

FEB 27 2002
JUDICIARY

HOUSE FILE 2576
BY FOEGE

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

A BILL FOR

1 An Act relating to restitution paid to a public entity for the
2 costs of a chemical test of a specimen from a person operating
3 a motor vehicle while intoxicated.

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

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HF 2576

1 Section 1. Section 321J.2, subsection 9, Code 2001, is
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. c. The court may order restitution paid to
4 any public entity for the costs of a chemical test of a
5 specimen from a person whose actions constitute a violation of
6 this section. A public entity seeking such restitution shall
7 consult with the county attorney regarding the expenses
8 incurred by the public entity, and the county attorney may
9 include the expenses in the statement of pecuniary damages
10 pursuant to section 910.3. For purposes of this paragraph,
11 "public entity" means a state, city, or county.

12 Sec. 2. Section 910.1, subsection 4, Code 2001, is amended
13 to read as follows:

14 4. "Restitution" means payment of pecuniary damages to a
15 victim in an amount and in the manner provided by the
16 offender's plan of restitution. "Restitution" also includes
17 fines, penalties, and surcharges, the contribution of funds to
18 a local anticrime organization which provided assistance to
19 law enforcement in an offender's case, the payment of crime
20 victim compensation program reimbursements, payment of
21 restitution to public agencies pursuant to section 321J.2,
22 subsection 9, paragraph "b", payment of restitution to public
23 entities pursuant to section 321J.2, subsection 9, paragraph
24 "c", court costs including correctional fees approved pursuant
25 to section 356.7, court-appointed attorney's fees, or the
26 expense of a public defender, and the performance of a public
27 service by an offender in an amount set by the court when the
28 offender cannot reasonably pay all or part of the court costs
29 including correctional fees approved pursuant to section
30 356.7, court-appointed attorney's fees, or the expense of a
31 public defender.

32 Sec. 3. Section 910.2, unnumbered paragraph 1, Code 2001,
33 is amended to read as follows:

34 In all criminal cases in which there is a plea of guilty,
35 verdict of guilty, or special verdict upon which a judgment of

1 conviction is rendered, the sentencing court shall order that
2 restitution be made by each offender to the victims of the
3 offender's criminal activities, to the clerk of court for
4 fines, penalties, surcharges, and, to the extent that the
5 offender is reasonably able to pay, for crime victim
6 assistance reimbursement, restitution to public agencies
7 pursuant to section 321J.2, subsection 9, paragraph "b",
8 restitution to public entities pursuant to section 321J.2,
9 subsection 9, paragraph "c", court costs including
10 correctional fees approved pursuant to section 356.7, court-
11 appointed attorney's fees ordered pursuant to section 815.9
12 including the expense of a public defender when applicable, or
13 contribution to a local anticrime organization. However,
14 victims shall be paid in full before fines, penalties, and
15 surcharges, crime victim compensation program reimbursement,
16 public agencies, court costs including correctional fees
17 approved pursuant to section 356.7, court-appointed attorney's
18 fees, the expenses of a public defender, or contributions to a
19 local anticrime organization are paid. In structuring a plan
20 of restitution, the court shall provide for payments in the
21 following order of priority: victim, fines, penalties, and
22 surcharges, crime victim compensation program reimbursement,
23 public agencies, court costs including correctional fees
24 approved pursuant to section 356.7, court-appointed attorney's
25 fees, or the expense of a public defender, and contribution to
26 a local anticrime organization.

27 Sec. 4. Section 910.3, Code 2001, is amended to read as
28 follows:

29 910.3 DETERMINATION OF AMOUNT OF RESTITUTION.

30 The county attorney shall prepare a statement of pecuniary
31 damages to victims of the defendant and, if applicable, any
32 award by the crime victim compensation program and expenses
33 incurred by public agencies and public entities pursuant to
34 section 321J.2, subsection 9, paragraph paragraphs "b" and
35 "c", and shall provide the statement to the presentence

1 investigator or submit the statement to the court at the time
2 of sentencing. The clerk of court shall prepare a statement
3 of court-appointed attorney's fees, the expense of a public
4 defender, and court costs including correctional fees claimed
5 by a sheriff pursuant to section 356.7, which shall be
6 provided to the presentence investigator or submitted to the
7 court at the time of sentencing. If these statements are
8 provided to the presentence investigator, they shall become a
9 part of the presentence report. If pecuniary damage amounts
10 are not available at the time of sentencing, the county
11 attorney shall provide a statement of pecuniary damages
12 incurred up to that time to the clerk of court. The statement
13 shall be provided no later than thirty days after sentencing.
14 If a defendant believes no person suffered pecuniary damages,
15 the defendant shall so state. If the defendant has any mental
16 or physical impairment which would limit or prohibit the
17 performance of a public service, the defendant shall so state.
18 The court may order a mental or physical examination, or both,
19 of the defendant to determine a proper course of action. At
20 the time of sentencing or at a later date to be determined by
21 the court, the court shall set out the amount of restitution
22 including the amount of public service to be performed as
23 restitution and the persons to whom restitution must be paid.
24 If the full amount of restitution cannot be determined at the
25 time of sentencing, the court shall issue a temporary order
26 determining a reasonable amount for restitution identified up
27 to that time. At a later date as determined by the court, the
28 court shall issue a permanent, supplemental order, setting the
29 full amount of restitution. The court shall enter further
30 supplemental orders, if necessary. These court orders shall
31 be known as the plan of restitution.

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EXPLANATION

33 This bill provides the district court the authority to
34 order restitution paid to any public entity for the costs of a
35 chemical test of a specimen from a person operating a motor

1 vehicle while intoxicated. The bill also provides that a
2 public entity seeking such restitution shall consult with the
3 county attorney regarding the expenses incurred, and the
4 county attorney may include those expenses in the statement of
5 pecuniary damages pursuant to Code section 910.3.

6 "Public entity" is defined as a state, city, or county.

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