

MAR 4 2005  
Place On Calendar

HOUSE FILE 603  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 71)

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

**A BILL FOR**

1 An Act relating to a contribution to a statewide nonprofit legal  
2 aid organization in a criminal proceeding.

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

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HF 603

TLSB 1239HV 81

jm/gg/14

1 Section 1. Section 907.13, subsection 2, Code 2005, is  
2 amended to read as follows:

3 2. The defendant's plan of community service, the comments  
4 of the defendant's probation officer, and the comments of the  
5 representative of the judicial district department of  
6 correctional services responsible for the unpaid community  
7 service program, shall be submitted promptly to the court.  
8 The court shall promptly enter an order approving the plan or  
9 modifying it. Compliance with the plan of community service  
10 as approved or modified by the court shall be a condition of  
11 the defendant's probation. The court thereafter may modify  
12 the plan at any time upon the defendant's request, upon the  
13 request of the judicial district department of correctional  
14 services, or upon the court's own motion. As an option for  
15 modification of a plan, the court may allow a defendant to  
16 complete some part or all of the defendant's community service  
17 obligation through the donation of property to a ~~charitable~~  
18 ~~organization-other-than-a-governmental-subdivision~~ statewide  
19 nonprofit legal aid organization. A donation of property to a  
20 ~~charitable-organization~~ statewide nonprofit legal aid  
21 organization offered in satisfaction of some part or all of a  
22 community service obligation under this subsection is not a  
23 deductible contribution for the purposes of federal or state  
24 income taxes.

25 Sec. 2. Section 910.1, subsection 4, Code 2005, is amended  
26 to read as follows:

27 4. "Restitution" means payment of pecuniary damages to a  
28 victim in an amount and in the manner provided by the  
29 offender's plan of restitution. "Restitution" also includes  
30 fines, penalties, and surcharges, the contribution of funds to  
31 ~~a-local-anticrime-organization-which-provided-assistance-to~~  
32 ~~law-enforcement-in-an-offender's-case,~~ a statewide nonprofit  
33 legal aid organization, the payment of crime victim  
34 compensation program reimbursements, payment of restitution to  
35 public agencies pursuant to section 321J.2, subsection 9,

1 paragraph "b", court costs including correctional fees  
2 approved pursuant to section 356.7, court-appointed attorney  
3 fees ordered pursuant to section 815.9, including the expense  
4 of a public defender, and the performance of a public service  
5 by an offender in an amount set by the court when the offender  
6 cannot reasonably pay all or part of the court costs including  
7 correctional fees approved pursuant to section 356.7, or  
8 court-appointed attorney fees ordered pursuant to section  
9 815.9, including the expense of a public defender.

10 Sec. 3. Section 910.2, Code 2005, is amended to read as  
11 follows:

12 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY  
13 SENTENCING COURT.

14 In all criminal cases in which there is a plea of guilty,  
15 verdict of guilty, or special verdict upon which a judgment of  
16 conviction is rendered, the sentencing court shall order that  
17 restitution be made by each offender to the victims of the  
18 offender's criminal activities, to the clerk of court for  
19 fines, penalties, surcharges, and, to the extent that the  
20 offender is reasonably able to pay, for crime victim  
21 assistance reimbursement, restitution to public agencies  
22 pursuant to section 321J.2, subsection 9, paragraph "b", court  
23 costs including correctional fees approved pursuant to section  
24 356.7, court-appointed attorney fees ordered pursuant to  
25 section 815.9, including the expense of a public defender,  
26 when applicable, or contribution to a ~~local-antirime~~  
27 organization statewide nonprofit legal aid organization.

28 However, victims shall be paid in full before fines,  
29 penalties, and surcharges, crime victim compensation program  
30 reimbursement, public agencies, court costs including  
31 correctional fees approved pursuant to section 356.7, court-  
32 appointed attorney fees ordered pursuant to section 815.9,  
33 including the expenses of a public defender, or contributions  
34 to a ~~local-antirime-organization~~ statewide nonprofit legal  
35 aid organization are paid. In structuring a plan of

1 restitution, the court shall provide for payments in the  
2 following order of priority: victim, fines, penalties, and  
3 surcharges, crime victim compensation program reimbursement,  
4 public agencies, court costs including correctional fees  
5 approved pursuant to section 356.7, court-appointed attorney  
6 fees ordered pursuant to section 815.9, including the expense  
7 of a public defender, and contribution to a ~~local-antierime~~  
8 organization statewide nonprofit legal aid organization.

9 When the offender is not reasonably able to pay all or a  
10 part of the crime victim compensation program reimbursement,  
11 public agency restitution, court costs including correctional  
12 fees approved pursuant to section 356.7, court-appointed  
13 attorney fees ordered pursuant to section 815.9, including the  
14 expense of a public defender, or contribution to a ~~local~~  
15 antierime-organization statewide nonprofit legal aid  
16 organization, the court may require the offender in lieu of  
17 that portion of the crime victim compensation program  
18 reimbursement, public agency restitution, court costs  
19 including correctional fees approved pursuant to section  
20 356.7, court-appointed attorney fees ordered pursuant to  
21 section 815.9, including the expense of a public defender, or  
22 contribution to a ~~local-antierime-organization~~ statewide  
23 nonprofit legal aid organization for which the offender is not  
24 reasonably able to pay, to perform a needed public service for  
25 a governmental agency or for a private nonprofit agency which  
26 provides a service to the youth, elderly, or poor of the  
27 community. When community service is ordered, the court shall  
28 set a specific number of hours of service to be performed by  
29 the offender which, for payment of court-appointed attorney  
30 fees ordered pursuant to section 815.9, including the expenses  
31 of a public defender, shall be approximately equivalent in  
32 value to those costs. The judicial district department of  
33 correctional services shall provide for the assignment of the  
34 offender to a public agency or private nonprofit agency to  
35 perform the required service.

EXPLANATION

1  
2 This bill relates to a contribution to a statewide  
3 nonprofit legal aid organization in a criminal proceeding.  
4 The bill permits a criminal offender to make a donation to a  
5 statewide nonprofit legal aid organization in lieu of  
6 performing community service. The bill also permits a  
7 criminal offender to make a contribution to such an  
8 organization as part of the offender's restitution plan. The  
9 bill eliminates provisions allowing a contribution by a  
10 criminal offender to a local anticrime organization as part of  
11 the offender's restitution plan.

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**EIGHTY-FIRST GENERAL ASSEMBLY  
2005 REGULAR SESSION  
DAILY  
HOUSE CLIP SHEET**

MARCH 31, 2005

**HOUSE FILE 603**

**H-1250**

1 Amend House File 603 as follows:

2 1. By striking everything after the enacting  
3 clause and inserting the following:

4 "Section 1. NEW SECTION. 901.11 DONATIONS --  
5 PROHIBITED.

6 A monetary or property donation to any agency,  
7 organization, or political subdivision of the state is  
8 prohibited as a part of any dismissal, sentence, or  
9 other penalty.

10 Sec. 2. Section 907.13, subsection 2, Code 2005,  
11 is amended to read as follows:

12 2. The defendant's plan of community service, the  
13 comments of the defendant's probation officer, and the  
14 comments of the representative of the judicial  
15 district department of correctional services  
16 responsible for the unpaid community service program,  
17 shall be submitted promptly to the court. The court  
18 shall promptly enter an order approving the plan or  
19 modifying it. Compliance with the plan of community  
20 service as approved or modified by the court shall be  
21 a condition of the defendant's probation. The court  
22 thereafter may modify the plan at any time upon the  
23 defendant's request, upon the request of the judicial  
24 district department of correctional services, or upon  
25 the court's own motion. ~~As an option for modification  
26 of a plan, the court may allow a defendant to complete  
27 some part or all of the defendant's community service  
28 obligation through the donation of property to a  
29 charitable organization other than a governmental  
30 subdivision. A donation of property to a charitable  
31 organization offered in satisfaction of some part or  
32 all of a community service obligation under this  
33 subsection is not a deductible contribution for the  
34 purposes of federal or state income taxes.~~

35 Sec. 3. Section 910.1, subsection 4, Code 2005, is  
36 amended to read as follows:

37 4. "Restitution" means payment of pecuniary  
38 damages to a victim in an amount and in the manner  
39 provided by the offender's plan of restitution.  
40 "Restitution" also includes fines, penalties, and  
41 surcharges, ~~the contribution of funds to a local  
42 antierime organization which provided assistance to  
43 law enforcement in an offender's case,~~ the payment of  
44 crime victim compensation program reimbursements,  
45 payment of restitution to public agencies pursuant to  
46 section 321J.2, subsection 9, paragraph "b", court  
47 costs including correctional fees approved pursuant to  
48 section 356.7, court-appointed attorney fees ordered  
49 pursuant to section 815.9, including the expense of a  
50 public defender, and the performance of a public

**H-1250**

1 service by an offender in an amount set by the court  
2 when the offender cannot reasonably pay all or part of  
3 the court costs including correctional fees approved  
4 pursuant to section 356.7, or court-appointed attorney  
5 fees ordered pursuant to section 815.9, including the  
6 expense of a public defender.

7 Sec. 4. Section 910.2, Code 2005, is amended to  
8 read as follows:

9 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE  
10 ORDERED BY SENTENCING COURT.

11 In all criminal cases in which there is a plea of  
12 guilty, verdict of guilty, or special verdict upon  
13 which a judgment of conviction is rendered, the  
14 sentencing court shall order that restitution be made  
15 by each offender to the victims of the offender's  
16 criminal activities, to the clerk of court for fines,  
17 penalties, surcharges, and, to the extent that the  
18 offender is reasonably able to pay, for crime victim  
19 assistance reimbursement, restitution to public  
20 agencies pursuant to section 321J.2, subsection 9,  
21 paragraph "b", court costs including correctional fees  
22 approved pursuant to section 356.7, or court-appointed  
23 attorney fees ordered pursuant to section 815.9,  
24 including the expense of a public defender, when  
25 applicable, ~~or contribution to a local antierime~~  
26 ~~organization.~~ However, victims shall be paid in full  
27 before fines, penalties, ~~and~~ surcharges, crime victim  
28 compensation program reimbursement, public agencies,  
29 court costs including correctional fees approved  
30 pursuant to section 356.7, and court-appointed  
31 attorney fees ordered pursuant to section 815.9,  
32 including the expenses of a public defender, ~~or~~  
33 ~~contributions to a local antierime organization~~ are  
34 paid. In structuring a plan of restitution, the court  
35 shall provide for payments in the following order of  
36 priority: victim, fines, penalties, and surcharges,  
37 crime victim compensation program reimbursement,  
38 public agencies, court costs including correctional  
39 fees approved pursuant to section 356.7, and court-  
40 appointed attorney fees ordered pursuant to section  
41 815.9, including the expense of a public defender, ~~and~~  
42 ~~contribution to a local antierime organization.~~

43 When the offender is not reasonably able to pay all  
44 or a part of the crime victim compensation program  
45 reimbursement, public agency restitution, court costs  
46 including correctional fees approved pursuant to  
47 section 356.7, or court-appointed attorney fees  
48 ordered pursuant to section 815.9, including the  
49 expense of a public defender, ~~or contribution to a~~  
50 ~~local antierime organization,~~ the court may require

1 the offender in lieu of that portion of the crime  
2 victim compensation program reimbursement, public  
3 agency restitution, court costs including correctional  
4 fees approved pursuant to section 356.7, or court-  
5 appointed attorney fees ordered pursuant to section  
6 815.9, including the expense of a public defender, ~~or~~  
7 ~~contribution to a local anticrime organization~~ for  
8 which the offender is not reasonably able to pay, to  
9 perform a needed public service for a governmental  
10 agency or for a private nonprofit agency which  
11 provides a service to the youth, elderly, or poor of  
12 the community. When community service is ordered, the  
13 court shall set a specific number of hours of service  
14 to be performed by the offender which, for payment of  
15 court-appointed attorney fees ordered pursuant to  
16 section 815.9, including the expenses of a public  
17 defender, shall be approximately equivalent in value  
18 to those costs. The judicial district department of  
19 correctional services shall provide for the assignment  
20 of the offender to a public agency or private  
21 nonprofit agency to perform the required service."

22 2. Title page, by striking lines 1 and 2 and  
23 inserting the following: "An Act prohibiting a  
24 donation or contribution to an agency, organization,  
25 or political subdivision of the state in a criminal  
26 proceeding."

By BOAL of Polk



Boalch  
Kaufman  
R. Olson

HSB 71  
JUDICIARY

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

S: 0603

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

**A BILL FOR**

1 An Act prohibiting a donation or contribution to an agency,  
2 organization, or political subdivision of the state in a  
3 criminal proceeding.

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

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1 Section 1. NEW SECTION. 901.11 DONATIONS -- PROHIBITED.

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5 penalty.

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10 representative of the judicial district department of  
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13 The court shall promptly enter an order approving the plan or  
14 modifying it. Compliance with the plan of community service  
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16 the defendant's probation. The court thereafter may modify  
17 the plan at any time upon the defendant's request, upon the  
18 request of the judicial district department of correctional  
19 services, or upon the court's own motion. ~~As an option for~~  
20 ~~modification of a plan, the court may allow a defendant to~~  
21 ~~complete some part or all of the defendant's community service~~  
22 ~~obligation through the donation of property to a charitable~~  
23 ~~organization other than a governmental subdivision. A~~  
24 ~~donation of property to a charitable organization offered in~~  
25 ~~satisfaction of some part or all of a community service~~  
26 ~~obligation under this subsection is not a deductible~~  
27 ~~contribution for the purposes of federal or state income~~  
28 ~~taxes.~~

29 Sec. 3. Section 910.1, subsection 4, Code 2005, is amended  
30 to read as follows:

31 4. "Restitution" means payment of pecuniary damages to a  
32 victim in an amount and in the manner provided by the  
33 offender's plan of restitution. "Restitution" also includes  
34 fines, penalties, and surcharges, ~~the contribution of funds to~~  
35 ~~a local anticrime organization which provided assistance to~~

1 ~~law-enforcement-in-an-offender's-case~~, the payment of crime  
2 victim compensation program reimbursements, payment of  
3 restitution to public agencies pursuant to section 321J.2,  
4 subsection 9, paragraph "b", court costs including  
5 correctional fees approved pursuant to section 356.7, court-  
6 appointed attorney fees ordered pursuant to section 815.9,  
7 including the expense of a public defender, and the  
8 performance of a public service by an offender in an amount  
9 set by the court when the offender cannot reasonably pay all  
10 or part of the court costs including correctional fees  
11 approved pursuant to section 356.7, or court-appointed  
12 attorney fees ordered pursuant to section 815.9, including the  
13 expense of a public defender.

14 Sec. 4. Section 910.2, Code 2005, is amended to read as  
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17 SENTENCING COURT.

18 In all criminal cases in which there is a plea of guilty,  
19 verdict of guilty, or special verdict upon which a judgment of  
20 conviction is rendered, the sentencing court shall order that  
21 restitution be made by each offender to the victims of the  
22 offender's criminal activities, to the clerk of court for  
23 fines, penalties, surcharges, and, to the extent that the  
24 offender is reasonably able to pay, for crime victim  
25 assistance reimbursement, restitution to public agencies  
26 pursuant to section 321J.2, subsection 9, paragraph "b", court  
27 costs including correctional fees approved pursuant to section  
28 356.7, or court-appointed attorney fees ordered pursuant to  
29 section 815.9, including the expense of a public defender,  
30 when applicable, ~~or contribution to a local anticrime~~  
31 organization. However, victims shall be paid in full before  
32 fines, penalties, and surcharges, crime victim compensation  
33 program reimbursement, public agencies, court costs including  
34 correctional fees approved pursuant to section 356.7, and  
35 court-appointed attorney fees ordered pursuant to section

1 815.9, including the expenses of a public defender, ~~or~~  
2 ~~contributions-to-a-local-antirime-organization~~ are paid. In  
3 structuring a plan of restitution, the court shall provide for  
4 payments in the following order of priority: victim, fines,  
5 penalties, and surcharges, crime victim compensation program  
6 reimbursement, public agencies, court costs including  
7 correctional fees approved pursuant to section 356.7, and  
8 court-appointed attorney fees ordered pursuant to section  
9 815.9, including the expense of a public defender, ~~and~~  
10 ~~contribution-to-a-local-antirime-organization~~.

11 When the offender is not reasonably able to pay all or a  
12 part of the crime victim compensation program reimbursement,  
13 public agency restitution, court costs including correctional  
14 fees approved pursuant to section 356.7, or court-appointed  
15 attorney fees ordered pursuant to section 815.9, including the  
16 expense of a public defender, ~~or-contribution-to-a-local~~  
17 ~~antirime-organization~~, the court may require the offender in  
18 lieu of that portion of the crime victim compensation program  
19 reimbursement, public agency restitution, court costs  
20 including correctional fees approved pursuant to section  
21 356.7, or court-appointed attorney fees ordered pursuant to  
22 section 815.9, including the expense of a public defender, ~~or~~  
23 ~~contribution-to-a-local-antirime-organization~~ for which the  
24 offender is not reasonably able to pay, to perform a needed  
25 public service for a governmental agency or for a private  
26 nonprofit agency which provides a service to the youth,  
27 elderly, or poor of the community. When community service is  
28 ordered, the court shall set a specific number of hours of  
29 service to be performed by the offender which, for payment of  
30 court-appointed attorney fees ordered pursuant to section  
31 815.9, including the expenses of a public defender, shall be  
32 approximately equivalent in value to those costs. The  
33 judicial district department of correctional services shall  
34 provide for the assignment of the offender to a public agency  
35 or private nonprofit agency to perform the required service.

EXPLANATION

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This bill prohibits any donation to an agency, organization, or political subdivision of the state as part of any dismissal, sentence, or other criminal penalty. The bill eliminates a provision allowing a criminal offender to make a donation in lieu of performing community service. The bill eliminates provisions allowing a contribution by a criminal offender to a local anticrime organization as part of the offender's restitution plan.

## MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: JANUARY 11, 2005

RE: TLSB 1239DP

This bill would repeal provisions of the Code that allow defendants to make charitable contributions in lieu of community service, as well as expressly prohibiting charitable contributions and donations as a sentencing option or condition of probation. While the current statutory provisions are well-intentioned, even their legitimate application suggests favoritism and, therefore, creates an appearance of impropriety that can undermine public confidence in the impartiality of the judiciary and the integrity of the state justice system. Their application is at best widely misunderstood, and at worst subject to systematic abuse by some local officials. The situation warrants repeal of these provisions along with an amendment that expressly prohibits donations, including money, within the criminal justice system in the future.