

FEB 25 1998  
JUDICIARY

HOUSE FILE 2446  
BY FALCK

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

**A BILL FOR**

1 An Act relating to crime prevention by creating a local  
2 corrections infrastructure grant program, authorizing the use  
3 of bonding, making appropriations, imposing a surcharge on  
4 criminal fines and forfeitures, providing for mandatory wage  
5 assignment for certain delinquent fines, and providing an  
6 effective date.

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

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HF 2446

1 Section 1. Section 331.302, subsection 2, Code 1997, is  
2 amended to read as follows:

3 2. A county shall not provide a penalty in excess of a one  
4 hundred dollar fine or in excess of thirty days imprisonment  
5 for the violation of an ordinance. The criminal penalty  
6 surcharge required by section 911.2 and the jail, courthouse  
7 security, and detention facility surcharge required by section  
8 911A.2 shall be added to a county fine and ~~is~~ are not a part  
9 of the county's penalty.

10 Sec. 2. Section 364.3, subsection 2, Code 1997, is amended  
11 to read as follows:

12 2. A city shall not provide a penalty in excess of a one  
13 hundred dollar fine or in excess of thirty days imprisonment  
14 for the violation of an ordinance. An amount equal to ten  
15 percent of all fines collected by cities shall be deposited in  
16 the account established in section 602.8108. However, one  
17 hundred percent of all fines collected by a city pursuant to  
18 section 321.236, subsection 1, shall be retained by the city.  
19 The criminal penalty surcharge required by section 911.2 and  
20 the jail, courthouse security, and detention facility  
21 surcharge required by section 911A.2 shall be added to a city  
22 fine and ~~is~~ are not a part of the city's penalty.

23 Sec. 3. Section 602.8107, subsection 2, paragraph b, Code  
24 Supplement 1997, is amended to read as follows:

25 b. Fines or penalties and ~~criminal-penalty~~ surcharges.

26 Sec. 4. Section 602.8107, subsection 4, unnumbered  
27 paragraph 2, Code Supplement 1997, is amended to read as  
28 follows:

29 This subsection does not apply to amounts collected for  
30 victim restitution, the victim compensation fund, criminal  
31 penalty surcharge, jail, courthouse security, and detention  
32 facility surcharge, or amounts collected as a result of  
33 procedures initiated under subsection 5 or under section  
34 421.17, subsection 25.

35 Sec. 5. Section 805.8, subsection 1, Code Supplement 1997,

1 is amended to read as follows:

2 1. APPLICATION. Except as otherwise indicated, violations  
3 of sections of the Code specified in this section are  
4 scheduled violations, and the scheduled fine for each of those  
5 violations is as provided in this section, whether the  
6 violation is of state law or of a county or city ordinance.  
7 The criminal penalty surcharge required by section 911.2 and  
8 the jail, courthouse security, and detention facility  
9 surcharge required by section 911A.2 shall be added to the  
10 scheduled fine.

11 Sec. 6. Section 805.8, subsection 11, paragraph a, Code  
12 Supplement 1997, is amended to read as follows:

13 a. For violations of section 142B.6, the scheduled fine is  
14 twenty-five dollars, and is a civil penalty, and the criminal  
15 penalty surcharge under section 911.2 and the jail, courthouse  
16 security, and detention facility surcharge under section 91A.2  
17 shall not be added to the penalty, and the court costs  
18 pursuant to section 805.9, subsection 6, shall not be imposed.  
19 If the civil penalty assessed for a violation of section  
20 142B.6 is not paid in a timely manner, a citation shall be  
21 issued for the violation in the manner provided in section  
22 804.1. However, a person under age eighteen shall not be  
23 detained in a secure facility for failure to pay the civil  
24 penalty. The complainant shall not be charged a filing fee.

25 Sec. 7. Section 805.8, subsection 11, paragraph b,  
26 subparagraph (1), unnumbered paragraph 1, Code Supplement  
27 1997, is amended to read as follows:

28 For violations of section 453A.2, subsection 2, the  
29 scheduled fine is as follows and is a civil penalty, and the  
30 criminal penalty surcharge under section 911.2 and the jail,  
31 courthouse security, and detention facility surcharge under  
32 section 91A.2 shall not be added to the penalty, and the court  
33 costs pursuant to section 805.9, subsection 6, shall not be  
34 imposed:

35 Sec. 8. Section 902.9, unnumbered paragraph 2, Code 1997,

1 is amended to read as follows:

2 The criminal penalty surcharge required by section 911.2  
3 and the jail, courthouse security, and detention facility  
4 surcharge required by section 911A.2 shall be added to a fine  
5 imposed on a class "C" or class "D" felon, as provided by ~~that~~  
6 section those sections, and ~~is~~ are not a part of or subject to  
7 the maximums set in this section.

8 Sec. 9. Section 903.1, subsection 4, Code 1997, is amended  
9 to read as follows:

10 4. The criminal penalty surcharge required by section  
11 911.2 and the jail, courthouse security, and detention  
12 facility surcharge required by section 911A.2 shall be added  
13 to a fine imposed on a misdemeanor, and ~~is~~ are not a part of  
14 or subject to the maximums set in this section.

15 Sec. 10. NEW SECTION. 905A.1 DEFINITIONS.

16 For the purposes of this chapter, unless the context  
17 otherwise requires:

18 1. "Division" means the division of criminal and juvenile  
19 justice planning of the department of human rights.

20 2. "Government" means a community-based correctional  
21 program as defined in section 905.1, or a city, school  
22 district or accredited nonpublic school, or county which  
23 expends funds for incarceration or supervision of individuals  
24 charged with or convicted of a felony, an aggravated  
25 misdemeanor, or a serious misdemeanor, or for crime prevention  
26 activities.

27 3. "Judicial election district" means a judicial election  
28 district described in section 602.6109.

29 Sec. 11. NEW SECTION. 905A.2 LOCAL CORRECTIONS  
30 INFRASTRUCTURE GRANT PROGRAM.

31 1. A local corrections infrastructure grant program is  
32 created in the division. The division shall adopt rules  
33 pursuant to chapter 17A as necessary to administer the program  
34 in accordance with this chapter. The rules shall include but  
35 are not limited to provisions for auditing of grant

1 expenditures.

2 2. The division shall develop a request for proposals for  
3 the grant program and assist judicial election districts in  
4 developing proposals in response to the request. The division  
5 shall not accept more than one proposal from a judicial  
6 election district for each of the grant groupings. For the  
7 fiscal year beginning July 1, 1999, grants shall be awarded in  
8 accordance with this chapter in the following two groupings:

9 a. Twenty-five million dollars to one or more governments  
10 or groups of governments in judicial election districts,  
11 divided proportionately according to the judicial election  
12 districts' relative proportion of the state's general  
13 population.

14 b. Nine million dollars to one or more governments or  
15 groups of governments representing judicial election  
16 districts, awarded according to criteria developed by the task  
17 force established pursuant to section 905A.3 based upon the  
18 relative amount of criminal activity in the judicial election  
19 district, the innovative nature of the proposal submitted by  
20 the government or group of governments, and the statewide need  
21 for the project proposed to be developed.

22 3. A proposal for a grant under this section is subject to  
23 all of the following conditions:

24 a. A judicial election district may combine with one or  
25 more other judicial election districts in developing a  
26 proposal or may propose a joint project in separate proposals.

27 b. A proposal shall be for one or more infrastructure or  
28 school-based crime prevention projects or combination of  
29 projects relating to one or more of the following purposes:

30 (1) A county jail.

31 (2) A regional or multicounty jail.

32 (3) A county juvenile detention or shelter care home,  
33 including retirement of outstanding debt for such a home.

34 (4) A regional or multicounty juvenile detention or  
35 shelter care home.

1 (5) A community-based correctional program facility.

2 (6) A school-based crime prevention program.

3 (7) A runaway assessment center.

4 c. Grant moneys under this chapter shall not be used for  
5 purposes other than infrastructure.

6 d. The division may accept or reject a proposal in whole  
7 or in part.

8 e. A proposal must address the need for the proposed  
9 project, degree of urgency for the project, location of the  
10 project, provisions for the governments within the judicial  
11 election district to access the project, and the performance  
12 measures to be used to evaluate the project.

13 f. The submission date for proposals under subsection 2,  
14 paragraph "a" shall be on or before February 16, 1999, and the  
15 submission date for proposals under subsection 2, paragraph  
16 "b" shall be on or before April 17, 1999. However, for good  
17 cause shown, the division may extend the submission date for  
18 proposals under subsection 2, paragraph "a". It is the intent  
19 of the general assembly that the grant award process be  
20 complete by June 30, 1999, and awards made in the fiscal year  
21 beginning July 1, 1999. However, the division may delay final  
22 approval of a grant proposal which is approved in part while  
23 full approval of the proposal is pending.

24 4. The office of the attorney general, the department of  
25 education, and the university of northern Iowa's criminology  
26 program shall work with the division in implementing a public  
27 planning process to assist the governments in judicial  
28 election districts in developing a proposal, developing  
29 technical assistance materials for the grant program,  
30 developing the request for proposals, developing proposed  
31 scoring tools, and producing model performance measures and  
32 other evaluation processes for grant program projects. The  
33 public planning process shall include but is not limited to  
34 public meetings in each of the judicial election districts.

35 Sec. 12. NEW SECTION. 905A.3 TASK FORCE.

1 1. The division shall establish and convene a local  
2 corrections infrastructure grant program task force to assist  
3 the division in scoring and evaluating grant proposals and  
4 other assistance deemed necessary by the division.

5 2. The membership of the task force shall include but is  
6 not limited to representatives of the following:

- 7 a. County sheriffs.
- 8 b. Police chiefs.
- 9 c. Office of the attorney general.
- 10 d. District judges.
- 11 e. Juvenile court judges.
- 12 f. Probation officers.
- 13 g. Juvenile court officers.
- 14 h. County supervisors.
- 15 i. City council members.
- 16 j. Criminal and juvenile justice planning advisory  
17 council.
- 18 k. Juvenile services providers.
- 19 l. Community-based correctional programs.
- 20 m. County attorneys.
- 21 n. The Iowa state police association.
- 22 o. Local school officials.
- 23 p. Other members deemed necessary by the division or task  
24 force.

25 3. Members of the task force are eligible for  
26 reimbursement of actual and necessary expenses incurred in the  
27 performance of their official duties. The task force shall  
28 elect a chairperson and other officers deemed necessary by the  
29 task force.

30 Sec. 13. NEW SECTION. 905A.4 PAYMENT OF GRANTS.

31 A grant awarded under section 905A.2 shall be paid from the  
32 proceeds of bonds issued under section 16.177 or other moneys  
33 available to the division. A project approved by the division  
34 for a grant under this chapter is deemed to be approved by the  
35 general assembly for purposes of issuing bonds under section

1 16.177. The department of corrections shall pledge amounts in  
2 the Iowa prison infrastructure fund established under section  
3 602.8108A as security for the payment of principal of,  
4 premium, if any, and interest on the bonds.

5 Sec. 14. NEW SECTION. 907.14 PAYMENT IN LIEU OF FINE.

6 When the court has deferred judgment the court may order  
7 the defendant to pay an amount in lieu of a fine in a case  
8 where a minimum fine would otherwise be ordered. Payments in  
9 lieu of fines shall be ordered, enforced, and administered as  
10 fines under chapter 909.

11 Sec. 15. Section 909.3, Code 1997, is amended by adding  
12 the following new subsection:

13 NEW SUBSECTION. 3. If the court orders a fine to be paid  
14 as provided by subsection 2, the court shall require the  
15 defendant to execute a mandatory wage assignment that would  
16 ensure payment of the fine within twelve months of the date  
17 the wage assignment becomes effective. The wage assignment  
18 shall be enforced if the defendant fails to make payment as  
19 provided in subsection 2.

20 A mandatory wage assignment executed pursuant to this  
21 section is not subject to the limitation on garnishment  
22 provided in sections 537.5105 and 642.21, and is not subject  
23 to the limitation on assignment of benefits under chapter 96  
24 as provided in section 96.15. However, a wage assignment  
25 executed under this subsection shall be enforced only after an  
26 order for income withholding pursuant to chapter 252D or a  
27 court-ordered wage assignment for purposes of support is  
28 entered and enforced. A wage assignment executed under this  
29 subsection shall be limited as specified in 15 U.S.C. §  
30 1673(b).

31 Sec. 16. Section 909.8, Code 1997, is amended to read as  
32 follows:

33 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL  
34 PENALTY-SURCHARGE SURCHARGES.

35 The provisions of this chapter governing the payment and

1 collection of a fine, except section 909.3A, also apply to the  
2 payment and collection of a criminal penalty surcharge imposed  
3 pursuant to chapter 911 and the jail, courthouse security, and  
4 detention facility surcharge imposed pursuant to section  
5 911A.2.

6 Sec. 17. Section 909.10, subsection 1, Code 1997, is  
7 amended to read as follows:

8 1. As used in this section, unless the context otherwise  
9 requires, "delinquent amounts" means a fine, court-imposed  
10 court costs in a criminal proceeding, or criminal surcharge  
11 imposed pursuant to section 911.2, or jail, courthouse  
12 security, and detention facility surcharge imposed pursuant to  
13 section 911A.2, which remains unpaid after two years from the  
14 date that the fine, court costs, or surcharge was imposed, and  
15 which is not collected by the county attorney pursuant to  
16 section 602.8107. However, if the fine may be paid in  
17 installments pursuant to section 909.3, the fine is not a  
18 delinquent amount unless the installment remains unpaid after  
19 two years from the date the installment was due.

20 Sec. 18. NEW SECTION. 911A.1 JAIL, COURTHOUSE SECURITY,  
21 AND DETENTION FACILITY SURCHARGE ESTABLISHED.

22 A jail, courthouse security, and detention facility  
23 surcharge shall be levied against certain law violators as  
24 provided in section 911A.2. The surcharge shall be used as  
25 provided in section 911A.3.

26 Sec. 19. NEW SECTION. 911A.2 SURCHARGE.

27 When a court imposes a fine or forfeiture for a violation  
28 of a state law, or of a city or county ordinance except an  
29 ordinance regulating the parking of motor vehicles, the court  
30 shall assess an additional penalty in the form of a surcharge  
31 equal to ten dollars. In the event of multiple offenses, the  
32 surcharge shall be based upon the total number of offenses.  
33 When a fine or forfeiture is suspended in whole or in part,  
34 the surcharge shall not be reduced.

35 The surcharge is subject to the provisions of chapter 909

1 governing the payment and collection of fines, as provided in  
2 section 909.8.

3 Sec. 20. NEW SECTION. 911A.3 DISPOSITION OF SURCHARGE.

4 1. When a court assesses a surcharge under section 911A.2,  
5 notwithstanding any other provision of the Code to the  
6 contrary, proceeds from the surcharge shall be appropriated  
7 and transferred to the treasurer of the county in which the  
8 citation was issued to be deposited in the county general fund  
9 and used only for courthouse security and the improvement,  
10 expansion, operation, or construction of a jail or juvenile  
11 detention facility.

12 2. At any time and for the purposes specified in  
13 subsection 1, a county may transfer proceeds received and  
14 deposited pursuant to this section to a contiguous county or a  
15 county that has a relationship with the transferring county  
16 concerning the use of a jail or juvenile detention facility in  
17 the recipient county.

18 Sec. 21. GRANT PROGRAM IMPLEMENTATION. There is  
19 appropriated from the general fund of the state to the  
20 department of human rights, division of criminal and juvenile  
21 justice planning, for the fiscal year beginning July 1, 1998,  
22 and ending June 30, 1999, the following amount, or so much  
23 thereof as is necessary, to be used for the purposes  
24 designated:

25 For technical assistance and staffing associated with the  
26 development of the local corrections infrastructure grant  
27 program enacted by this Act, including salaries, support,  
28 maintenance, miscellaneous purposes, and for not more than the  
29 following full-time equivalent positions:

30 .....	\$	200,000
31 .....	FTEs	2.00

32 Sec. 22. EFFECTIVE DATE. Sections 10 through 13 and 21 of  
33 this Act, relating to local corrections infrastructure, being  
34 deemed of immediate importance, take effect upon enactment.

35 EXPLANATION

1 Sections 10 through 13 and 21 of this bill relate to  
2 corrections and crime prevention by creating a local  
3 corrections infrastructure grant program and making an  
4 appropriation to the department of human rights, division of  
5 criminal and juvenile justice planning for costs to develop  
6 the program and an appropriation to the department of economic  
7 development for a juvenile crime prevention summer youth  
8 employment program.

9 New Code section 905A.1 provides definitions. New Code  
10 section 905A.2 directs the division to adopt rules to create  
11 the infrastructure grant program and to issue a request for  
12 proposals from the 14 judicial election districts in the  
13 state. The grants are to be available in two groupings: a  
14 grouping dividing \$25 million based upon the proportion a  
15 judicial election district bears to the state general  
16 population, and a grouping for \$9 million in grants based upon  
17 other criteria including crime, innovation, and statewide  
18 need. A proposal may incorporate more than one project. Each  
19 judicial election district is limited to one proposal for each  
20 grouping. The proposals are limited to infrastructure  
21 projects for county or regional jails, county or regional  
22 juvenile detention or shelter care homes, and community-based  
23 correctional program facilities or school-based crime  
24 prevention projects. The bill provides proposal submission  
25 deadlines but allows the division to extend the deadlines for  
26 good cause. The office of the attorney general and the  
27 university of northern Iowa's criminology program are to work  
28 with the division in developing evaluation procedures and  
29 other components of the grant program.

30 Under new Code section 905A.3, a task force is to be  
31 created by the division and is required to assist the division  
32 in scoring and evaluating proposals. The membership is to  
33 include various representatives of law enforcement, the  
34 judicial system, local governments, schools, and corrections  
35 services, and others deemed necessary by the division or the

1 task force.

2 New Code section 905A.4 provides that the funding for the  
3 grants is provided from prison infrastructure revenue bonds  
4 issued by the Iowa finance authority under Code section  
5 16.177. Upon direction by the division, the department of  
6 corrections is directed to pledge amounts in the Iowa prison  
7 infrastructure fund to pay the bonds.

8 Section 21 of the bill provides for a \$200,000  
9 appropriation to the division and a \$800,000 appropriation to  
10 the department of economic development for the fiscal year  
11 beginning July 1, 1998. Sections 10 through 13 and 21 of the  
12 bill take effect upon enactment.

13 Section 14 of the bill provides that a payment in lieu of a  
14 fine may be assessed against a person who receives a deferred  
15 judgment in a case where a minimum fine would otherwise be  
16 ordered.

17 Section 15 of the bill also establishes a mandatory wage  
18 assignment for payment of fines in installments or on a fixed  
19 date that remain unpaid. The garnishment limits of the state  
20 do not apply but the wage assignment will be subject to first  
21 priority enforcement of support orders.

22 The bill also establishes a jail, courthouse security, and  
23 detention facility surcharge which provides for the assessment  
24 of a \$10 surcharge on criminal fines and forfeitures imposed  
25 for the violation of state law or city or county ordinance.  
26 The \$10 surcharge would be transferred to the county in which  
27 the citation was issued for use in providing courthouse  
28 security and financing the improvement, expansion, operation,  
29 or construction of county jail and juvenile detention  
30 facilities. The bill provides that the surcharge proceeds  
31 shall be deposited in the county general fund. The bill also  
32 provides that the county may transfer, at any time, the funds  
33 to a contiguous county or a county in which it has a  
34 relationship concerning the use of its jail or juvenile  
35 detention facility for the purposes authorized by this bill.

1 The surcharge is not considered part of a county penalty for  
2 purposes of the maximum amount authorized counties for  
3 penalties.

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