
33 any, shall constitute a violation of a condition of parole.

34 (3) The parole officer may modify the plan of payment any
35 time to reflect the offender's present circumstances.

Maddox - Chair

SSB-2148

Giannetto

Judiciary

Vilsack

ceded By
SF/HF 2431

Halverson

SENATE/HOUSE FILE _____
BY (PROPOSED GOVERNOR'S BILL)

Drake

Passed Senate, Date _____

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Vote: Ayes _____ Nays _____

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