

REPRINTED

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APR 28 1997
APPROPRIATIONS

HOUSE FILE 734
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 211)

Passed House, Date ^(P.1674) 4/28/97 Passed Senate, Date ^(P.1564) 4-29-97
Vote: Ayes 98 Nays 0 Vote: Ayes 49 Nays 1
Approved May 26, 1997

A BILL FOR

1 An Act relating to the criminal and civil justice system by
2 providing for the imposition of a civil penalty for certain
3 motor vehicle license convictions, for the appropriation and
4 distribution of the penalties collected, and for the
5 imposition and payment of fees for probation and parole, and
6 concerning inmate employment in private industry.

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

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HF 734

REPRINTED

1 Section 1. NEW SECTION. 321.218A CIVIL PENALTY --
2 DISPOSITION -- REINSTATEMENT.

3 When the department receives a record of a person's
4 conviction for a violation of section 321.218, the department
5 shall assess the person a civil penalty of two hundred
6 dollars. The money collected by the department under this
7 section shall be transmitted to the treasurer of state who
8 shall deposit the money in the general fund of the state. A
9 temporary restricted license shall not be issued or a motor
10 vehicle license or nonresident operating privilege reinstated
11 until the civil penalty has been paid.

12 Sec. 2. NEW SECTION. 321.561A CIVIL PENALTY --
13 DISPOSITION -- REINSTATEMENT.

14 When the department receives a record of a person's
15 conviction for a violation of section 321.561, the department
16 shall assess the person a civil penalty of two hundred
17 dollars. The money collected by the department under this
18 section shall be transmitted to the treasurer of state who
19 shall deposit the money in the general fund of the state. A
20 temporary restricted license shall not be issued or a motor
21 vehicle license or nonresident operating privilege reinstated
22 until the civil penalty has been paid.

23 Sec. 3. NEW SECTION. 321A.32A CIVIL PENALTY --
24 DISPOSITION -- REINSTATEMENT.

25 When the department receives a record of a person's
26 conviction for a violation of section 321A.32, subsection 1,
27 the department shall assess the person a civil penalty of two
28 hundred dollars. The money collected by the department under
29 this section shall be transmitted to the treasurer of state
30 who shall deposit the money in the general fund of the state.
31 A temporary restricted license shall not be issued or a motor
32 vehicle license or nonresident operating privilege reinstated
33 until the civil penalty has been paid.

34 Sec. 4. Section 904.108, subsection 7, Code 1997, is
35 amended to read as follows:

1 7. The director may charge an inmate a correctional fee
2 for custodial expenses incurred or which may be incurred while
3 the inmate is in the custody of the department. The custodial
4 expenses may include, but are not limited to, board and room,
5 medical and dental fees, education costs, clothing costs, and
6 the costs of supervision, services, and treatment to the
7 inmate. The correctional fee shall not exceed the actual cost
8 of keeping the inmate in custody. The correctional fees shall
9 ~~be assessed as court costs and any correctional fees~~ collected
10 pursuant to this subsection shall be credited to the general
11 ~~fund of the state. The correctional fees shall be collected~~
12 ~~as other court costs pursuant to section 602.8107~~ as a
13 reimbursement to the appropriate correctional institution.
14 This subsection does not limit the right of the director to
15 obtain any other remedy authorized by law.

16 Sec. 5. Section 904.809, Code 1997, is amended by adding
17 the following new subsection:

18 NEW SUBSECTION. 5. An inmate of a correctional
19 institution employed pursuant to this section shall surrender
20 to the department of corrections the inmate's total earnings
21 less deductions for federal, state, and local taxes, and any
22 other payroll deductions required by law. The department of
23 corrections shall deduct twenty percent of the balance to be
24 credited to the inmate's general account. The department
25 shall then deduct from the earnings remaining as follows:

26 a. The department shall first deduct the following amounts
27 in the following order of priority.

28 (1) An amount the inmate may be legally obligated to pay
29 for the support of the inmate's dependents, the amount of
30 which shall be paid to the dependents through the department
31 of human services located in the county or city in which the
32 dependents reside.

33 (2) Restitution as ordered by the court pursuant to
34 chapter 910.

35 (3) Five percent of the balance to the victim compensation

1 fund created in section 912.14.

2 (4) An amount the inmate is legally obligated to pay for
3 any other financial obligation.

4 (5) An amount determined to be the cost to the department
5 of corrections for providing for the incarceration of the
6 inmate.

7 b. Of the balance remaining after deductions and payments
8 required pursuant to paragraph "a", the department shall
9 deposit in the Iowa state industries revolving fund created in
10 section 904.813, an amount equal to the costs incurred by the
11 fund related to the inmate's employment pursuant to this
12 section. Any balance remaining after the deductions and
13 payments required by this subsection shall be credited to the
14 inmate's general account.

15 Sec. 6. NEW SECTION. 905.14 FEES FOR PROBATION AND
16 PAROLE.

17 1. A person placed on probation or parole and subject to
18 supervision by a district department shall be required to pay
19 an enrollment fee to the district department to offset the
20 costs of supervision. The fee shall be based on the offense
21 class of the most serious offense for which the person has
22 received probation or parole, including deferred judgments or
23 deferred sentences, and shall be as follows:

24 a. For a felony, one hundred fifty dollars.

25 b. For an aggravated misdemeanor, one hundred twenty-five
26 dollars.

27 c. For a serious or simple misdemeanor, one hundred
28 dollars.

29 2. The fees established pursuant to this section shall not
30 be waived by the sentencing court. Each district department
31 shall retain fees collected for administrative and program
32 services.

33 3. The department of corrections may adopt rules for the
34 administration of this section. If adopted, the rules shall
35 include a provision for waiving the collection of fees for

1 persons determined to be unable to pay.

2 Sec. 7. Section 906.15, unnumbered paragraph 1, Code 1997,
3 is amended to read as follows:

4 Unless sooner discharged, a person released on parole shall
5 be discharged when the person's term of parole equals the
6 period of imprisonment specified in the person's sentence,
7 less all time served in confinement. If the fees required to
8 be paid under section 905.14 are not waived by the judicial
9 district department of correctional services and are not paid
10 in full, a record of the amount unpaid shall be perfected and
11 constitute a lien in the same manner as a judgment for an
12 unpaid fine which has been filed with the clerk becomes a lien
13 under section 909.6. Discharge from parole may be granted
14 prior to ~~such~~ that time, when an early discharge is
15 appropriate. The board shall periodically review all paroles,
16 and when the board determines that ~~any~~ a person on parole is
17 able and willing to fulfill the obligations of a law-abiding
18 citizen without further supervision, the board shall discharge
19 the person from parole. A parole officer shall periodically
20 review all paroles assigned to the parole officer, and when
21 the parole officer determines that any person assigned to the
22 officer is able and willing to fulfill the obligations of a
23 law-abiding citizen without further supervision, the officer
24 may discharge the person from parole after notification and
25 approval of the district director and notification of the
26 board of parole. In any event, discharge from parole shall
27 terminate the person's sentence. However, a person convicted
28 of a violation of section 709.3, 709.4 or 709.8 committed on
29 or with a child shall not be discharged from parole until the
30 person's term of parole equals the period of imprisonment
31 specified in the person's sentence, less all time served in
32 confinement.

33 Sec. 8. Section 907.3, subsection 1, unnumbered paragraph
34 1, Code 1997, is amended to read as follows:

35 With the consent of the defendant, the court may defer

1 judgment and may place the defendant on probation upon such
2 conditions as it may require. Upon a showing that the
3 defendant is not cooperating with the program of probation or
4 is not responding to it, the court may withdraw the defendant
5 from the program, pronounce judgment, and impose any sentence
6 authorized by law. Before taking such action, the court shall
7 give the defendant an opportunity to be heard on any matter
8 relevant to the proposed action. Upon fulfillment of the
9 conditions of probation and the payment of fees imposed and
10 not waived by the judicial district department of correctional
11 services under section 905.14, the defendant shall be
12 discharged without entry of judgment. Upon violation of the
13 conditions of probation, the court may proceed as provided in
14 chapter 908.

15 Sec. 9. Section 907.3, subsection 3, Code 1997, is amended
16 to read as follows:

17 3. By record entry at the time of or after sentencing, the
18 court may suspend the sentence and place the defendant on
19 probation upon such terms and conditions as it may require
20 including commitment to an alternate jail facility or a
21 community correctional residential treatment facility for a
22 specific number of days to be followed by a term of probation
23 as specified in section 907.7, or commitment of the defendant
24 to the judicial district department of correctional services
25 for supervision or services under section 901B.1 at the level
26 of sanctions which the district department determines to be
27 appropriate and the payment of fees imposed under section
28 905.14. A person so committed who has probation revoked shall
29 be given credit for such time served. However, the court
30 shall not suspend the minimum term of two days imposed
31 pursuant to section 708.2A, subsection 6, paragraph "a", or a
32 sentence imposed under section 708.2A, subsection 6, paragraph
33 "b", and the court shall not suspend a sentence imposed
34 pursuant to section 236.8 or 236.14 for contempt.

35 Sec. 10. Section 907.7, unnumbered paragraphs 1 and 2,

1 Code 1997, are amended to read as follows:

2 The length of the probation shall be for such a term as the
3 court may fix but not to exceed five years if the offense is a
4 felony or not to exceed two years if the offense is a
5 misdemeanor. If the fees required to be paid under section
6 905.14 are not waived by the judicial district department of
7 correctional services and are not paid in full, a record of
8 the amount unpaid shall be perfected and constitute a lien in
9 the same manner as a judgment for an unpaid fine which has
10 been filed with the clerk becomes a lien under section 909.6.

11 The length of the probation shall not be less than one year
12 if the offense is a misdemeanor and shall not be less than two
13 years if the offense is a felony. However, the court may
14 subsequently reduce the length of the probation if the court
15 determines that the purposes of probation have been fulfilled
16 and the fees imposed under section 905.14 have been paid to or
17 waived by the judicial district department of correctional
18 services. The purposes of probation are to provide maximum
19 opportunity for the rehabilitation of the defendant and to
20 protect the community from further offenses by the defendant
21 and others.

22 Sec. 11. Section 907.9, unnumbered paragraph 1, Code 1997,
23 is amended to read as follows:

24 At any time that the court determines that the purposes of
25 probation have been fulfilled and the fees imposed under
26 section 905.14 have been paid to or waived by the judicial
27 district department of correctional services, the court may
28 order the discharge of a person from probation. At any time
29 that a probation officer determines that the purposes of
30 probation have been fulfilled and the fees imposed under
31 section 905.14 have been paid to or waived by the judicial
32 district department of correctional services, the officer may
33 order the discharge of a person from probation after approval
34 of the district director, and notification of the sentencing
35 court and county attorney who prosecuted the case. The

1 sentencing judge, unless the judge is no longer serving or is
2 otherwise unable to, may order a hearing on its own motion, or
3 shall order a hearing upon the request of the county attorney,
4 for review of such discharge. If the sentencing judge is no
5 longer serving or unable to order such hearing, the chief
6 judge of the district or the chief judge's designee shall
7 order any hearing pursuant to this section. Following the
8 hearing, the court shall approve or rescind such discharge.
9 If a hearing is not ordered within thirty days after
10 notification by the probation officer, the person shall be
11 discharged and the probation officer shall notify the state
12 court administrator of such discharge. At the expiration of
13 the period of probation, in cases where the court fixes the
14 term of probation and if the fees imposed under section 905.14
15 have been paid to or waived by the judicial district
16 department of correctional services, the court shall order the
17 discharge of the person from probation, and the court shall
18 forward to the governor a recommendation for or against
19 restoration of citizenship rights to that person. A person
20 who has been discharged from probation shall no longer be held
21 to answer for the person's offense. Upon discharge from
22 probation, if judgment has been deferred under section 907.3,
23 the court's criminal record with reference to the deferred
24 judgment shall be expunged. The record maintained by the
25 state court administrator as required by section 907.4 shall
26 not be expunged. The court's record shall not be expunged in
27 any other circumstances.

28 Sec. 12. MOTOR VEHICLE LICENSE REINSTATEMENT PENALTY --
29 APPROPRIATION AND DISTRIBUTION.

30 1. Notwithstanding the deposit provisions of sections
31 321.218A, 321.561A, and 321A.32A, moneys collected during the
32 fiscal year beginning July 1, 1997, and ending June 30, 1998,
33 by the state department of transportation pursuant to those
34 sections are appropriated to the department of human services
35 for the fiscal year beginning July 1, 1997, and ending June

1 30, 1998, and shall be allocated as follows:

2 a. The first \$1,000,000 shall be used for the
3 establishment, improvement, operation, and maintenance of
4 county or multicounty juvenile detention homes. Funds
5 allocated in this paragraph shall be prorated among eligible
6 detention homes.

7 b. Moneys in excess of \$1,000,000 shall be allocated to
8 the judicial department for distribution to the judicial
9 districts as determined by the state court administrator to be
10 used by the judicial districts pursuant to recommendations of
11 the planning group for court-ordered services for juveniles
12 provided in each judicial district which were established
13 pursuant to 1991 Iowa Acts, chapter 267, section 119. Moneys
14 allocated and distributed pursuant to this paragraph shall be
15 used for the improvement, expansion, construction, and
16 operation of runaway assessment facilities, runaway assessment
17 services, and juvenile delinquency prevention and intervention
18 services.

19 2. Notwithstanding section 8.33, moneys appropriated in
20 this section which remain unobligated or unexpended at the
21 close of the fiscal year shall not revert to the general fund
22 of the state but shall remain available only for the purposes
23 designated in this section in the succeeding fiscal year.

24 EXPLANATION

25 The bill imposes a \$200 civil penalty on a person who has
26 been convicted of certain offenses involved with operating a
27 motor vehicle without proper authority. The bill requires
28 that moneys collected by the state department of
29 transportation pursuant to this penalty be deposited in the
30 general fund of the state. The bill further provides,
31 however, that the moneys shall not be deposited in the general
32 fund but shall be appropriated, during the fiscal year
33 beginning July 1, 1997, to the department of human services.
34 The bill specifies that the first \$1,000,000 collected shall
35 be used for county or multicounty juvenile detention homes.

1 Moneys collected beyond \$1,000,000 shall be allocated to the
 2 judicial department to be used in the judicial districts for
 3 runaway assessment facilities and services and juvenile
 4 delinquency prevention and intervention services.

5 The bill provides that a correctional fee assessed an
 6 inmate for custodial expenses incurred shall be credited to
 7 the appropriate correctional institution and deletes the
 8 current provision providing that it shall be assessed as court
 9 costs and credited to the general fund of the state.

10 The bill also establishes a supervision fee to be assessed
 11 a person placed on probation or parole and who is subject to
 12 supervision by a judicial district department of correctional
 13 services. The fees collected shall be credited to the
 14 judicial district department of correctional services. The
 15 bill requires that the department of corrections adopt a rule
 16 providing for waiver of the fee for persons unable to pay.
 17 The bill also establishes that the fees be paid or waived
 18 prior to probation and provides that any amounts unpaid
 19 constitute a lien in the same manner as an unpaid fine becomes
 20 a lien under Code section 909.6.

21 The bill also establishes a procedure for allocating moneys
 22 received by an inmate while employed in private industry and
 23 specifies the allocation of any moneys received.

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**HOUSE FILE 734
FISCAL NOTE**

The estimate for House File 734 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 734, as amended by the Senate Ways and Means Committee, creates a civil penalty for reinstatement of drivers licenses, the funding mechanism for the Pay-For-Stay Program for prisons and community-based corrections, and creates Prison Recycling Funds at each institution.

ASSUMPTIONS

1. The Department of Transportation reports that in FY 1996 there were approximately 35,000 driver licenses revoked, suspended, or barred under Chapters 321 and 321A, Code of Iowa. Approximately 50.0% of the offenders assessed a \$200 penalty for alcohol related driving offenses pay the penalty. The same collection rate will be applied to this civil penalty.
2. Of the 17,500 who pay the penalty, 1,600 will be age 19 and under and 15,900 will be age 20 and over. Those 19 and under will pay a \$50 penalty, and those age 20 and over will pay the \$200 penalty.
3. The prisons will collect \$5.00 per month from inmates employed in prison jobs as a result of the Pay-for-Stay Program.
4. The Department of Corrections projects that prisons will receive 35.0% of the take-home pay of the inmates employed by private sector companies. Inmate jobs will pay \$5.00 per hour. Inmates will work a total of 292,000 hours in private sector jobs in FY 1998.
5. The Department of Corrections projects that the probation and parole enrollment fees will generate \$469,000 for the Community-Based Corrections District Departments.

FISCAL IMPACT

The driver license reinstatement civil penalty will generate \$3.3 million annually. The first \$1.0 million will be used for the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes. The remaining funds will be used for court-ordered services for juveniles.

The Pay-for-Stay Program is projected to generate \$469,000 for the Community-Based Corrections District Departments and \$813,000 for the prisons in FY 1998.

Creation of the Prison Recycling Funds will be an administrative procedure and will not have a significant fiscal impact.

SOURCE

Department of Transportation
Department of Corrections

(LSB 1378HV.2, MDF)

FILED APRIL 29, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 734
FISCAL NOTE**

The estimate for House File 734 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 734 creates a \$200 civil penalty for reinstatement of drivers licenses and the funding mechanism for the Pay-For-Stay Program for prisons and community-based corrections.

ASSUMPTIONS

1. The Department of Transportation reports there were approximately 10,000 driver license reinstatements in FY 1994 and 9,000 in FY 1996. It is assumed there will be 9,500 reinstatements annually.
2. The prisons will collect \$5.00 per month from inmates employed in prison jobs as a result of the Pay-for-Stay Program.
3. The Department of Corrections projects that prisons will receive 35.0% of the take-home pay of the inmates employed by private sector companies. Inmate jobs will pay \$5.00 per hour. Inmates will work a total of 292,000 hours in private sector jobs in FY 1998.
4. The Department of Corrections projects that the probation and parole enrollment fees will generate \$469,000 for the Community-Based Corrections District Departments.

FISCAL IMPACT

The driver license reinstatement civil penalty will generate \$1.9 million annually. The first \$1.0 million will be used for the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes. The remaining \$900,000 will be used for court-ordered services for juveniles.

The Pay-for-Stay Program is projected to generate \$469,000 for the Community-Based Corrections District Departments and \$813,000 for the prisons in FY 1998.

SOURCE

Department of Transportation
Department of Corrections

(LSB 1378hv, MDF)

FILED APRIL 28, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 734

H-1966

- 1 Amend House File 734 as follows:
2 1. Page 1, by striking lines 3 through 4 and
3 inserting the following: "When the department
4 suspends, revokes, or bars a person's motor vehicle
5 license or nonresident operating privilege under this
6 chapter, the department".
7 2. Page 1, by striking lines 12 through 22.
8 3. Page 1, by striking lines 25 through 26 and
9 inserting the following: "When the department
10 suspends, revokes, or bars a person's motor vehicle
11 license or nonresident operating privilege under this
12 chapter,".
13 4. Page 2, by striking lines 31 through 32 and
14 inserting the following: "of human services
15 collection services center."
16 5. Page 7, line 31, by striking the figure "
17 321.561A,".
18 6. Page 8, by striking line 8 and inserting the
19 following: "the judicial".
20 7. Title page, line 3, by striking the word
21 "convictions" and inserting the following:
22 "suspensions, revocations, or bars".
23 8. By renumbering as necessary.

By COMMITTEE ON APPROPRIATIONS
MILLAGE of Scott, Chairperson

H-1966 FILED APRIL 28, 1997

ADOPTED

(P. 1674)

HOUSE FILE 734

H-1967

- 1 Amend House File 734 as follows:
2 1. Page 4, by striking lines 2 through 32.
3 2. Page 6, by striking lines 5 through 10 and
4 inserting the following: "misdemeanor."
5 3. By renumbering as necessary.

By KREIMAN of Davis
SUKUP of Franklin

H-1967 FILED APRIL 28, 1997

ADOPTED

(P. 1674)

HOUSE FILE 734
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO HSB 211)

(As Amended and Passed by the House, April 28, 1997)

Passed House, Date ^(P. 1756) 4-29-97 Passed Senate, Date ^(P. 1564) 4-29-97
Vote: Ayes 99 Nays 0 Vote: Ayes 49 Nays 1
Approved May 26, 1997

A BILL FOR

1 An Act relating to the criminal and civil justice system by
2 providing for the imposition of a civil penalty for certain
3 motor vehicle license suspensions, revocations, or bars, for
4 the appropriation and distribution of the penalties collected,
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7 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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House Amendments _____

Deleted Language *

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2 DISPOSITION -- REINSTATEMENT.

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5 this chapter, the department shall assess the person a civil
6 penalty of two hundred dollars. The money collected by the
7 department under this section shall be transmitted to the
8 treasurer of state who shall deposit the money in the general
9 fund of the state. A temporary restricted license shall not
10 be issued or a motor vehicle license or nonresident operating
11 privilege reinstated until the civil penalty has been paid.

* 12 Sec. 2. NEW SECTION. 321A.32A CIVIL PENALTY --
13 DISPOSITION -- REINSTATEMENT.

14 When the department suspends, revokes, or bars a person's
15 motor vehicle license or nonresident operating privilege under
16 this chapter, the department shall assess the person a civil
17 penalty of two hundred dollars. The money collected by the
18 department under this section shall be transmitted to the
19 treasurer of state who shall deposit the money in the general
20 fund of the state. A temporary restricted license shall not
21 be issued or a motor vehicle license or nonresident operating
22 privilege reinstated until the civil penalty has been paid.

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26 for custodial expenses incurred or which may be incurred while
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29 medical and dental fees, education costs, clothing costs, and
30 the costs of supervision, services, and treatment to the
31 inmate. The correctional fee shall not exceed the actual cost
32 of keeping the inmate in custody. The correctional fees shall
33 ~~be assessed as court costs and any correctional fees~~ collected
34 pursuant to this subsection shall be credited ~~to the general~~
35 ~~fund of the state. The correctional fees shall be collected~~

1 ~~as other court costs pursuant to section 602.8107~~ as a
2 reimbursement to the appropriate correctional institution.

3 This subsection does not limit the right of the director to
4 obtain any other remedy authorized by law.

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8 institution employed pursuant to this section shall surrender
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10 less deductions for federal, state, and local taxes, and any
11 other payroll deductions required by law. The department of
12 corrections shall deduct twenty percent of the balance to be
13 credited to the inmate's general account. The department
14 shall then deduct from the earnings remaining as follows:

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16 in the following order of priority.

17 (1) An amount the inmate may be legally obligated to pay
18 for the support of the inmate's dependents, the amount of
19 which shall be paid to the dependents through the department
20 of human services collection services center.

21 (2) Restitution as ordered by the court pursuant to
22 chapter 910.

23 (3) Five percent of the balance to the victim compensation
24 fund created in section 912.14.

25 (4) An amount the inmate is legally obligated to pay for
26 any other financial obligation.

27 (5) An amount determined to be the cost to the department
28 of corrections for providing for the incarceration of the
29 inmate.

30 b. Of the balance remaining after deductions and payments
31 required pursuant to paragraph "a", the department shall
32 deposit in the Iowa state industries revolving fund created in
33 section 904.813, an amount equal to the costs incurred by the
34 fund related to the inmate's employment pursuant to this
35 section. Any balance remaining after the deductions and

1 payments required by this subsection shall be credited to the
2 inmate's general account.

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4 PAROLE.

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6 supervision by a district department shall be required to pay
7 an enrollment fee to the district department to offset the
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9 class of the most serious offense for which the person has
10 received probation or parole, including deferred judgments or
11 deferred sentences, and shall be as follows:

12 a. For a felony, one hundred fifty dollars.

13 b. For an aggravated misdemeanor, one hundred twenty-five
14 dollars.

15 c. For a serious or simple misdemeanor, one hundred
16 dollars.

17 2. The fees established pursuant to this section shall not
18 be waived by the sentencing court. Each district department
19 shall retain fees collected for administrative and program
20 services.

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29 conditions as it may require. Upon a showing that the
30 defendant is not cooperating with the program of probation or
31 is not responding to it, the court may withdraw the defendant
32 from the program, pronounce judgment, and impose any sentence
33 authorized by law. Before taking such action, the court shall
34 give the defendant an opportunity to be heard on any matter
35 relevant to the proposed action. Upon fulfillment of the

1 conditions of probation and the payment of fees imposed and
2 not waived by the judicial district department of correctional
3 services under section 905.14, the defendant shall be
4 discharged without entry of judgment. Upon violation of the
5 conditions of probation, the court may proceed as provided in
6 chapter 908.

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8 to read as follows:

9 3. By record entry at the time of or after sentencing, the
10 court may suspend the sentence and place the defendant on
11 probation upon ~~such~~ terms and conditions as it may require
12 including commitment to an alternate jail facility or a
13 community correctional residential treatment facility for a
14 specific number of days to be followed by a term of probation
15 as specified in section 907.7, or commitment of the defendant
16 to the judicial district department of correctional services
17 for supervision or services under section 901B.1 at the level
18 of sanctions which the district department determines to be
19 appropriate and the payment of fees imposed under section
20 905.14. A person so committed who has probation revoked shall
21 be given credit for such time served. However, the court
22 shall not suspend the minimum term of two days imposed
23 pursuant to section 708.2A, subsection 6, paragraph "a", or a
24 sentence imposed under section 708.2A, subsection 6, paragraph
25 "b", and the court shall not suspend a sentence imposed
26 pursuant to section 236.8 or 236.14 for contempt.

27 Sec. 8. Section 907.7, unnumbered paragraphs 1 and 2, Code
28 1997, are amended to read as follows:

29 The length of the probation shall be for ~~such~~ a term as the
30 court may fix but not to exceed five years if the offense is a
31 felony or not to exceed two years if the offense is a
32 misdemeanor.

33 The length of the probation shall not be less than one year
34 if the offense is a misdemeanor and shall not be less than two
35 years if the offense is a felony. However, the court may

1 subsequently reduce the length of the probation if the court
2 determines that the purposes of probation have been fulfilled
3 and the fees imposed under section 905.14 have been paid to or
4 waived by the judicial district department of correctional
5 services. The purposes of probation are to provide maximum
6 opportunity for the rehabilitation of the defendant and to
7 protect the community from further offenses by the defendant
8 and others.

9 Sec. 9. Section 907.9, unnumbered paragraph 1, Code 1997,
10 is amended to read as follows:

11 At any time that the court determines that the purposes of
12 probation have been fulfilled and the fees imposed under
13 section 905.14 have been paid to or waived by the judicial
14 district department of correctional services, the court may
15 order the discharge of a person from probation. At any time
16 that a probation officer determines that the purposes of
17 probation have been fulfilled and the fees imposed under
18 section 905.14 have been paid to or waived by the judicial
19 district department of correctional services, the officer may
20 order the discharge of a person from probation after approval
21 of the district director, and notification of the sentencing
22 court and county attorney who prosecuted the case. The
23 sentencing judge, unless the judge is no longer serving or is
24 otherwise unable to, may order a hearing on its own motion, or
25 shall order a hearing upon the request of the county attorney,
26 for review of such discharge. If the sentencing judge is no
27 longer serving or unable to order such hearing, the chief
28 judge of the district or the chief judge's designee shall
29 order any hearing pursuant to this section. Following the
30 hearing, the court shall approve or rescind such discharge.
31 If a hearing is not ordered within thirty days after
32 notification by the probation officer, the person shall be
33 discharged and the probation officer shall notify the state
34 court administrator of such discharge. At the expiration of
35 the period of probation, in cases where the court fixes the

1 term of probation and if the fees imposed under section 905.14
2 have been paid to or waived by the judicial district
3 department of correctional services, the court shall order the
4 discharge of the person from probation, and the court shall
5 forward to the governor a recommendation for or against
6 restoration of citizenship rights to that person. A person
7 who has been discharged from probation shall no longer be held
8 to answer for the person's offense. Upon discharge from
9 probation, if judgment has been deferred under section 907.3,
10 the court's criminal record with reference to the deferred
11 judgment shall be expunged. The record maintained by the
12 state court administrator as required by section 907.4 shall
13 not be expunged. The court's record shall not be expunged in
14 any other circumstances.

15 Sec. 10. MOTOR VEHICLE LICENSE REINSTATEMENT PENALTY --
16 APPROPRIATION AND DISTRIBUTION.

17 1. Notwithstanding the deposit provisions of sections
18 321.218A and 321A.32A, moneys collected during the fiscal year
19 beginning July 1, 1997, and ending June 30, 1998, by the state
20 department of transportation pursuant to those sections are
21 appropriated to the department of human services for the
22 fiscal year beginning July 1, 1997, and ending June 30, 1998,
23 and shall be allocated as follows:

24 a. The first \$1,000,000 shall be used for the
25 establishment, improvement, operation, and maintenance of
26 county or multicounty juvenile detention homes. Funds
27 allocated in this paragraph shall be prorated among eligible
28 detention homes.

29 b. Moneys in excess of \$1,000,000 shall be allocated to
30 the judicial districts as determined by the state court
31 administrator to be used by the judicial districts pursuant to
32 recommendations of the planning group for court-ordered
33 services for juveniles provided in each judicial district
34 which were established pursuant to 1991 Iowa Acts, chapter
35 267, section 119. Moneys allocated and distributed pursuant

1 to this paragraph shall be used for the improvement,
2 expansion, construction, and operation of runaway assessment
3 facilities, runaway assessment services, and juvenile
4 delinquency prevention and intervention services.

5 2. Notwithstanding section 8.33, moneys appropriated in
6 this section which remain unobligated or unexpended at the
7 close of the fiscal year shall not revert to the general fund
8 of the state but shall remain available only for the purposes
9 designated in this section in the succeeding fiscal year.

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SENATE AMENDMENT TO HOUSE FILE 734

H-1991

1 Amend House File 734, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, line 4, by inserting after the word
4 "privilege" the following: "for a conviction".

5 2. Page 1, line 6, by inserting after the word
6 "dollars." the following: "However, for persons age
7 nineteen or under, the civil penalty assessed shall be
8 fifty dollars."

9 3. Page 1, line 17, by inserting after the word
10 "dollars." the following: "However, for persons age
11 nineteen or under, the civil penalty assessed shall be
12 fifty dollars."

13 4. Page 2, by inserting after line 4 the
14 following:

15 "Sec. ____ . Section 904.112, Code 1997, is amended
16 to read as follows:

17 904.112 INSTITUTIONAL RECEIPTS.

18 ~~All-institutional~~ Institutional receipts of the
19 department of corrections shall be deposited in the
20 general fund of the state except ~~for-reimbursements~~ as
21 follows:

22 1. Reimbursement for services provided to another
23 institution or state agency, rentals charged to
24 employees or other persons for room, apartment, or
25 housing, and charges for meals.

26 2. Receipts which are specifically required to be
27 otherwise expended or deposited under this chapter.

28 Sec. ____ . Section 904.311A, Code 1997, is amended
29 to read as follows:

30 904.311A PRISON RECYCLING FUND.

31 ~~The-Iowa-prison~~ A recycling fund for each prison
32 institution is created and-established as a separate
33 and distinct fund in the state treasury. All moneys
34 remitted to the department for the recycling
35 ~~operations in-each-fiscal-year-commencing-with-the~~
36 ~~fiscal-year-beginning-July-17-1994,~~ of a prison
37 institution shall be deposited in the fund established
38 for that institution. Notwithstanding section 12C.7,
39 subsection 2, interest or earnings on moneys deposited
40 in the each fund shall be credited to the that fund.
41 Notwithstanding section 8.33, moneys in the each fund
42 shall not revert to the general fund of the state at
43 the close of a fiscal year but shall remain in the
44 that fund and be used as directed in this section in
45 the succeeding fiscal year. The treasurer of state
46 shall act as custodian of the each fund and disburse
47 moneys from the each fund as directed by the
48 department for the purpose of payment of operating
49 expenses for recycling."

50 5. Page 6, line 16, by striking the word

H-1991

H-1991

Page 2

- 1 "APPROPRIATION" and inserting the following:
- 2 "DEPOSIT".
- 3 6. Page 6, line 21, by striking the words
- 4 "appropriated to" and inserting the following:
- 5 "deposited with".
- 6 7. Title page, line 4, by striking the word
- 7 "appropriation" and inserting the following:
- 8 "deposit".
- 9 8. Title page, line 4, by striking the words "the
- 10 penalties" and inserting the following: "penalties
- 11 and fees".
- 12 9. By renumbering as necessary.

RECEIVED FROM THE SENATE

H-1991 FILED APRIL 29, 1997

CONCURRED

(P.1756)

HOUSE FILE 734

S-3853

1 Amend House File 734, as amended, passed, and
2 reprinted by the House, as follows:

3 1. Page 1, line 4, by inserting after the word
4 "privilege" the following: "for a conviction".

5 2. Page 1, line 6, by inserting after the word
6 "dollars." the following: "However, for persons age
7 nineteen or under, the civil penalty assessed shall be
8 fifty dollars."

9 3. Page 1, line 17, by inserting after the word
10 "dollars." the following: "However, for persons age
11 nineteen or under, the civil penalty assessed shall be
12 fifty dollars."

13 4. Page 2, by inserting after line 4 the
14 following:

15 "Sec. ____ . Section 904.112, Code 1997, is amended
16 to read as follows:

17 904.112 INSTITUTIONAL RECEIPTS.

18 ~~All-institutional~~ Institutional receipts of the
19 department of corrections shall be deposited in the
20 general fund of the state except ~~for-reimbursements as~~
21 follows:

22 1. Reimbursement for services provided to another
23 institution or state agency, rentals charged to
24 employees or other persons for room, apartment, or
25 housing, and charges for meals.

26 2. Receipts which are specifically required to be
27 otherwise expended or deposited under this chapter.

28 Sec. ____ . Section 904.311A, Code 1997, is amended
29 to read as follows:

30 904.311A PRISON RECYCLING FUND.

31 ~~The-Iowa-prison~~ A recycling fund for each prison
32 institution is created and-established as a separate
33 and distinct fund in the state treasury. All moneys
34 remitted to the department for the recycling
35 ~~operations in-each-fiscal-year-commencing-with-the~~
36 ~~fiscal-year-beginning-July-17-1994,~~ of a prison
37 institution shall be deposited in the fund established
38 for that institution. Notwithstanding section 12C.7,
39 subsection 2, interest or earnings on moneys deposited
40 in the each fund shall be credited to the that fund.
41 Notwithstanding section 8.33, moneys in the each fund
42 shall not revert to the general fund of the state at
43 the close of a fiscal year but shall remain in the
44 that fund and be used as directed in this section in
45 the succeeding fiscal year. The treasurer of state
46 shall act as custodian of the each fund and disburse
47 moneys from the each fund as directed by the
48 department for the purpose of payment of operating
49 expenses for recycling."

50 5. Page 6, line 16, by striking the word

S-3853

S-3853

Page 2

- 1 "APPROPRIATION" and inserting the following:
- 2 "DEPOSIT".
- 3 6. Page 6, line 21, by striking the words
- 4 "appropriated to" and inserting the following:
- 5 "deposited with".
- 6 7. Title page, line 4, by striking the word
- 7 "appropriation" and inserting the following:
- 8 "deposit".
- 9 8. Title page, line 4, by striking the words "the
- 10 penalties" and inserting the following: "penalties
- 11 and fees".
- 12 9. By renumbering as necessary.

By COMMITTEE ON WAYS AND MEANS
JoANN DOUGLAS, Chairperson

S-3853 FILED APRIL 29, 1997
ADOPTED

(p. 1564)

Lamberti, Ch
Teig
Doderer

HSB 211

WAYS AND MEANS

DATE FILED BY

SECRET

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

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

A BILL FOR

1 An Act relating to the criminal and civil justice system, by
2 providing for imposition and payment of fees for probation and
3 parole, the collection and disposition of criminal court
4 fines, penalties, surcharges, costs, and fees, increasing
5 certain scheduled fines and imposing a scheduled fine for
6 certain gambling violations, imposing a civil penalty for
7 certain motor vehicle license revocations, imposing a
8 surcharge on criminal fines and forfeitures, concerning inmate
9 employment in private industry, and providing for the
10 appropriation and disposition of the proceeds from the license
11 revocation civil penalty, from certain scheduled fines, and
12 from the surcharge for jails, courthouse security, and
13 juvenile detention and runaway assessment facilities.

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

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1 Section 1. Section 99D.11, subsection 7, Code 1997, is
2 amended to read as follows:

3 7. A person under the age of twenty-one years shall not
4 make or attempt to make a pari-mutuel wager. A person who
5 violates this subsection commits a scheduled violation under
6 section 805.8, subsection 13.

7 Sec. 2. Section 99E.18, Code 1997, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 5. A person under the age of twenty-one
10 years shall not purchase, or attempt to purchase, a ticket or
11 share. A person who violates this subsection commits a
12 scheduled violation under section 805.8, subsection 13.

13 Sec. 3. Section 99F.9, subsection 5, Code 1997, is amended
14 to read as follows:

15 5. A person under the age of twenty-one years shall not
16 attempt to make or make a wager on an excursion gambling boat
17 or in a racetrack enclosure and shall not be allowed in the
18 area of the excursion gambling boat or racetrack enclosure
19 where gambling is being conducted. A person who violates this
20 subsection with respect to a wager commits a scheduled
21 violation under section 805.8, subsection 13. However, a
22 person eighteen years of age or older may be employed to work
23 in a gambling area.

24 Sec. 4. NEW SECTION. 321.218A CIVIL PENALTY --
25 DISPOSITION -- REINSTATEMENT.

26 When the department revokes a person's motor vehicle
27 license or nonresident operating privilege under this chapter,
28 the department shall assess the person a civil penalty of two
29 hundred dollars. The money collected by the department under
30 this section shall be transmitted to the treasurer of state
31 who shall deposit one-half of the money in the victim
32 compensation fund established in section 912.14 and one-half
33 of the money shall be deposited in the general fund of the
34 state. A temporary restricted license shall not be issued or
35 a motor vehicle license or nonresident operating privilege

1 reinstated until the civil penalty has been paid.

2 Sec. 5. NEW SECTION. 321A.32A CIVIL PENALTY --
3 DISPOSITION -- REINSTATEMENT.

4 When the department revokes a person's motor vehicle
5 license or nonresident operating privilege under this chapter,
6 the department shall assess the person a civil penalty of two
7 hundred dollars. The money collected by the department under
8 this section shall be transmitted to the treasurer of state
9 who shall deposit one-half of the money in the victim
10 compensation fund established in section 912.14 and one-half
11 of the money shall be deposited in the general fund of the
12 state. A temporary restricted license shall not be issued or
13 a motor vehicle license or nonresident operating privilege
14 reinstated until the civil penalty has been paid.

15 Sec. 6. Section 331.302, subsection 2, Code 1997, is
16 amended to read as follows:

17 2. A county shall not provide a penalty in excess of a one
18 hundred dollar fine or in excess of thirty days imprisonment
19 for the violation of an ordinance. The criminal penalty
20 surcharge required by section 911.2 and the jail, courthouse
21 security, and juvenile detention and runaway assessment
22 facility surcharge required by section 911A.2 shall be added
23 to a county fine and is are not a part of the county's
24 penalty.

25 Sec. 7. Section 364.3, subsection 2, Code 1997, is amended
26 to read as follows:

27 2. A city shall not provide a penalty in excess of a one
28 hundred dollar fine or in excess of thirty days imprisonment
29 for the violation of an ordinance. An amount equal to ten
30 percent of all fines collected by cities shall be deposited in
31 the account established in section 602.8108. However, one
32 hundred percent of all fines collected by a city pursuant to
33 section 321.236, subsection 1, shall be retained by the city.
34 The criminal penalty surcharge required by section 911.2 and
35 the jail, courthouse security, and juvenile detention and

1 runaway assessment facility surcharge required by section
2 911A.2 shall be added to a city fine and ~~is~~ are not a part of
3 the city's penalty.

4 Sec. 8. Section 602.8106, subsection 4, Code 1997, is
5 amended to read as follows:

6 4. The clerk of the district court shall submit all other
7 fines, fees, costs, and forfeited bail received from a
8 magistrate to the state court administrator, except as
9 provided in subsection 5 and section 602.8108, subsection 1A.

10 Sec. 9. Section 602.8106, Code 1997, is amended by adding
11 the following new subsection:

12 NEW SUBSECTION. 5. The clerk of the district court shall
13 remit all fines, fees, and costs collected for the scheduled
14 violations enumerated in this subsection to the treasurer of
15 the county in which the case was prosecuted, which moneys
16 shall be deposited in the county general fund and used as
17 provided in section 911A.3. The scheduled violations subject
18 to this subsection are violations of section 123.47A, for
19 which a fine is imposed as provided in section 805.8,
20 subsection 10, paragraph "a", violations of section 453A.2,
21 subsection 2, for which a fine is imposed as provided in
22 section 805.8, subsection 11, and violations of section
23 99D.11, subsection 7, section 99E.18, subsection 5, or section
24 99F.9, subsection 5, for which a fine is imposed as provided
25 in section 805.8, subsection 13.

26 Sec. 10. Section 602.8107, subsection 2, paragraph b, Code
27 1997, is amended to read as follows:

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

29 Sec. 11. Section 602.8107, subsection 3, Code 1997, is
30 amended to read as follows:

31 3. A fine, penalty, court cost, fee, or surcharge is
32 ~~deemed delinquent if it is not paid within six months after on~~
33 ~~the date it is assessed~~ ordered to be paid. ~~An amount which~~
34 ~~was ordered by the court to be paid on a date fixed in the~~
35 ~~future pursuant to section 909.3 is deemed delinquent if it is~~

~~1 not-received-by-the-clerk-within-six-months-after-the-fixed~~
~~2 future-date-set-out-in-the-court-order.---If~~ However, if an
3 amount was ordered to be paid by installments, and an
4 installment is not received ~~within-thirty-days-after~~ on the
5 date it is due, the entire amount of the judgment is deemed
6 delinquent.

7 Sec. 12. Section 602.8107, subsection 4, unnumbered
8 paragraph 1, Code 1997, is amended to read as follows:

9 All fines, penalties, court costs, fees, surcharges, and
10 restitution for court-appointed attorney fees or for expenses
11 of a public defender which ~~are~~ remain delinquent for six
12 months may be collected by the county attorney or the county
13 attorney's designee. In addition, the county attorney or the
14 county attorney's designee may collect such amounts as soon as
15 they become delinquent if authorized by the department of
16 revenue and finance. Thirty-five percent of the amounts
17 collected by the county attorney or the person procured or
18 designated by the county attorney shall be deposited in the
19 general fund of the county if the county attorney has filed
20 the notice required in section 331.756, subsection 5, unless
21 the county attorney has discontinued collection efforts on a
22 particular delinquent amount. The remainder shall be paid to
23 the clerk for distribution under section 602.8108.

24 Sec. 13. Section 602.8107, subsection 4, unnumbered
25 paragraph 2, Code 1997, is amended to read as follows:

26 This subsection does not apply to amounts collected for
27 victim restitution, the victim compensation fund, criminal
28 penalty surcharge, scheduled violations as provided in section
29 602.8106, subsection 5, the jail, courthouse security, and
30 juvenile detention and runaway assessment facility surcharge,
31 or amounts collected as a result of procedures initiated under
32 subsection 5 or under section 421.17, subsection 25.

33 Sec. 14. Section 602.8108, Code 1997, is amended by adding
34 the following new subsection:

35 NEW SUBSECTION. 1A. In all criminal cases in which the

1 state is a plaintiff, the clerk of the district court shall
2 remit fifteen percent of all fines, penalties, surcharges,
3 court costs, fees, time-payment fees, interest, court-
4 appointed attorney fees, and public defender expenses to the
5 treasurer of the county in which the case was prosecuted,
6 which moneys shall be deposited in the county general fund and
7 used as provided in section 911A.3. The remainder of the
8 revenue collected by the clerk shall be submitted to the state
9 court administrator. Criminal surcharge moneys submitted to
10 the state court administrator under this subsection shall be
11 allocated as provided in subsection 3, paragraph "b".

12 Sec. 15. Section 602.8108, subsection 3, Code 1997, is
13 amended to read as follows:

14 3. When in cases where the state is not a plaintiff, when
15 a court assesses a criminal surcharge under section 911.2, the
16 amounts collected shall be distributed as follows:

17 a. The clerk of the district court shall submit to the
18 state court administrator, not later than the fifteenth day of
19 each month, ninety-five percent of the surcharge collected
20 during the preceding calendar month. The clerk shall remit
21 the remainder to the county treasurer of the county that was
22 the plaintiff in the action or to the city that was the
23 plaintiff in the action.

24 b. Of the amount received from the clerk, the state court
25 administrator shall allocate eighteen percent to be deposited
26 in the fund established in section 912.14 and eighty-two
27 percent to be deposited in the general fund of the state.

28 c. Notwithstanding provisions of this subsection to the
29 contrary, all moneys collected from the drug abuse resistance
30 education surcharge provided in section 911.2 shall be
31 remitted to the treasurer of state for deposit in the general
32 fund of the state and the amount deposited is appropriated to
33 the Iowa law enforcement academy for use by the drug abuse
34 resistance education program.

35 Sec. 16. Section 805.8, subsection 1, Code 1997, is

1 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 juvenile detention and
9 runaway assessment facility surcharge required by section
10 911A.2 shall be added to the scheduled fine.

11 Sec. 17. Section 805.8, subsection 10, paragraph a, Code
12 1997, is amended to read as follows:

13 a. For violations of section 123.47A, ~~which constitute~~
14 ~~first-offenses-as-provided-in-that-section,~~ by persons age
15 eighteen, nineteen, or twenty the scheduled fine is fifteen
16 one hundred dollars.

17 Sec. 18. Section 805.8, subsection 11, unnumbered
18 paragraph 1, is amended to read as follows:

19 For violations of section 142B.6 ~~or,~~ the scheduled fine is
20 twenty-five dollars. For violations of section 453A.2,
21 subsection 2, the scheduled fine is ~~twenty-five~~ one hundred
22 ~~dollars,~~ and. A fine imposed under this paragraph is a civil
23 penalty, and the criminal penalty surcharge under section
24 911.2 and the jail, courthouse security, and juvenile
25 detention and runaway assessment facility surcharge under
26 section 911A.2 shall not be added to the penalty, and the
27 court costs pursuant to section 805.9, subsection 6, shall not
28 be imposed. If the civil penalty assessed for a violation of
29 section 142B.6 is not paid in a timely manner, a citation
30 shall be issued for the violation in the manner provided in
31 section 804.1. However, a person under age eighteen shall not
32 be detained in a secure facility for failure to pay the civil
33 penalty. The complainant shall not be charged a filing fee.

34 Sec. 19. Section 805.8, Code 1997, is amended by adding
35 the following new subsection:

1 NEW SUBSECTION. 13. GAMBLING VIOLATIONS. For violations
2 of legal age for gambling or pari-mutuel wagering under
3 section 99D.11, subsection 7, section 99E.18, subsection 5, or
4 section 99F.9, subsection 5, the scheduled fine is one hundred
5 dollars. Failure to pay the fine by a person under the age of
6 eighteen shall not result in the person being detained in a
7 secure facility.

8 Sec. 20. Section 902.9, unnumbered paragraph 2, Code 1997,
9 is amended to read as follows:

10 The criminal penalty surcharge required by section 911.2
11 and the jail, courthouse security, and juvenile detention and
12 runaway assessment facility surcharge required by section
13 911A.2 shall be added to a fine imposed on a class "C" or
14 class "D" felon, as provided by ~~that-section~~ those sections,
15 and ~~is~~ are not a part of or subject to the maximums set in
16 this section.

17 Sec. 21. Section 903.1, subsection 4, Code 1997, is
18 amended to read as follows:

19 4. The criminal penalty surcharge required by section
20 911.2 and the jail, courthouse security, and juvenile
21 detention and runaway assessment facility surcharge required
22 by section 911A.2 shall be added to a fine imposed on a
23 misdemeanor, and ~~is~~ are not a part of or subject to the
24 maximums set in this section.

25 Sec. 22. Section 904.108, subsection 7, Code 1997, is
26 amended to read as follows:

27 7. The director may charge an inmate a correctional fee
28 for custodial expenses incurred or which may be incurred while
29 the inmate is in the custody of the department. The custodial
30 expenses may include, but are not limited to, board and room,
31 medical and dental fees, education costs, clothing costs, and
32 the costs of supervision, services, and treatment to the
33 inmate. The correctional fee shall not exceed the actual cost
34 of keeping the inmate in custody. The correctional fees ~~shall~~
35 ~~be-assessed-as-court-costs-and-any-correctional-fees~~ collected

1 pursuant to this subsection shall be credited to the general
2 fund of the state. ~~The correctional fees shall be collected~~
3 ~~as other court costs pursuant to section 602.8107 as a~~
4 reimbursement to the appropriate correctional institution.

5 This subsection does not limit the right of the director to
6 obtain any other remedy authorized by law.

7 Sec. 23. Section 904.809, Code 1997, is amended by adding
8 the following new subsection:

9 NEW SUBSECTION. 5. An inmate of a correctional
10 institution employed pursuant to this section shall surrender
11 to the department of corrections the inmate's total earnings
12 less payroll deductions required by law. The department of
13 corrections shall then deduct from the earnings as follows:
14 a. The department shall first deduct the following amounts
15 in the following order of priority.

16 (1) An amount the inmate may be legally obligated to pay
17 for the support of the inmate's dependents, the amount of
18 which shall be paid to the dependents through the department
19 of human services located in the county or city in which the
20 dependents reside.

21 (2) Restitution as ordered by the court pursuant to
22 chapter 910.

23 (3) An amount determined to be the cost to the department
24 of corrections for providing food, lodging, and clothing for
25 the inmate while employed pursuant to this section.

26 (4) Any other financial obligations which are acknowledged
27 by the inmate or any unsatisfied judgment against the inmate.

28 b. Of the balance remaining after deductions and payments
29 required pursuant to paragraph "a", the department or
30 corrections shall credit, if applicable, twenty percent of the
31 balance to the inmate's restitution plan, five percent of the
32 balance to the victim compensation fund created in section
33 912.14, five percent of the balance for the support of the
34 inmate's family, five percent of the balance to the inmate
35 savings plan, and twenty percent of the balance to the

1 inmate's general account.

2 c. Of the balance remaining after deductions and payments
3 required pursuant to paragraphs "a" and "b", the department
4 shall deposit in the Iowa state industries revolving fund
5 created in section 904.813, an amount equal to the costs
6 incurred by the fund related to the inmate's employment
7 pursuant to this section. Any balance remaining after the
8 deductions and payments required by this subsection shall be
9 credited to the inmate's general account.

10 Sec. 24. NEW SECTION. 905.14 FEES FOR PROBATION AND
11 PAROLE.

12 1. A person placed on probation or parole and subject to
13 supervision by a district department shall be required to pay
14 a monthly fee of five dollars to the district department to
15 offset the costs of supervision. Fees shall be paid one month
16 following the commencement of supervision and at one-month
17 intervals thereafter while the person is subject to
18 supervision. Each district department shall retain the fees
19 collected for administrative and program services.

20 2. The department of corrections shall adopt rules for the
21 administration of this section. The rules shall include a
22 provision waiving fees for persons determined to be indigent.
23 The fee required by this section does not apply to persons
24 otherwise paying a fee for services received from a district
25 department.

26 Sec. 25. Section 906.15, unnumbered paragraph 1, Code
27 1997, is amended to read as follows:

28 Unless sooner discharged, a person released on parole shall
29 be discharged when the person's term of parole equals the
30 period of imprisonment specified in the person's sentence,
31 less all time served in confinement. If the fees required to
32 be paid under section 905.14 are not waived by the judicial
33 district department of correctional services and are not paid
34 in full, a record of the amount unpaid shall be perfected and
35 constitute a lien in the same manner as a judgment for an

1 unpaid fine which has been filed with the clerk becomes a lien
2 under section 909.6. Discharge from parole may be granted
3 prior to such that time, when an early discharge is
4 appropriate. The board shall periodically review all paroles,
5 and when the board determines that any a person on parole is
6 able and willing to fulfill the obligations of a law-abiding
7 citizen without further supervision, the board shall discharge
8 the person from parole. A parole officer shall periodically
9 review all paroles assigned to the parole officer, and when
10 the parole officer determines that any person assigned to the
11 officer is able and willing to fulfill the obligations of a
12 law-abiding citizen without further supervision, the officer
13 may discharge the person from parole after notification and
14 approval of the district director and notification of the
15 board of parole. In any event, discharge from parole shall
16 terminate the person's sentence. However, a person convicted
17 of a violation of section 709.3, 709.4 or 709.8 committed on
18 or with a child shall not be discharged from parole until the
19 person's term of parole equals the period of imprisonment
20 specified in the person's sentence, less all time served in
21 confinement.

22 Sec. 26. Section 907.3, subsection 1, unnumbered paragraph
23 1, Code 1997, is amended to read as follows:

24 With the consent of the defendant, the court may defer
25 judgment and may place the defendant on probation upon such
26 conditions as it may require. Upon a showing that the
27 defendant is not cooperating with the program of probation or
28 is not responding to it, the court may withdraw the defendant
29 from the program, pronounce judgment, and impose any sentence
30 authorized by law. Before taking such action, the court shall
31 give the defendant an opportunity to be heard on any matter
32 relevant to the proposed action. Upon fulfillment of the
33 conditions of probation and the payment of fees imposed and
34 not waived by the judicial district department of correctional
35 services under section 905.14, the defendant shall be

1 discharged without entry of judgment. Upon violation of the
2 conditions of probation, the court may proceed as provided in
3 chapter 908.

4 Sec. 27. Section 907.3, subsection 3, Code 1997, is
5 amended to read as follows:

6 3. By record entry at the time of or after sentencing, the
7 court may suspend the sentence and place the defendant on
8 probation upon such terms and conditions as it may require
9 including commitment to an alternate jail facility or a
10 community correctional residential treatment facility for a
11 specific number of days to be followed by a term of probation
12 as specified in section 907.7, or commitment of the defendant
13 to the judicial district department of correctional services
14 for supervision or services under section 901B.1 at the level
15 of sanctions which the district department determines to be
16 appropriate and the payment of fees imposed under section
17 905.14. A person so committed who has probation revoked shall
18 be given credit for such time served. However, the court
19 shall not suspend the minimum term of two days imposed
20 pursuant to section 708.2A, subsection 6, paragraph "a", or a
21 sentence imposed under section 708.2A, subsection 6, paragraph
22 "b", and the court shall not suspend a sentence imposed
23 pursuant to section 236.8 or 236.14 for contempt.

24 Sec. 28. NEW SECTION. 907.5A DEFERRED JUDGMENT OR
25 SENTENCE -- ADMINISTRATIVE FEE.

26 1. In addition to any other conditions that the court or
27 the judicial district department of correctional services may
28 impose as a condition of deferring judgment or sentence, the
29 court shall also require that the person pay an administrative
30 fee in an amount that is within the range established for
31 fines for the offense for which judgment or sentence was
32 deferred.

33 2. The fee shall be included in any plan for restitution
34 which may be established for the person by the court of the
35 judicial district department of correctional services, and

1 paid in the same priority order established for fines under
2 section 910.2. The fee shall be paid in full before judgment
3 or sentence may be discharged.

4 3. If a person violates the conditions of the deferred
5 judgment or sentence and the judgment or sentence is imposed,
6 the person shall continue to be held responsible for payment
7 of the fee in addition to any other penalties which may be
8 imposed.

9 Sec. 29. Section 907.7, unnumbered paragraphs 1 and 2,
10 Code 1997, are amended to read as follows:

11 The length of the probation shall be for such a term as the
12 court may fix but not to exceed five years if the offense is a
13 felony or not to exceed two years if the offense is a
14 misdemeanor. If the fees required to be paid under section
15 905.14 are not waived by the judicial district department of
16 correctional services and are not paid in full, a record of
17 the amount unpaid shall be perfected and constitute a lien in
18 the same manner as a judgment for an unpaid fine which has
19 been filed with the clerk becomes a lien under section 909.6.

20 The length of the probation shall not be less than one year
21 if the offense is a misdemeanor and shall not be less than two
22 years if the offense is a felony. However, the court may
23 subsequently reduce the length of the probation if the court
24 determines that the purposes of probation have been fulfilled
25 and the fees imposed under section 905.14 have been paid to or
26 waived by the judicial district department of correctional
27 services. The purposes of probation are to provide maximum
28 opportunity for the rehabilitation of the defendant and to
29 protect the community from further offenses by the defendant
30 and others.

31 Sec. 30. Section 907.9, unnumbered paragraph 1, Code 1997,
32 is amended to read as follows:

33 At any time that the court determines that the purposes of
34 probation have been fulfilled and the fees imposed under
35 section 905.14 have been paid to or waived by the judicial

1 district department of correctional services, the court may
2 order the discharge of a person from probation. At any time
3 that a probation officer determines that the purposes of
4 probation have been fulfilled and the fees imposed under
5 section 905.14 have been paid to or waived by the judicial
6 district department of correctional services, the officer may
7 order the discharge of a person from probation after approval
8 of the district director, and notification of the sentencing
9 court and county attorney who prosecuted the case. The
10 sentencing judge, unless the judge is no longer serving or is
11 otherwise unable to, may order a hearing on its own motion, or
12 shall order a hearing upon the request of the county attorney,
13 for review of such discharge. If the sentencing judge is no
14 longer serving or unable to order such hearing, the chief
15 judge of the district or the chief judge's designee shall
16 order any hearing pursuant to this section. Following the
17 hearing, the court shall approve or rescind such discharge.
18 If a hearing is not ordered within thirty days after
19 notification by the probation officer, the person shall be
20 discharged and the probation officer shall notify the state
21 court administrator of such discharge. At the expiration of
22 the period of probation, in cases where the court fixes the
23 term of probation and if the fees imposed under section 905.14
24 have been paid to or waived by the judicial district
25 department of correctional services, the court shall order the
26 discharge of the person from probation, and the court shall
27 forward to the governor a recommendation for or against
28 restoration of citizenship rights to that person. A person
29 who has been discharged from probation shall no longer be held
30 to answer for the person's offense. Upon discharge from
31 probation, if judgment has been deferred under section 907.3,
32 the court's criminal record with reference to the deferred
33 judgment shall be expunged. The record maintained by the
34 state court administrator as required by section 907.4 shall
35 not be expunged. The court's record shall not be expunged in

1 any other circumstances.

2 Sec. 31. Section 909.8, Code 1997, is amended to read as
3 follows:

4 909.8 PAYMENT AND COLLECTION PROVISIONS APPLY TO CRIMINAL
5 PENALTY-SURCHARGE SURCHARGES.

6 The provisions of this chapter governing the payment and
7 collection of a fine, except section 909.3A, also apply to the
8 payment and collection of a criminal penalty surcharge imposed
9 pursuant to chapter 911 and the jail, courthouse security, and
10 juvenile detention and runaway assessment facility surcharge
11 imposed pursuant to chapter 911A.

12 Sec. 32. Section 909.10, subsection 1, Code 1997, is
13 amended to read as follows:

14 1. As used in this section, unless the context otherwise
15 requires, "delinquent amounts" means a fine, court-imposed
16 court costs in a criminal proceeding, or criminal penalty
17 surcharge imposed pursuant to section 911.2, or jail,
18 courthouse security, and juvenile detention and runaway
19 assessment facility surcharge imposed pursuant to section
20 911A.2, which remains unpaid after two years from the date
21 that the fine, court costs, or surcharge was imposed, and
22 which is not collected by the county attorney pursuant to
23 section 602.8107. However, if the fine may be paid in
24 installments pursuant to section 909.3, the fine is not a
25 delinquent amount unless the installment remains unpaid after
26 two years from the date the installment was due.

27 Sec. 33. NEW SECTION. 911A.1 JAIL, COURTHOUSE SECURITY,
28 AND JUVENILE DETENTION AND RUNAWAY ASSESSMENT FACILITY
29 SURCHARGE ESTABLISHED.

30 A jail, courthouse security, and juvenile detention and
31 runaway assessment facility surcharge shall be levied against
32 certain law violators as provided in section 911A.2. The
33 surcharge shall be used as provided in section 911A.3.

34 Sec. 34. NEW SECTION. 911A.2 SURCHARGE.

35 When a court imposes a fine or forfeiture for a violation

1 of a state law, or of a city or county ordinance except an
2 ordinance regulating the parking of motor vehicles, the court
3 shall assess an additional penalty in the form of a surcharge
4 equal to ten dollars. In the event of multiple offenses, the
5 surcharge shall be based upon the total number of offenses.
6 When a fine or forfeiture is suspended in whole or in part,
7 the surcharge shall not be reduced.

8 The surcharge is subject to the provisions of chapter 909
9 governing the payment and collection of fines, as provided in
10 section 909.8.

11 Sec. 35. NEW SECTION. 911A.3 DISPOSITION OF SURCHARGE.

12 1. When a court assesses a surcharge under section 911A.2,
13 notwithstanding any other provision of the Code to the
14 contrary, proceeds from the surcharge shall be appropriated
15 and transferred to the treasurer of the county in which the
16 citation was issued to be deposited in the county general fund
17 and used only for courthouse security, the improvement,
18 expansion, or construction of a jail, juvenile detention
19 facility, or runaway assessment facility, and for up to fifty
20 percent of the costs for the maintenance and operation of a
21 juvenile detention facility.

22 2. At any time and for the purposes specified in
23 subsection 1, a county may transfer proceeds received and
24 deposited pursuant to this section to a contiguous county or a
25 county that has a relationship with the transferring county
26 concerning the use of a jail or juvenile detention facility in
27 the recipient county.

28 EXPLANATION

29 The bill provides that a correctional fee assessed an
30 inmate for custodial expenses incurred shall be credited to
31 the appropriate correctional institution and deletes the
32 current provision providing that it shall be assessed as court
33 costs and credited to the general fund of the state.

34 The bill also establishes a \$5 monthly supervision fee to
35 be assessed a person placed on probation or parole and who is

1 subject to supervision by a judicial district department of
2 correctional services. The fees collected shall be credited
3 to the judicial district department of correctional services.
4 The bill requires that the department of corrections adopt a
5 rule providing for waiver of the fee for indigents. The bill
6 also establishes that the fees be paid or waived prior to
7 probation and provides that any amounts unpaid constitute a
8 lien in the same manner as an unpaid fine becomes a lien under
9 Code section 909.6.

10 This bill provides that criminal fines, court costs, fees,
11 and surcharges are considered delinquent if they are not paid
12 on the date they are ordered to be paid. Current law provides
13 that the payment is delinquent if it remains unpaid after six
14 months. The bill provides that county attorneys may pursue
15 collection of these delinquent fines and fees after the fine
16 or fee has been delinquent for six months or sooner, if the
17 department of revenue and finance so allows.

18 The bill also provides that 15 percent of all fines,
19 penalties, surcharges, court costs, fees, interest, and
20 expenses recovered in criminal cases in which the state is a
21 plaintiff shall be remitted to the county where the case was
22 prosecuted to be used in the same manner as the \$10 surcharge
23 otherwise established by this bill with the remainder being
24 remitted to the state court administrator for deposit in the
25 general fund. Criminal surcharge moneys would still be split
26 between the victim compensation fund and the state general
27 fund. Current law provides that all these fines and fees are
28 remitted to the state court administrator for deposit in the
29 state general fund.

30 The bill imposes a \$200 civil penalty when motor vehicle
31 licenses are revoked for violations of chapter 321 or 321A
32 (financial responsibility). Proceeds from the civil penalty
33 are to be split equally between the crime victim compensation
34 fund and the state general fund.

35 The bill establishes, as a condition of receipt of a

1 deferred judgment or sentence, that the person pay an
2 administrative fee in an amount that is within the range
3 established for fines for the particular offense. If the
4 person has a plan of restitution, established by the court or
5 the judicial department of correctional services, the fee is
6 to be included with the plan for restitution and paid in the
7 same priority order established for fines. The fee must be
8 paid in full before judgment or sentence may be discharged.
9 If the person violates the conditions of the deferred judgment
10 or sentence and the judgment or sentence is imposed, the
11 person must continue paying the fee.

12 The bill also provides for the assessment of a \$10
13 surcharge on criminal fines and forfeitures imposed for the
14 violation of state law or city or county ordinance. The \$10
15 surcharge would be transferred to the county in which the
16 citation was issued for use in providing courthouse security,
17 financing the improvement, expansion, or construction of
18 county jail, juvenile detention facilities, and runaway
19 assessment facilities, and for up to 50 percent of the
20 operational and maintenance costs of a juvenile detention
21 facility. The bill provides that the surcharge proceeds shall
22 be deposited in the county general fund. The bill also
23 provides that the county may transfer, at any time, the funds
24 to a contiguous county or a county in which it has a
25 relationship concerning the use of its jail or juvenile
26 detention facility for the purposes authorized by this bill.
27 The surcharge is not considered part of a county penalty for
28 purposes of the maximum amount authorized counties for
29 penalties.

30 The bill also makes changes concerning scheduled
31 violations. The bill increases the scheduled fines for
32 violations of certain alcoholic beverage provisions by persons
33 under 21 and for violations of certain tobacco provisions by
34 persons under 18 from \$25 to \$100, and establishes a \$100
35 scheduled fine for certain gambling violations by persons

1 under 21. The bill provides that any fines collected shall be
2 used by the county in the same manner as the \$10 surcharge
3 established by this bill.

4 The bill also establishes a procedure for allocating moneys
5 received by an inmate while employed in private industry and
6 specifies the allocation of any moneys received.

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HOUSE FILE 734

AN ACT

RELATING TO THE CRIMINAL AND CIVIL JUSTICE SYSTEM BY
 PROVIDING FOR THE IMPOSITION OF A CIVIL PENALTY FOR
 CERTAIN MOTOR VEHICLE LICENSE SUSPENSIONS, REVOCATIONS,
 OR BARS, FOR THE DEPOSIT AND DISTRIBUTION OF PENALTIES
 AND FEES COLLECTED, AND FOR THE IMPOSITION AND PAYMENT OF
 FEES FOR PROBATION AND PAROLE, AND CONCERNING INMATE
 EMPLOYMENT IN PRIVATE INDUSTRY. .

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

Section 1. NEW SECTION. 321.218A CIVIL PENALTY --
 DISPOSITION -- REINSTATEMENT.

When the department suspends, revokes, or bars a person's motor vehicle license or nonresident operating privilege for a conviction under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the general fund of the state. A temporary restricted license shall not be issued or a motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 2. NEW SECTION. 321A.32A CIVIL PENALTY --
 DISPOSITION -- REINSTATEMENT.

When the department suspends, revokes, or bars a person's motor vehicle license or nonresident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the general fund of the state. A temporary restricted license shall not be issued or a motor

vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 3. Section 904.108, subsection 7, Code 1997, is amended to read as follows:

7. The director may charge an inmate a correctional fee for custodial expenses incurred or which may be incurred while the inmate is in the custody of the department. The custodial expenses may include, but are not limited to, board and room, medical and dental fees, education costs, clothing costs, and the costs of supervision, services, and treatment to the inmate. The correctional fee shall not exceed the actual cost of keeping the inmate in custody. The correctional fees ~~shall be assessed as court costs and any correctional fees~~ collected pursuant to this subsection shall be credited ~~to the general fund of the state. The correctional fees shall be collected as other court costs pursuant to section 602.8107~~ as a reimbursement to the appropriate correctional institution. This subsection does not limit the right of the director to obtain any other remedy authorized by law.

Sec. 4. Section 904.112, Code 1997, is amended to read as follows:

904.112 INSTITUTIONAL RECEIPTS.

~~All institutional~~ Institutional receipts of the department of corrections shall be deposited in the general fund of the state except for reimbursements as follows:

1. Reimbursement for services provided to another institution or state agency, rentals charged to employees or other persons for room, apartment, or housing, and charges for meals.

2. Receipts which are specifically required to be otherwise expended or deposited under this chapter.

Sec. 5. Section 904.311A, Code 1997, is amended to read as follows:

904.311A PRISON RECYCLING FUND.

~~The Iowa prison~~ A recycling fund for each prison institution is created and established as a separate and distinct fund in the state treasury. All moneys remitted to

the department for ~~the recycling operations in each fiscal year commencing with the fiscal year beginning July 17, 1994, of a prison institution~~ shall be deposited in the fund ~~established for that institution~~. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in ~~the each~~ fund shall be credited to ~~the that~~ fund. Notwithstanding section 8.33, moneys in ~~the each~~ fund shall not revert to the general fund of the state at the close of a fiscal year but shall remain in ~~the that~~ fund and be used as directed in this section in the succeeding fiscal year. The treasurer of state shall act as custodian of ~~the each~~ fund and disburse moneys from ~~the each~~ fund as directed by the department for the purpose of payment of operating expenses for recycling.

Sec. 6. Section 904.809, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An inmate of a correctional institution employed pursuant to this section shall surrender to the department of corrections the inmate's total earnings less deductions for federal, state, and local taxes, and any other payroll deductions required by law. The department of corrections shall deduct twenty percent of the balance to be credited to the inmate's general account. The department shall then deduct from the earnings remaining as follows:

a. The department shall first deduct the following amounts in the following order of priority.

(1) An amount the inmate may be legally obligated to pay for the support of the inmate's dependents, the amount of which shall be paid to the dependents through the department of human services collection services center.

(2) Restitution as ordered by the court pursuant to chapter 910.

(3) Five percent of the balance to the victim compensation fund created in section 912.14.

(4) An amount the inmate is legally obligated to pay for any other financial obligation.

(5) An amount determined to be the cost to the department of corrections for providing for the incarceration of the inmate.

b. Of the balance remaining after deductions and payments required pursuant to paragraph "a", the department shall deposit in the Iowa state industries revolving fund created in section 904.813, an amount equal to the costs incurred by the fund related to the inmate's employment pursuant to this section. Any balance remaining after the deductions and payments required by this subsection shall be credited to the inmate's general account.

Sec. 7. NEW SECTION. 905.14 FEES FOR PROBATION AND PAROLE.

1. A person placed on probation or parole and subject to supervision by a district department shall be required to pay an enrollment fee to the district department to offset the costs of supervision. The fee shall be based on the offense class of the most serious offense for which the person has received probation or parole, including deferred judgments or deferred sentences, and shall be as follows:

a. For a felony, one hundred fifty dollars.

b. For an aggravated misdemeanor, one hundred twenty-five dollars.

c. For a serious or simple misdemeanor, one hundred dollars.

2. The fees established pursuant to this section shall not be waived by the sentencing court. Each district department shall retain fees collected for administrative and program services.

3. The department of corrections may adopt rules for the administration of this section. If adopted, the rules shall include a provision for waiving the collection of fees for persons determined to be unable to pay.

Sec. 8. Section 907.3, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

With the consent of the defendant, the court may defer judgment and may place the defendant on probation upon such

conditions as it may require. Upon a showing that the defendant is not cooperating with the program of probation or is not responding to it, the court may withdraw the defendant from the program, pronounce judgment, and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon fulfillment of the conditions of probation and the payment of fees imposed and not waived by the judicial district department of correctional services under section 905.14, the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 9. Section 907.3, subsection 3, Code 1997, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon ~~such~~ terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate and the payment of fees imposed under section 905.14. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Sec. 10. Section 907.7, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

The length of the probation shall be for ~~such a~~ term as the court may fix but not to exceed five years if the offense is a

felony or not to exceed two years if the offense is a misdemeanor.

The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

Sec. 11. Section 907.9, unnumbered paragraph 1, Code 1997, is amended to read as follows:

At any time that the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the court may order the discharge of a person from probation. At any time that a probation officer determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the officer may order the discharge of a person from probation after approval of the district director, and notification of the sentencing court and county attorney who prosecuted the case. The sentencing judge, unless the judge is no longer serving or is otherwise unable to, may order a hearing on its own motion, or shall order a hearing upon the request of the county attorney, for review of such discharge. If the sentencing judge is no longer serving or unable to order such hearing, the chief judge of the district or the chief judge's designee shall order any hearing pursuant to this section. Following the hearing, the court shall approve or rescind such discharge. If a hearing is not ordered within thirty days after notification by the probation officer, the person shall be

discharged and the probation officer shall notify the state court administrator of such discharge. At the expiration of the period of probation, in cases where the court fixes the term of probation and if the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the court shall order the discharge of the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

Sec. 12. MOTOR VEHICLE LICENSE REINSTATEMENT PENALTY -- DEPOSIT AND DISTRIBUTION.

1. Notwithstanding the deposit provisions of sections 321.218A and 321A.32A, moneys collected during the fiscal year beginning July 1, 1997, and ending June 30, 1998, by the state department of transportation pursuant to those sections are deposited with the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, and shall be allocated as follows:

a. The first \$1,000,000 shall be used for the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes. Funds allocated in this paragraph shall be prorated among eligible detention homes.

b. Moneys in excess of \$1,000,000 shall be allocated to the judicial districts as determined by the state court administrator to be used by the judicial districts pursuant to recommendations of the planning group for court-ordered services for juveniles provided in each judicial district which were established pursuant to 1991 Iowa Acts, chapter

267, section 119. Moneys allocated and distributed pursuant to this paragraph shall be used for the improvement, expansion, construction, and operation of runaway assessment facilities, runaway assessment services, and juvenile delinquency prevention and intervention services.

2. Notwithstanding section 8.33, moneys appropriated in this section which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available only for the purposes designated in this section in the succeeding fiscal year.

RON J. CORBETT
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 734, Seventy-seventh General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved May 26, 1997

TERRY E. BRANSTAD
Governor