

*Reprinted*

FILED MAR 20 1995

SENATE FILE 416  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 330)

Passed Senate, Date <sup>(p.845)</sup> 3/23/95 Passed House, Date \_\_\_\_\_  
Vote: Ayes 49 Nays 0 Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

**A BILL FOR**

1 An Act relating to structured fines, establishing a civil penalty  
2 and surcharge, providing for the distribution of fines, and  
3 establishing effective and repeal dates.

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

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**SENATE FILE 416**

**S-3174**

1 Amend Senate File 416 as follows:  
2 1. Page 4, by inserting after line 18 the  
3 following:  
4 "4. A structured fines operation in a county shall  
5 terminate within sixty days of notice from the chief  
6 judge of the judicial district containing the pilot  
7 site that it is the intent of the court to cease  
8 ordering structured fines. The notice shall be  
9 submitted to the governmental entity having overall  
10 responsibility for the operation of the structured  
11 fines program in the pilot site, the division of  
12 criminal and juvenile justice planning of the  
13 department of human rights, and the legislative fiscal  
14 bureau."

*S.F. 416*

*(p.845) adopted 3/23/95*

By RANDAL J. GIANNETTO

S-3174 FILED MARCH 22, 1995

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1 Section 1. NEW SECTION. 909A.1 PILOT PROGRAM ESTABLISHED  
2 -- DURATION.

3 The department of human rights, division of criminal and  
4 juvenile justice planning, in cooperation with selected  
5 governmental entities, may establish a pilot program to expand  
6 the use of the structured fines concept in counties and  
7 judicial districts also wishing to participate in the pilot  
8 program. Sections 909A.2 through 909A.5 shall apply only  
9 within those counties which have previously contracted with  
10 the department of human rights, division of criminal and  
11 juvenile justice planning, to operate a structured fines pilot  
12 project and currently have a structured fines pilot site in  
13 operation, and in those counties and judicial districts with  
14 whom the department of human rights, division of criminal and  
15 juvenile justice planning has a current agreement regarding  
16 participation in the structured fines pilot program, from the  
17 effective date of this Act through June 30, 1998.

18 The department of human rights, division of criminal and  
19 juvenile justice planning, shall enter into agreements of  
20 participation in the pilot program with interested  
21 governmental entities to the extent that start-up funding is  
22 available to the division, and shall choose from among  
23 interested sites following an open and competitive selection  
24 process involving selection criteria to be adopted by the  
25 division. To be eligible for consideration, an interested  
26 site must be able to assure the involvement and cooperation of  
27 the site's county attorney and court officials, including the  
28 clerk of the district court; the appropriate judicial district  
29 department of correctional services; and any other agency or  
30 official to be affected by the pilot site activities.

31 Sec. 2. NEW SECTION. 909A.2 PAYMENT IN INSTALLMENTS OR  
32 ON A FIXED FUTURE DATE -- INSTALLMENT FEE AND INTEREST --  
33 STRUCTURED CIVIL PENALTY.

34 1. If the district court orders a structured fine,  
35 structured civil penalty, or structured civil penalty

1 surcharge imposed pursuant to this chapter, the criminal  
2 penalty surcharge for a structured fine imposed pursuant to  
3 chapter 911, indigent defense fees assessed as restitution  
4 pursuant to chapter 910 for a case in which a structured fine  
5 or structured civil penalty was imposed, or court costs  
6 assessed pursuant to chapter 602 for a case in which a  
7 structured fine or structured civil penalty was imposed, to be  
8 paid in installments or at a fixed date in the future, the  
9 court shall do all of the following:

10 a. Impose a time payment fee in the amount of twenty-five  
11 dollars.

12 b. Impose interest charges on the unsatisfied judgment  
13 from the date of sentencing at the rate provided in section  
14 535.3 for court judgments.

15 2. Notwithstanding any other provision of law to the  
16 contrary, when a deferred judgment or deferred sentence is  
17 entered by the court pursuant to chapter 907, the court may  
18 impose a structured civil penalty that is calculated in the  
19 same manner as a structured fine. The structured civil  
20 penalty shall be subject to a structured civil penalty  
21 surcharge equal to the criminal penalty surcharge under  
22 section 911.2. The structured civil penalty and the  
23 structured civil penalty surcharge shall be disbursed in the  
24 manner provided for in section 909A.4, subsection 2.

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

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

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

32 1. Upon receiving payment of the time payment fee, the  
33 clerk of the district court shall remit all time payments fees  
34 collected by the fifteenth day of the month following payment  
35 to the governmental entity having overall responsibility for

1 the operation of the structured fines pilot program within the  
2 county. Upon receiving payment of interest charges, the clerk  
3 of the district court shall remit all interest charges  
4 collected by the fifteenth day of the month following payment  
5 to the treasurer of state to be credited to the general fund  
6 of the state.

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

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

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

34 b. Ensure that the balance in the structured fines account  
35 does not exceed, at the end of the fiscal year, the total

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

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

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

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

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

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

7 This chapter is repealed July 1, 1998.

8 Sec. 7. REPEALS.

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

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

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

13 EXPLANATION

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

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

29 The bill retains the provision in the existing pilot  
30 program allowing a structured fine to be imposed without  
31 regard for any minimum fine amount provisions contained  
32 elsewhere in state law. The bill provides for the  
33 distribution of time payment fees and 15 percent of the  
34 structured fines, penalties, and surcharges and indigent  
35 defense fees and court costs in structured fine or penalty

1 cases, to the governmental entity operating the pilot program,  
2 if not the county, and the remaining 85 percent as well as all  
3 interest received to the treasurer of state for deposit in the  
4 general fund of the state. The bill also provides that a  
5 structured fine or penalty shall be considered a judgment  
6 allowing normal means of collection of judgments to apply.

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

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

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19 4. A structured fines operation in a county shall  
20 terminate within sixty days of notice from the chief judge of  
21 the judicial district containing the pilot site that it is the  
22 intent of the court to cease ordering structured fines. The  
23 notice shall be submitted to the governmental entity having  
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8 inform the offender of the duty to pay the judgment in a  
9 timely manner.

10 The law relating to judgment liens, executions, and other  
11 process available to creditors for the collection of debts  
12 shall be applicable to such judgments. However, no law  
13 exempting the personal property of the offender from any lien  
14 or legal process shall be applicable to such judgments.

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

16 This chapter is repealed July 1, 1998.

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**SENATE FILE 416  
FISCAL NOTE**

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A fiscal note for Senate File 416 is hereby submitted pursuant to Joint Rule 17. Data used in developing this fiscal note is available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Senate File 416, relates to structured fines pilot projects, establishes a civil penalty and surcharge, provides for the distribution of fines received from structured fines pilot projects, 85.0% to the General Fund and 15.0% to the pilot county, and provides effective and repeal dates.

**Background:**

The Structured Fines Pilot Project started in Polk County in FY 1993, originally funded with a federal discretionary grant. A structured fine is a fine allowing monthly payments by the offender, with intensive follow-up to insure that payment is made, and legal repercussions if payment is not made, including issuance of a warrant for arrest if deemed necessary. Since FY 1994, Polk County has retained 15.0% of the structured fines collected for administrative costs. The 15.0% stipulation expires at the end of FY 1995. The Project is to be replicated in four counties pending passage of this legislation.

The 15.0% return to the county on fines collected will provide funding of the two FTE positions required to administer the program in Polk County. Based on FY 1994 collections, a minimum of \$315,000 in revenue would be lost without the 15.0% incentive to compensate the county for administrative costs associated with the collections program.

**Assumptions:**

1. Estimates from the Criminal and Juvenile Justice Planning Division are based on fine dollars assessed over the base year of 1991.
2. All pilot sites will be in full operation for a period of six months following six months of staggered start-up within the four chosen counties.
3. The four counties to be used for the pilot projects are unknown. Data is based on counties with smaller populations.
4. Pilot sites will be located in counties with populations of 25,000 or more, or sites will serve two or more counties with combined populations totaling 25,000 or more, where current fine collection rates are below 75.0%.
5. All fines assessed in the pilot counties will be structured fines.

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6. Fine estimates are extrapolated from criminal fines, criminal penalty surcharges and court filing fees for offenses at or above the serious misdemeanor level.

Fiscal Impact:

The estimated fiscal impact of SF 416 to the General Fund includes:

FY 1995: \$315,000 increased revenue (due to structured fines collection in Polk County's Pilot Project, funding to expire June 30, 1995.)

FY 1996: \$274,700 additional revenue [due to savings of \$315,000 lost revenue by preserving the Polk County Pilot operations, \$65,000 new fines collected in four additional pilot counties, subtracting new pilot costs of \$105,300 (State costs) for salaries, support, and outside services. Administration will be required in FY 1996 and FY 1997 only.].

FY 1997: \$389,900 additional net revenue (due to savings of \$315,000 as described above, plus \$175,000 additional fines collected in four new pilot counties, less \$100,100 State costs for salaries, support and outside services.).

Sources: Polk County Attorney's Office  
State Court Administrator's Office  
Department of Human Rights, Criminal and Juvenile Justice  
Planning Division

(LSB 1233sv, MME)

FILED APRIL 4, 1995

BY DENNIS PROUTY, FISCAL DIRECTOR

Giannetto  
Hammond  
Vilsack  
McKean  
Redfern

SSB 330

Judiciary Succeeded By

SENATE/HOUSE FILE 576 -

BY (PROPOSED DEPARTMENT OF  
HUMAN RIGHTS/CRIMINAL  
AND JUVENILE JUSTICE  
PLANNING DIVISION BILL)

Passed Senate, Date \_\_\_\_\_ Passed House, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to structured fines, establishing a civil penalty  
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4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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23 the county and receiving structured fines moneys from the  
24 clerk of the district court pursuant to this section shall:

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

34 b. Ensure that the balance in the structured fines account  
35 does not exceed, at the end of the fiscal year, the total

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

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

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

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

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

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

7 This chapter is repealed July 1, 1998.

8 Sec. 7. REPEALS.

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

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

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

13 EXPLANATION

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

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

29 The bill retains the provision in the existing pilot  
30 program allowing a structured fine to be imposed without  
31 regard for any minimum fine amount provisions contained  
32 elsewhere in state law. The bill provides for the  
33 distribution of time payment fees and 15 percent of the  
34 structured fines, penalties, and surcharges and indigent  
35 defense fees and court costs in structured fine or penalty

1 cases, to the governmental entity operating the pilot program,  
2 if not the county, and the remaining 85 percent as well as all  
3 interest received to the treasurer of state for deposit in the  
4 general fund of the state. The bill also provides that a  
5 structured fine or penalty shall be considered a judgment  
6 allowing normal means of collection of judgments to apply.

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

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

12 BACKGROUND STATEMENT

13 SUBMITTED BY THE AGENCY

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

29 The changes proposed in this legislation would extend the  
30 sunset date of the enabling legislation for a three-year  
31 period, thereby allowing the continued operation of the  
32 existing pilot site as well as the establishment of additional  
33 pilot sites within the state. If additional pilot sites are  
34 established, this legislation would allow for the funding of  
35 pilot site operations from the project-generated collection of

1 imposed financial sanctions to the governmental entity with  
2 overall responsibility for structured fines operations within  
3 a county. Data obtained from the continued operation of the  
4 existing pilot site and the additional pilot sites to be  
5 established would provide the basis on which to base any  
6 recommendations for further expansion of the use of structured  
7 fines within the state.

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

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

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

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

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

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