

Senate Study Bill 2148

Conference Committee Text

PAG LIN

1 1 Section 1. Section [910.4](#), Code Supplement 1995, is amended
1 2 to read as follows:

1 3 910.4 CONDITION OF PROBATION ‐ PAYMENT PLAN.

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

1 7 a. Failure of the offender to comply with the plan of
1 8 restitution, plan of payment, or community service
1 9 requirements when community service is ordered by the court as
1 10 restitution, shall constitute a violation of probation and
1 11 shall constitute contempt of court.

1 12 b.

~~The~~

~~If an offender fails to comply with restitution~~

1 13 ~~requirements during probation, the~~ court may hold the offender
1 14 in contempt, revoke probation, or extend the period of
1 15 probation

~~, or upon notice of such noncompliance and hearing~~

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~~thereon, the court may enter a civil judgment against the~~

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~~offender for the outstanding balance of payments under the~~

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~~plan of restitution and such judgment shall be governed by the~~

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~~law relating to judgments, judgment liens, executions, and~~

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~~other process available to creditors for the collection of~~

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~~debts~~

1 22 (1)

~~However, if~~

~~If the court extends the period of~~

1 23 probation,

~~is extended~~

~~it shall not be for more than the~~

1 24 maximum period of probation for the offense committed as
1 25 provided in section 907.7. After discharge from probation or
1 26 after the expiration of the period of probation, the failure

1 27 of an offender to comply with the plan of restitution ordered
1 28 by the court shall constitute contempt of court.

~~As part of~~

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~~the order discharging an offender from probation, the court~~

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~~shall enter a civil judgment against the offender for the~~

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~~balance, if any, of any restitution owed by the offender to~~

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~~the victim of the crime.~~

1 33 (2) If an offender's probation is revoked, the offender's
1 34 assigned probation officer shall forward to the director of
1 35 the Iowa department of corrections, information concerning the
2 1 offender's restitution plan, restitution plan of payment, the
2 2 restitution payment balance, and any other pertinent
2 3 information concerning or affecting restitution by the
2 4 offender.

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

2 11 a. The office or individual charged with supervision of
2 12 the offender shall review the plan of restitution ordered by
2 13 the court, and shall submit a restitution plan of payment to
2 14 the sentencing court.

2 15 b. When community service is ordered by the court as
2 16 restitution, the restitution plan of payment shall set out a
2 17 plan to meet the requirement for the community service.

2 18 c. The court may approve or modify the plan of restitution
2 19 and restitution plan of payment.

2 20 d. When there is a significant change in the offender's
2 21 income or circumstances, the office or individual which has
2 22 supervision of the plan of payment shall submit a modified
2 23 restitution plan of payment to the court.

2 24 3. When there is a transfer of supervision from one office
2 25 or individual charged with supervision of the offender to
2 26 another, the sending office or individual shall forward to the
2 27 receiving office or individual all necessary information
2 28 regarding the balance owed against the original amount of
2 29 restitution ordered and the balance of public service
2 30 required.

2 31 When the offender's circumstances and income have
2 32 significantly changed, the receiving office or individual
2 33 shall submit a new plan of payment to the sentencing court for
2 34 approval or modification based on the considerations
2 35 enumerated in this section.

3 1 Sec. 2. Section [910.5](#), Code Supplement 1995, is amended to
3 2 read as follows:

3 3 910.5 CONDITION OF WORK RELEASE OR PAROLE.

3 4 1. a. When an offender is committed to the custody of the
3 5 director of the Iowa department of corrections pursuant to a
3 6 sentence of confinement, the sentencing court shall forward to
3 7 the director

~~7~~
- a copy of the offender's restitution plan,
3 8 present restitution payment plan if any, and other pertinent
3 9 information concerning or affecting restitution by the
3 10 offender.
3 11 b.

~~However, if~~
- If the offender is committed to the custody
3 12 of the director after revocation of probation,

~~this~~

- all
3 13 information regarding the offender's restitution plan shall be
3 14 forwarded by the offender's probation officer.
3 15 c. An offender committed to a penal or correctional
3 16 facility of the state shall make restitution while placed in
3 17 that facility.
3 18 d. Upon commitment to the custody of the director of the
3 19 Iowa department of corrections, the director or the director's
3 20 designee shall prepare a restitution plan of payment or modify
3 21 any existing plan of payment.
3 22 (1) The new or modified plan of payment shall reflect the
3 23 offender's present circumstances concerning the offender's
3 24 income, physical and mental health, education, employment, and
3 25 family circumstances.
3 26 (2) The director or the director's designee may modify the
3 27 plan of payment at any time to reflect the offender's present
3 28 circumstances.
3 29 e. After the expiration of the offender's sentence, the
3 30 failure of an offender to comply with the plan of restitution
3 31 ordered by the court shall constitute contempt of court.

~~Upon~~

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~~the expiration of the offender's sentence, the department~~

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~~shall notify the court which sentenced the offender and the~~

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~~court shall enter a civil judgment against the offender for~~

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~~the balance, if any, of any restitution owed by the offender~~

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~~to the victim of the crime.~~

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

4 6 a. The chief of the bureau of community correctional
4 7 services of the Iowa department of corrections shall prepare a
4 8 restitution plan of payment or may modify any previously
4 9 existing restitution plan of payment.

4 10 (1) The new or modified plan of payment shall reflect the
4 11 offender's present circumstances concerning the offender's
4 12 income, physical and mental health, education, employment, and
4 13 family circumstances.

4 14 (2) The bureau chief may modify the plan of payment at any
4 15 time to reflect the offender's present circumstances.
4 16 b. Failure of the offender to comply with the restitution
4 17 plan of payment, including the community service requirement,
4 18 if any, shall constitute a violation of a condition of work
4 19 release and the work release privilege may be revoked.
4 20 c. After the expiration of the offender's sentence, the
4 21 failure of an offender to comply with the plan of restitution
4 22 ordered by the court shall constitute contempt of court.

~~Upon~~

4 23

~~the expiration of the offender's sentence, the bureau chief~~

4 24

~~shall notify the court which sentenced the offender and the~~

4 25

~~court shall enter a civil judgment against the offender for~~

4 26

~~the balance, if any, of any restitution owed by the offender~~

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~~to the victim of the crime.~~

4 28 3. If an offender is to be placed on work release from a
4 29 facility under control of a county sheriff or the judicial
4 30 district department of correctional services, restitution
4 31 shall be a condition of work release.

4 32 a. The office or individual charged with supervision of
4 33 the offender shall prepare a restitution plan of payment or
4 34 may modify any previously existing restitution plan of
4 35 payment.

5 1 (1) The new or modified plan of payment shall reflect the
5 2 offender's present circumstances concerning the offender's
5 3 income, physical and mental health, education, employment and
5 4 family circumstances.

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

5 9 (3) The office or individual charged with supervision of
5 10 the offender may modify the plan of restitution at any time to
5 11 reflect the offender's present circumstances.

5 12 b. After the expiration of the offender's sentence, the
5 13 failure of an offender to comply with the plan of restitution
5 14 ordered by the court shall constitute contempt of court.

~~Upon~~

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~~the expiration of the offender's sentence, the office or~~

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~~individual charged with supervision of the offender shall~~

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~~notify the court which sentenced the offender and the court~~

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~~shall enter a civil judgment against the offender for the~~

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~~balance, if any, of any restitution owed by the offender to~~

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~~the victim of the crime.~~

5 21 4. If an offender is to be placed on parole, restitution
5 22 shall be a condition of parole.

5 23 a. The district department of correctional services to
5 24 which the offender will be assigned shall prepare a
5 25 restitution plan of payment or may modify any previously
5 26 existing restitution plan of payment.

5 27 (1) The new or modified plan of payment shall reflect the
5 28 offender's present circumstances concerning the offender's
5 29 income, physical and mental health, education, employment, and
5 30 family circumstances.

5 31 (2) Failure of the offender to comply with the restitution
5 32 plan of payment including a community service requirement, if
5 33 any, shall constitute a violation of a condition of parole.

5 34 (3) The parole officer may modify the plan of payment any
5 35 time to reflect the offender's present circumstances.

6 1 (4) A restitution plan of payment or modified plan of
6 2 payment, prepared by a parole officer, must meet the approval
6 3 of the director of the district department of correctional
6 4 services.

6 5 b. After the expiration of the offender's sentence, the
6 6 failure of an offender to comply with the plan of restitution
6 7 ordered by the court shall constitute contempt of court.

~~Upon~~

6 8

~~the expiration of the offender's sentence, the parole officer~~

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~~shall notify the court which sentenced the offender and the~~

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~~court shall enter a civil judgment against the offender for~~

6 11

~~the balance, if any, of any restitution owed by the offender~~

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~~to the victim of the crime.~~

6 13 5. The director of the Iowa department of corrections
6 14 shall

~~promulgate~~

~~adopt~~ rules pursuant to chapter 17A

6 15 concerning the policies and procedures to be used in preparing
6 16 and implementing restitution plans of payment for offenders
6 17 who are committed to an institution under the control of the

6 18 director of the Iowa department of corrections, for offenders
6 19 who are to be released on work release from institutions under
6 20 the control of the director of the Iowa department of
6 21 corrections, for offenders who are placed on probation, and
6 22 for offenders who are released on parole.

6 23 EXPLANATION

6 24 Section 910.7A provides that every restitution order
6 25 entered by the judge constitutes a judgement as of the time
6 26 the original order is entered. In this bill, Code language is
6 27 deleted that requires a court to enter a civil judgment after
6 28 entry of the order of restitution.

6 29 LSB 3722XL 76

6 30 jls/jw/5