

House Study Bill 71

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 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:
5 TLSB 1239DP 81
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1 1 Section 1. NEW SECTION. 901.11 DONATIONS == PROHIBITED.
1 2 A monetary or property donation to any agency,
1 3 organization, or political subdivision of the state is
1 4 prohibited as a part of any dismissal, sentence, or other
1 5 penalty.
1 6 Sec. 2. Section 907.13, subsection 2, Code 2005, is
1 7 amended to read as follows:
1 8 2. The defendant's plan of community service, the comments
1 9 of the defendant's probation officer, and the comments of the
1 10 representative of the judicial district department of
1 11 correctional services responsible for the unpaid community
1 12 service program, shall be submitted promptly to the court.
1 13 The court shall promptly enter an order approving the plan or
1 14 modifying it. Compliance with the plan of community service
1 15 as approved or modified by the court shall be a condition of
1 16 the defendant's probation. The court thereafter may modify
1 17 the plan at any time upon the defendant's request, upon the
1 18 request of the judicial district department of correctional
1 19 services, or upon the court's own motion. ~~As an option for~~
~~1 20 modification of a plan, the court may allow a defendant to~~
~~1 21 complete some part or all of the defendant's community service~~
~~1 22 obligation through the donation of property to a charitable~~
~~1 23 organization other than a governmental subdivision. A~~
~~1 24 donation of property to a charitable organization offered in~~
~~1 25 satisfaction of some part or all of a community service~~
~~1 26 obligation under this subsection is not a deductible~~
~~1 27 contribution for the purposes of federal or state income~~
~~1 28 taxes.~~
1 29 Sec. 3. Section 910.1, subsection 4, Code 2005, is amended
1 30 to read as follows:
1 31 4. "Restitution" means payment of pecuniary damages to a
1 32 victim in an amount and in the manner provided by the
1 33 offender's plan of restitution. "Restitution" also includes
1 34 fines, penalties, and surcharges, ~~the contribution of funds to~~
~~1 35 a local anticrime organization which provided assistance to~~
~~2 1 law enforcement in an offender's case,~~ the payment of crime
2 2 victim compensation program reimbursements, payment of
2 3 restitution to public agencies pursuant to section 321J.2,
2 4 subsection 9, paragraph "b", court costs including
2 5 correctional fees approved pursuant to section 356.7, court=
2 6 appointed attorney fees ordered pursuant to section 815.9,
2 7 including the expense of a public defender, and the
2 8 performance of a public service by an offender in an amount
2 9 set by the court when the offender cannot reasonably pay all
2 10 or part of the court costs including correctional fees
2 11 approved pursuant to section 356.7, or court=appointed
2 12 attorney fees ordered pursuant to section 815.9, including the
2 13 expense of a public defender.
2 14 Sec. 4. Section 910.2, Code 2005, is amended to read as
2 15 follows:
2 16 910.2 RESTITUTION OR COMMUNITY SERVICE TO BE ORDERED BY
2 17 SENTENCING COURT.
2 18 In all criminal cases in which there is a plea of guilty,

2 19 verdict of guilty, or special verdict upon which a judgment of
2 20 conviction is rendered, the sentencing court shall order that
2 21 restitution be made by each offender to the victims of the
2 22 offender's criminal activities, to the clerk of court for
2 23 fines, penalties, surcharges, and, to the extent that the
2 24 offender is reasonably able to pay, for crime victim
2 25 assistance reimbursement, restitution to public agencies
2 26 pursuant to section 321J.2, subsection 9, paragraph "b", court
2 27 costs including correctional fees approved pursuant to section
2 28 356.7, or court-appointed attorney fees ordered pursuant to
2 29 section 815.9, including the expense of a public defender,
2 30 when applicable, ~~or contribution to a local anticrime~~
2 31 ~~organization~~. However, victims shall be paid in full before
2 32 fines, penalties, ~~and~~ surcharges, crime victim compensation
2 33 program reimbursement, public agencies, court costs including
2 34 correctional fees approved pursuant to section 356.7, and
2 35 court-appointed attorney fees ordered pursuant to section
3 1 815.9, including the expenses of a public defender, ~~or~~
3 2 ~~contributions to a local anticrime organization~~ are paid. In
3 3 structuring a plan of restitution, the court shall provide for
3 4 payments in the following order of priority: victim, fines,
3 5 penalties, and surcharges, crime victim compensation program
3 6 reimbursement, public agencies, court costs including
3 7 correctional fees approved pursuant to section 356.7, and
3 8 court-appointed attorney fees ordered pursuant to section
3 9 815.9, including the expense of a public defender, ~~and~~
3 10 ~~contribution to a local anticrime organization~~.
3 11 When the offender is not reasonably able to pay all or a
3 12 part of the crime victim compensation program reimbursement,
3 13 public agency restitution, court costs including correctional
3 14 fees approved pursuant to section 356.7, or court-appointed
3 15 attorney fees ordered pursuant to section 815.9, including the
3 16 expense of a public defender, ~~or contribution to a local~~
3 17 ~~anticrime organization~~, the court may require the offender in
3 18 lieu of that portion of the crime victim compensation program
3 19 reimbursement, public agency restitution, court costs
3 20 including correctional fees approved pursuant to section
3 21 356.7, or court-appointed attorney fees ordered pursuant to
3 22 section 815.9, including the expense of a public defender, ~~or~~
3 23 ~~contribution to a local anticrime organization~~ for which the
3 24 offender is not reasonably able to pay, to perform a needed
3 25 public service for a governmental agency or for a private
3 26 nonprofit agency which provides a service to the youth,
3 27 elderly, or poor of the community. When community service is
3 28 ordered, the court shall set a specific number of hours of
3 29 service to be performed by the offender which, for payment of
3 30 court-appointed attorney fees ordered pursuant to section
3 31 815.9, including the expenses of a public defender, shall be
3 32 approximately equivalent in value to those costs. The
3 33 judicial district department of correctional services shall
3 34 provide for the assignment of the offender to a public agency
3 35 or private nonprofit agency to perform the required service.

4 1 EXPLANATION

4 2 This bill prohibits any donation to an agency,
4 3 organization, or political subdivision of the state as part of
4 4 any dismissal, sentence, or other criminal penalty. The bill
4 5 eliminates a provision allowing a criminal offender to make a
4 6 donation in lieu of performing community service. The bill
4 7 eliminates provisions allowing a contribution by a criminal
4 8 offender to a local anticrime organization as part of the
4 9 offender's restitution plan.

4 10 LSB 1239DP 81

4 11 jm/gg/14