SENATE FILE 367
BY COMMITTEE ON WAYS AND MEANS

(SUCCESSOR TO SSB 1146)

(As Amended and Passed by the Senate February 23, 2021)

_____ and [= New Language by the Senate

A BILL FOR

An Act relating to certain financial obligations, including under the consumer credit code, and including under the criminal and juvenile justice system by modifying criminal and civil surcharges, fines, fees, costs, and court debt, providing civil penalties, and including effective date and retroactive applicability provisions.

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

Section 1. Section 537.1301, subsection 12, Code 2021, is amended to read as follows:

12. "*Consumer credit transaction*" means a consumer credit sale or consumer loan, or a refinancing or consolidation thereof, or a consumer lease, or a consumer rental purchase agreement. "*Consumer credit transaction*" does not include goods, services, or any other benefits provided by or on behalf of the state or a state agency.

Sec. 2. Section 602.8105, subsection 2, paragraph h, Code 2021, is amended to read as follows:

h. For applicable convictions under section 692A.110 ~~prior to July 1, 2009, a civil penalty of two hundred ten dollars, and for applicable convictions under section 692A.110~~ on or after ~~July 1, 2009~~ June 25, 2020, a civil penalty of two hundred sixty dollars.

Sec. 3. Section 602.8107, subsection 1, paragraph a, Code 2021, is amended to read as follows:

a. "*Court debt*" means all restitution as defined in section 910.1, fees, ~~and~~ forfeited bail, and other debt paid to or collected by the clerk of the district court.

Sec. 4. Section 602.8107, subsection 3, Code 2021, is amended to read as follows:

3. *Collection by department of revenue.*

a. ~~(1)~~ Thirty days after court debt has been assessed and full payment has not been received, or if an installment payment is not received within thirty days after the date it is due, the judicial branch shall assign a case to the department of revenue, unless the case has been assigned to the county attorney under paragraph ~~"c"~~ "*d*".

~~(2) The department of revenue may impose a fee established by rule to reflect the cost of processing which shall be added to the debt owed to the clerk of the district court.~~

b. (1) ~~In addition, court debt which is being collected under an installment agreement pursuant to section 321.210B which is in default that remains delinquent shall remain~~

~~assigned to the department of revenue if the installment agreement was executed with the department of revenue; or to the county attorney or county attorney's designee if the installment agreement was executed with the county attorney or county attorney's designee~~ The department of revenue shall receive fifteen percent of each court debt payment collected on cases assigned to the department of revenue for collection to reflect the cost of processing and the remaining eighty-five percent of such court debt collected shall be paid to the clerk of the district court for distribution under section 602.8108. The department of revenue collection fee shall not include the amount of court debt collected for restitution involving pecuniary damages, the victim compensation fund, the crime services surcharge, the domestic and sexual abuse crimes surcharge, the agricultural surcharge, the sex offender civil penalty.

(2) Payments made by a person under subparagraph (1) between January 1, 2021, and August 1, 2021, including any portion of the payment applied to the department of revenue's processing fee, shall be reapplied as if no department of revenue processing fee had been added to the amount owed. The department of revenue shall be allocated a portion of such payments pursuant to subparagraph (1). If a payment made by a person owing court debt between January 1, 2021, and August 1, 2021, reduces the person's total amount of court debt owed to zero, the clerk of the district court shall issue a refund to the person in the amount attributable to the processing fee added to the court debt. This subparagraph is repealed on January 1, 2023.

c. The centralized debt collection facilities of the department of revenue established pursuant to section 421.17, subsection 27, shall collect court debt assigned to the department of revenue pursuant to this section.

~~c.~~ *d.* Thirty days after court debt has been assessed and full payment has not been received, or if an installment

payment is not received within thirty days after the date it is due, and if a county attorney has filed with the clerk of the district court a notice of full commitment to collect delinquent court debt pursuant to subsection 4, the case shall be assigned to the county attorney as provided in subsection 4. The judicial branch shall assign cases with delinquent court debt to a county attorney in the same format and with the same frequency as cases with delinquent court debt are assigned to the department of revenue under paragraph "*a*", and a county attorney shall not be required to file an individual notice of full commitment to collect delinquent court debt for each assigned case. If the county attorney or the county attorney's designee, while collecting delinquent court debt pursuant to subsection 4, determines that a person owes additional court debt for which a case has not been assigned by the judicial branch, the county attorney or the county attorney's designee shall notify the clerk of the district court of the appropriate case numbers and the judicial branch shall assign these cases to the county attorney for collection if the additional court debt is delinquent.

Sec. 5. Section 602.8107, subsection 4, paragraph a, Code 2021, is amended to read as follows:

a. This subsection does not apply to amounts collected for restitution involving pecuniary damages, the victim compensation fund, the crime services surcharge, ~~sex offender civil penalty,~~ the domestic and sexual abuse crimes surcharge, the agricultural theft surcharge, ~~or amounts collected as a result of procedures initiated under subsection 5~~ the sex offender civil penalty, or under section 8A.504.

Sec. 6. Section 602.8107, subsection 5, Code 2021, is amended by striking the subsection and inserting in lieu thereof the following:

5. *Uncollectible debt.*

a. Court debt that has been assigned to the department of revenue for collection pursuant to subsection 3 may be charged

off from active collection by the director of the department of revenue if either of the following conditions exist:

(1) The person owing the court debt is deceased and there are no assets in the person's estate or there are no assets available for the payment of court debt under section 633.425.

(2) The person owing the court debt cannot be located after diligent inquiry and the director of the department of revenue determines the department will not be able to locate the person.

b. Court debt for any of the following shall not be charged off until sixty-five years from the date of imposition:

(1) Pecuniary damages.

(2) Victim compensation.

(3) A criminal penalty surcharge.

(4) A sex offender civil penalty.

(5) A drug abuse resistance education surcharge.

(6) A law enforcement initiative surcharge.

(7) A county enforcement surcharge.

(8) Fees charged pursuant to section 356.7.

(9) A crime services surcharge.

(10) A domestic and sexual abuse crimes surcharge.

(11) An agricultural theft surcharge.

c. Debt that is charged off shall remain due and owing, but the judicial branch shall close the corresponding case file for the purposes of collection pursuant to this section.

Sec. 7. Section 692A.110, subsection 2, Code 2021, is amended to read as follows:

2. In addition to any other penalty, at the time of conviction for a public offense committed on or after July 1, 1995, which requires a sex offender to register under this chapter, the offender shall be assessed a civil penalty ~~of two hundred dollars, to be payable to the clerk of the district court as provided in section 602.8105 and distributed as provided in section 602.8108. With respect to a conviction for a public offense committed on or after July 1, 2009, which~~

~~requires a sex offender to register under this chapter, the offender shall be assessed a civil penalty of two hundred fifty dollars,~~ payable to the clerk of the district court as provided in section 602.8105 and distributed as provided in section 602.8108.

Sec. 8. Section 910.3, subsection 8, Code 2021, is amended to read as follows:

8. The court shall enter a permanent restitution order setting out the amount of restitution including the amount of public service to be performed as restitution and the persons to whom restitution must be paid. A permanent restitution order entered at the time of sentencing is part of the final judgment of sentence as defined in section 814.6 and shall be considered in a properly perfected appeal. An appellate court shall not review or modify any issue related to a defendant's ability to pay unless the defendant has exhausted the defendant's remedies under section 910.7 and obtained a ruling from the district court prior to the issue being raised in the appellate court.

Sec. 9. Section 911.2B, Code 2021, is amended to read as follows:

911.2B Domestic ~~abuse assault, domestic abuse protective order contempt,~~ and sexual abuse~~, stalking, and human trafficking~~ crimes surcharge.

1. In addition to any other surcharge, the court shall assess a ~~domestic abuse assault, domestic abuse protective order contempt, sexual abuse, stalking, and human trafficking victim~~ domestic and sexual abuse crimes surcharge of ninety dollars if an adjudication of guilt or a deferred judgment has been entered for a violation of section 708.2A, 708.11, or 710A.2, or chapter 709, or if a defendant is held in contempt of court for violating a domestic abuse protective order issued pursuant to chapter 236.

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

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

Sec. 10. RESCISSION OF ADMINISTRATIVE RULES.

1. Contingent upon the enactment of the section of this Act amending section 602.8107, subsection 3, the following Iowa administrative rule is rescinded August 1, 2021:

701 Iowa administrative code, rule 155.1.

2. As soon as practicable, the Iowa administrative code editor shall remove the language of the Iowa administrative rules referenced in subsection 1 of this section from the Iowa administrative code.

Sec. 11. EFFECTIVE DATE.

1. The section of this Act amending section 602.8107, subsection 3, takes effect August 1, 2021.

2. The section of this Act amending section 602.8105, section 2, paragraph "h", being deemed of immediate importance, takes effect upon enactment.

Sec. 12. RETROACTIVE APPLICABILITY. The following applies retroactively to July 15, 2020:

The section of this Act amending section 602.8105, subsection 2, paragraph "h".