

# House Study Bill 757

HOUSE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON PAULSEN)

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

## A BILL FOR

1 An Act relating to the assessment of a civil penalty when a  
2 person receives a deferred judgment in a criminal proceeding.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:  
4 TLSB 6541YC 81  
5 jm/je/5

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1 1 Section 1. Section 907.1, subsection 1, Code Supplement  
1 2 2005, is amended to read as follows:  
1 3 1. "Deferred judgment" means a sentencing option whereby  
1 4 both the adjudication of guilt and the imposition of a  
1 5 sentence are deferred by the court and whereby the court  
1 6 ~~assesses~~ may assess a civil penalty as provided in section  
1 7 907.14 upon the entry of the deferred judgment. The court  
1 8 retains the power to pronounce judgment and impose sentence  
1 9 subject to the defendant's compliance with conditions set by  
1 10 the court as a requirement of the deferred judgment.  
1 11 Sec. 2. Section 907.3, subsection 1, unnumbered paragraph  
1 12 1, Code Supplement 2005, is amended to read as follows:  
1 13 With the consent of the defendant, the court may defer  
1 14 judgment and may place the defendant on probation upon  
1 15 conditions as it may require. However, a civil penalty ~~shall~~  
1 16 may be assessed as provided in section 907.14 upon the entry  
1 17 of a deferred judgment. Upon a showing that the defendant is  
1 18 not cooperating with the program of probation or is not  
1 19 responding to it, the court may withdraw the defendant from  
1 20 the program, pronounce judgment, and impose any sentence  
1 21 authorized by law. Before taking such action, the court shall  
1 22 give the defendant an opportunity to be heard on any matter  
1 23 relevant to the proposed action. Upon fulfillment of the  
1 24 conditions of probation and the payment of fees imposed and  
1 25 not waived by the judicial district department of correctional  
1 26 services under section 905.14, the defendant shall be  
1 27 discharged without entry of judgment. Upon violation of the  
1 28 conditions of probation, the court may proceed as provided in  
1 29 chapter 908.  
1 30 Sec. 3. Section 907.14, subsection 1, Code Supplement  
1 31 2005, is amended to read as follows:  
1 32 1. Upon the entry of a deferred judgment pursuant to  
1 33 section 907.3, a defendant ~~shall~~ may be assessed a civil  
1 34 penalty of an amount not ~~less than~~ to exceed the amount of any  
1 35 criminal fine authorized by law for the offense under section  
2 1 902.9 or section 903.1.

### EXPLANATION

2 2  
2 3 This bill relates to the assessment of a civil penalty when  
2 4 a person receives a deferred judgment in a criminal  
2 5 proceeding.  
2 6 Under the bill, the court may assess a civil penalty when a  
2 7 person receives a deferred judgment of an amount that does not  
2 8 exceed the amount of any criminal fine authorized by law.  
2 9 Current law requires the court to assess a civil penalty of an  
2 10 amount that is not less than the criminal fine authorized by  
2 11 law.  
2 12 LSB 6541YC 81  
2 13 jm:nh/je/5