

# House Study Bill 668

SENATE/HOUSE FILE \_\_\_\_\_  
BY (PROPOSED JUDICIAL  
BRANCH BILL)

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

## A BILL FOR

1 An Act relating to the assessment of surcharges in criminal  
2 proceedings.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 5292DP 80  
5 jm/pj/5

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1 1 Section 1. Section 331.302, subsection 2, Code Supplement  
1 2 2003, is amended to read as follows:

1 3 2. A county shall not provide a penalty in excess of a  
1 4 five hundred dollar fine or in excess of thirty days  
1 5 imprisonment for the violation of an ordinance. The criminal  
1 6 penalty surcharge required by section ~~911.2~~ 911.1 shall be  
1 7 added to a county fine and is not a part of the county's  
1 8 penalty.

1 9 Sec. 2. Section 364.3, subsection 2, Code Supplement 2003,  
1 10 is amended to read as follows:

1 11 2. A city shall not provide a penalty in excess of a five  
1 12 hundred dollar fine or in excess of thirty days imprisonment  
1 13 for the violation of an ordinance. An amount equal to ten  
1 14 percent of all fines collected by cities shall be deposited in  
1 15 the account established in section 602.8108. However, one  
1 16 hundred percent of all fines collected by a city pursuant to  
1 17 section 321.236, subsection 1, shall be retained by the city.  
1 18 The criminal penalty surcharge required by section ~~911.2~~ 911.1  
1 19 shall be added to a city fine and is not a part of the city's  
1 20 penalty.

1 21 Sec. 3. Section 602.8108, subsections 2 through 6, Code  
1 22 Supplement 2003, are amended to read as follows:

1 23 2. Except as otherwise provided, the clerk of the district  
1 24 court shall report and submit to the state court  
1 25 administrator, not later than the fifteenth day of each month,  
1 26 the fines and fees received during the preceding calendar  
1 27 month. Except as provided in subsections 3, 4, and 5, 6, and  
1 28 7, the state court administrator shall deposit the amounts  
1 29 received with the treasurer of state for deposit in the  
1 30 general fund of the state. The state court administrator  
1 31 shall report to the legislative services agency within thirty  
1 32 days of the beginning of each fiscal quarter the amount  
1 33 received during the previous quarter in the account  
1 34 established under this section.

1 35 3. ~~When a court assesses a criminal surcharge under~~  
2 1 ~~section 911.2, the amounts collected shall be distributed as~~  
2 2 ~~follows:~~

2 3 a. The clerk of the district court shall ~~submit~~ remit to  
2 4 the state court administrator, not later than the fifteenth  
2 5 day of each month, ninety-five percent of ~~the surcharge~~  
2 6 ~~collected~~ all moneys collected from the criminal penalty  
2 7 surcharge provided in section 911.1 during the preceding

2 8 calendar month. The clerk shall remit the remainder to the  
2 9 county treasurer of the county that was the plaintiff in the  
2 10 action or to the city that was the plaintiff in the action.

2 11 b. Of the amount received from the clerk, the state court  
2 12 administrator shall allocate eighteen percent to be deposited  
2 13 in the victim compensation fund established in section 915.94  
2 14 and eighty-two percent to be deposited in the general fund.

2 15 c. ~~4. Notwithstanding provisions of this subsection to the~~  
2 16 ~~contrary, The clerk of the district court shall remit all~~  
2 17 moneys collected from the drug abuse resistance education  
2 18 surcharge provided in section 911.2 ~~shall be remitted~~ to the  
2 19 ~~treasurer of state~~ court administrator for deposit in the  
2 20 general fund of the state and the amount deposited is  
2 21 appropriated to the governor's office of drug control policy  
2 22 for use by the drug abuse resistance education program and  
2 23 other programs directed for a similar purpose.

2 24 4. ~~5.~~ When a court assesses the law enforcement initiative  
2 25 ~~surcharge under section 911.3, the~~ The clerk of the district  
2 26 court shall remit to the treasurer of the state, all moneys  
2 27 collected from the assessment of the law enforcement  
2 28 initiative surcharge provided in section 911.3 to the state  
2 29 court administrator no later than the fifteenth day of each  
2 30 month, all the moneys collected during the preceding month,  
2 31 for deposit in the general fund of the state.

2 32 ~~5- 6.~~ A court technology and modernization fund is  
2 33 established as a separate fund in the state treasury. The  
2 34 state court administrator shall allocate one million dollars  
2 35 of the moneys received under subsection 2 to be deposited in  
3 1 the fund, which shall be administered by the supreme court and  
3 2 shall be used to enhance the ability of the judicial branch to  
3 3 process cases more quickly and efficiently, to electronically  
3 4 transmit information to state government, local governments,  
3 5 law enforcement agencies, and the public, and to improve  
3 6 public access to the court system.

3 7 ~~6- 7.~~ The state court administrator shall allocate all of  
3 8 the fines and fees attributable to commercial vehicle  
3 9 violation citations issued by motor vehicle division personnel  
3 10 of the state department of transportation to the treasurer of  
3 11 state for deposit in the road use tax fund.

3 12 Sec. 4. Section 805.8, subsection 1, Code 2003, is amended  
3 13 to read as follows:

3 14 1. APPLICATION. Except as otherwise indicated, violations  
3 15 of sections of the Code specified in sections 805.8A, 805.8B,  
3 16 and 805.8C are scheduled violations, and the scheduled fine  
3 17 for each of those violations is as provided in those sections,  
3 18 whether the violation is of state law or of a county or city  
3 19 ordinance. The criminal penalty surcharge required by section  
3 20 ~~911.2~~ 911.1 shall be added to the scheduled fine.

3 21 Sec. 5. Section 805.8C, subsection 3, paragraph a, Code  
3 22 2003, is amended to read as follows:

3 23 a. For violations of section 142B.6, the scheduled fine is  
3 24 twenty-five dollars, and is a civil penalty, and the criminal  
3 25 penalty surcharge under section ~~911.2~~ 911.1 shall not be added  
3 26 to the penalty, and the court costs pursuant to section 805.9,  
3 27 subsection 6, shall not be imposed. If the civil penalty  
3 28 assessed for a violation of section 142B.6 is not paid in a  
3 29 timely manner, a citation shall be issued for the violation in  
3 30 the manner provided in section 804.1. However, a person under  
3 31 age eighteen shall not be detained in a secure facility for  
3 32 failure to pay the civil penalty. The complainant shall not  
3 33 be charged a filing fee.

3 34 Sec. 6. Section 805.8C, subsection 3, paragraph c,  
3 35 unnumbered paragraph 1, Code 2003, is amended to read as  
4 1 follows:

4 2 For violations of section 453A.2, subsection 2, the  
4 3 scheduled fine is as follows and is a civil penalty, and the  
4 4 criminal penalty surcharge under section ~~911.2~~ 911.1 shall not  
4 5 be added to the penalty, and the court costs pursuant to  
4 6 section 805.9, subsection 6, shall not be imposed:

4 7 Sec. 7. Section 902.9, unnumbered paragraph 2, Code 2003,  
4 8 is amended to read as follows:

4 9 The ~~criminal penalty surcharge surcharges~~ required by  
4 10 sections ~~911.1, 911.2,~~ and 911.3 shall be added to a fine  
4 11 imposed on a class "C" or class "D" felon, as provided by  
4 12 those sections, and ~~is are~~ not a part of or subject to the  
4 13 maximums set in this section.

4 14 Sec. 8. Section 903.1, subsection 4, Code 2003, is amended  
4 15 to read as follows:

4 16 4. The ~~criminal penalty surcharge surcharges~~ required by  
4 17 sections ~~911.1, 911.2,~~ and 911.3 shall be added to a fine  
4 18 imposed on a misdemeanor as provided in those sections, and  
4 19 ~~is are~~ not a part of or subject to the maximums set in this  
4 20 section.

4 21 Sec. 9. Section 909.10, subsection 1, Code 2003, is  
4 22 amended to read as follows:

4 23 1. As used in this section, unless the context otherwise  
4 24 requires, "delinquent amounts" means a fine, court-imposed  
4 25 court costs in a criminal proceeding, or ~~criminal~~ surcharge  
4 26 imposed pursuant to section 911.1 or 911.2, which remains  
4 27 unpaid after two years from the date that the fine, court  
4 28 costs, or surcharge was imposed, and which is not collected by  
4 29 the county attorney pursuant to section 602.8107. However, if  
4 30 the fine may be paid in installments pursuant to section  
4 31 909.3, the fine is not a delinquent amount unless the  
4 32 installment remains unpaid after two years from the date the  
4 33 installment was due.

4 34 Sec. 10. Section 911.1, Code 2003, is amended by striking

4 35 the section and inserting in lieu thereof the following:

5 1 911.1 CRIMINAL PENALTY SURCHARGE.

5 2 1. A criminal penalty surcharge shall be levied against  
5 3 law violators as provided in this section. When a court  
5 4 imposes a fine or forfeiture for a violation of state law, or  
5 5 a city or county ordinance, the court or the clerk of the  
5 6 district court shall assess an additional penalty in the form  
5 7 of a criminal penalty surcharge equal to thirty percent of the  
5 8 fine or forfeiture imposed.

5 9 2. In the event of multiple offenses, the surcharge shall  
5 10 be based upon the total amount of fines or forfeitures imposed  
5 11 for all offenses.

5 12 3. When a fine or forfeiture is suspended in whole or in  
5 13 part, the court shall reduce the surcharge in proportion to  
5 14 the amount suspended.

5 15 4. The surcharge is subject to the provisions of chapter  
5 16 909 governing the payment and collection of fines, as provided  
5 17 in section 909.8.

5 18 5. The surcharge shall be remitted by the clerk of court  
5 19 as provided in section 602.6108, subsection 3.

5 20 Sec. 11. Section 911.2, Code 2003, is amended by striking  
5 21 the section and inserting in lieu thereof the following:

5 22 911.2 DRUG ABUSE RESISTANCE EDUCATION SURCHARGE.

5 23 1. In addition to any other surcharge, the court or clerk  
5 24 of the district court shall assess a drug abuse resistance  
5 25 education surcharge of ten dollars if a violation arises out  
5 26 of a violation of an offense provided for in chapter 321J or  
5 27 chapter 124, division IV.

5 28 2. In the event of multiple offenses, the surcharge shall  
5 29 be imposed for each applicable offense.

5 30 3. The surcharge is subject to the provisions of chapter  
5 31 909 governing the payment and collection of fines, as provided  
5 32 in section 909.8.

5 33 4. The surcharge shall be remitted by the clerk of court  
5 34 as provided in section 602.8108, subsection 4.

5 35 Sec. 12. Section 911.3, Code 2003, is amended by striking  
6 1 the section and inserting in lieu thereof the following:

6 2 911.3 LAW ENFORCEMENT INITIATIVE SURCHARGE.

6 3 1. In addition to any other surcharge, the court or clerk  
6 4 of the district court shall assess a law enforcement  
6 5 initiative surcharge of one hundred twenty-five dollars if an  
6 6 adjudication of guilt or a deferred judgment has been entered  
6 7 for a criminal violation under any of the following:

6 8 a. Chapter 124, 155A, 453B, 713, 714, 715A, or 716.

6 9 b. Section 719.8, 725.1, 725.2, or 725.3.

6 10 2. In the event of multiple offenses, the surcharge shall  
6 11 be imposed for each applicable offense.

6 12 3. The surcharge shall be remitted by the clerk of court  
6 13 as provided in section 602.8108, subsection 5.

6 14 EXPLANATION

6 15 This bill relates to the assessment of surcharges in  
6 16 criminal proceedings.

6 17 The bill permits a 30 percent criminal penalty surcharge to  
6 18 be assessed on fines for parking violations. Current law  
6 19 provides that a 30 percent criminal penalty surcharge be  
6 20 assessed on all fines for criminal convictions except parking  
6 21 violations. Under current law and in the bill, Code section  
6 22 602.8108, subsection 3, governs the distribution of revenue  
6 23 generated by the assessment of any criminal penalty surcharge.

6 24 The bill provides that the drug abuse resistance education  
6 25 surcharge and the law enforcement initiative surcharge be  
6 26 remitted by the clerk of the district court to the state court  
6 27 administrator just as the criminal penalty surcharge is  
6 28 currently. Under current law the clerk of the district court  
6 29 remits the drug abuse resistance surcharge and the law  
6 30 enforcement initiative surcharge to the treasurer of state.

6 31 The bill provides that the drug abuse resistance and law  
6 32 enforcement initiative surcharges be imposed on all applicable  
6 33 offenses.

6 34 The bill reorganizes Code chapter 911 by creating a  
6 35 separate Code section for each surcharge, but does not create  
7 1 a new surcharge, change the surcharge amount that can be  
7 2 assessed for a criminal offense, or change the distribution of  
7 3 the revenue from the surcharges.

7 4 The bill also amends various Code sections in the bill to  
7 5 conform with separating the various surcharges into different  
7 6 Code sections.

7 7 LSB 5292DP 80

7 8 jm/pj/5.1