

or to a violation of chapter 709 committed by a person who is a mandatory reporter of child abuse under section 232.69 in which the victim is a person who is under the age of eighteen.

Sec. 3. Section 910A.5, subsection 1, paragraph b, Code 1997, is amended to read as follows:

b. A victim may orally present a victim impact statement at the sentencing hearing, in the presence of the defendant, and at any hearing regarding reconsideration of sentence.

Approved May 26, 1997

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## CHAPTER 190

### FEEES AND PENALTIES RELATING TO CORRECTIONS AND LICENSE REVOCATIONS

H.F. 734

**AN ACT** relating to the criminal and civil justice system by providing for the imposition of a civil penalty for certain motor vehicle license suspensions, revocations, or bars, for the deposit and distribution of penalties and fees collected, and for the imposition and payment of fees for probation and parole, and concerning inmate employment in private industry.

*Be It Enacted by the General Assembly of the State of Iowa:*

Section 1. **NEW SECTION.** 321.218A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars a person's motor vehicle license or non-resident operating privilege for a conviction under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the general fund of the state. A temporary restricted license shall not be issued or a motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 2. **NEW SECTION.** 321A.32A CIVIL PENALTY — DISPOSITION — REINSTATEMENT.

When the department suspends, revokes, or bars a person's motor vehicle license or non-resident operating privilege under this chapter, the department shall assess the person a civil penalty of two hundred dollars. However, for persons age nineteen or under, the civil penalty assessed shall be fifty dollars. The money collected by the department under this section shall be transmitted to the treasurer of state who shall deposit the money in the general fund of the state. A temporary restricted license shall not be issued or a motor vehicle license or nonresident operating privilege reinstated until the civil penalty has been paid.

Sec. 3. Section 904.108, subsection 7, Code 1997, is amended to read as follows:

7. The director may charge an inmate a correctional fee for custodial expenses incurred or which may be incurred while the inmate is in the custody of the department. The custodial expenses may include, but are not limited to, board and room, medical and dental fees,

education costs, clothing costs, and the costs of supervision, services, and treatment to the inmate. The correctional fee shall not exceed the actual cost of keeping the inmate in custody. The correctional fees shall be assessed as court costs and any correctional fees collected pursuant to this subsection shall be credited to the general fund of the state. ~~The correctional fees shall be collected as other court costs pursuant to section 602.8107 as a reimbursement to the appropriate correctional institution.~~ This subsection does not limit the right of the director to obtain any other remedy authorized by law.

Sec. 4. Section 904.112, Code 1997, is amended to read as follows:  
904.112 INSTITUTIONAL RECEIPTS.

~~All institutional~~ Institutional receipts of the department of corrections shall be deposited in the general fund of the state except for reimbursements as follows:

1. Reimbursement for services provided to another institution or state agency, rentals charged to employees or other persons for room, apartment, or housing, and charges for meals.

2. Receipts which are specifically required to be otherwise expended or deposited under this chapter.

Sec. 5. Section 904.311A, Code 1997, is amended to read as follows:  
904.311A PRISON RECYCLING FUND.

~~The Iowa prison~~ A recycling fund for each prison institution is created and established as a separate and distinct fund in the state treasury. All moneys remitted to the department for the recycling operations in each fiscal year commencing with the fiscal year beginning July 1, 1994, of a prison institution shall be deposited in the fund established for that institution. Notwithstanding section 12C.7, subsection 2, interest or earnings on moneys deposited in the each fund shall be credited to the that fund. Notwithstanding section 8.33, moneys in the each fund shall not revert to the general fund of the state at the close of a fiscal year but shall remain in the that fund and be used as directed in this section in the succeeding fiscal year. The treasurer of state shall act as custodian of the each fund and disburse moneys from the each fund as directed by the department for the purpose of payment of operating expenses for recycling.

Sec. 6. Section 904.809, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 5. An inmate of a correctional institution employed pursuant to this section shall surrender to the department of corrections the inmate's total earnings less deductions for federal, state, and local taxes, and any other payroll deductions required by law. The department of corrections shall deduct twenty percent of the balance to be credited to the inmate's general account. The department shall then deduct from the earnings remaining as follows:

a. The department shall first deduct the following amounts in the following order of priority.

(1) An amount the inmate may be legally obligated to pay for the support of the inmate's dependents, the amount of which shall be paid to the dependents through the department of human services collection services center.

(2) Restitution as ordered by the court pursuant to chapter 910.

(3) Five percent of the balance to the victim compensation fund created in section 912.14.

(4) An amount the inmate is legally obligated to pay for any other financial obligation.

(5) An amount determined to be the cost to the department of corrections for providing for the incarceration of the inmate.

b. Of the balance remaining after deductions and payments required pursuant to paragraph "a", the department shall deposit in the Iowa state industries revolving fund created in section 904.813, an amount equal to the costs incurred by the fund related to the inmate's employment pursuant to this section. Any balance remaining after the deductions and payments required by this subsection shall be credited to the inmate's general account.

**Sec. 7. NEW SECTION. 905.14 FEES FOR PROBATION AND PAROLE.**

1. A person placed on probation or parole and subject to supervision by a district department shall be required to pay an enrollment fee to the district department to offset the costs of supervision. The fee shall be based on the offense class of the most serious offense for which the person has received probation or parole, including deferred judgments or deferred sentences, and shall be as follows:

- a. For a felony, one hundred fifty dollars.
- b. For an aggravated misdemeanor, one hundred twenty-five dollars.
- c. For a serious or simple misdemeanor, one hundred dollars.

2. The fees established pursuant to this section shall not be waived by the sentencing court. Each district department shall retain fees collected for administrative and program services.

3. The department of corrections may adopt rules for the administration of this section. If adopted, the rules shall include a provision for waiving the collection of fees for persons determined to be unable to pay.

Sec. 8. Section 907.3, subsection 1, unnumbered paragraph 1, Code 1997, is amended to read as follows:

With the consent of the defendant, the court may defer judgment and may place the defendant on probation upon ~~such~~ conditions as it may require. Upon a showing that the defendant is not cooperating with the program of probation or is not responding to it, the court may withdraw the defendant from the program, pronounce judgment, and impose any sentence authorized by law. Before taking such action, the court shall give the defendant an opportunity to be heard on any matter relevant to the proposed action. Upon fulfillment of the conditions of probation and the payment of fees imposed and not waived by the judicial district department of correctional services under section 905.14, the defendant shall be discharged without entry of judgment. Upon violation of the conditions of probation, the court may proceed as provided in chapter 908.

Sec. 9. Section 907.3, subsection 3, Code 1997, is amended to read as follows:

3. By record entry at the time of or after sentencing, the court may suspend the sentence and place the defendant on probation upon ~~such~~ terms and conditions as it may require including commitment to an alternate jail facility or a community correctional residential treatment facility for a specific number of days to be followed by a term of probation as specified in section 907.7, or commitment of the defendant to the judicial district department of correctional services for supervision or services under section 901B.1 at the level of sanctions which the district department determines to be appropriate and the payment of fees imposed under section 905.14. A person so committed who has probation revoked shall be given credit for such time served. However, the court shall not suspend the minimum term of two days imposed pursuant to section 708.2A, subsection 6, paragraph "a", or a sentence imposed under section 708.2A, subsection 6, paragraph "b", and the court shall not suspend a sentence imposed pursuant to section 236.8 or 236.14 for contempt.

Sec. 10. Section 907.7, unnumbered paragraphs 1 and 2, Code 1997, are amended to read as follows:

The length of the probation shall be for ~~such~~ a term as the court may fix but not to exceed five years if the offense is a felony or not to exceed two years if the offense is a misdemeanor.

The length of the probation shall not be less than one year if the offense is a misdemeanor and shall not be less than two years if the offense is a felony. However, the court may subsequently reduce the length of the probation if the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services. The purposes of probation are to provide maximum opportunity for the rehabilitation of the defendant and to protect the community from further offenses by the defendant and others.

Sec. 11. Section 907.9, unnumbered paragraph 1, Code 1997, is amended to read as follows:

At any time that the court determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the court may order the discharge of a person from probation. At any time that a probation officer determines that the purposes of probation have been fulfilled and the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the officer may order the discharge of a person from probation after approval of the district director, and notification of the sentencing court and county attorney who prosecuted the case. The sentencing judge, unless the judge is no longer serving or is otherwise unable to, may order a hearing on its own motion, or shall order a hearing upon the request of the county attorney, for review of such discharge. If the sentencing judge is no longer serving or unable to order such hearing, the chief judge of the district or the chief judge's designee shall order any hearing pursuant to this section. Following the hearing, the court shall approve or rescind such discharge. If a hearing is not ordered within thirty days after notification by the probation officer, the person shall be discharged and the probation officer shall notify the state court administrator of such discharge. At the expiration of the period of probation, in cases where the court fixes the term of probation and if the fees imposed under section 905.14 have been paid to or waived by the judicial district department of correctional services, the court shall order the discharge of the person from probation, and the court shall forward to the governor a recommendation for or against restoration of citizenship rights to that person. A person who has been discharged from probation shall no longer be held to answer for the person's offense. Upon discharge from probation, if judgment has been deferred under section 907.3, the court's criminal record with reference to the deferred judgment shall be expunged. The record maintained by the state court administrator as required by section 907.4 shall not be expunged. The court's record shall not be expunged in any other circumstances.

Sec. 12. MOTOR VEHICLE LICENSE REINSTATEMENT PENALTY — DEPOSIT AND DISTRIBUTION.

1. Notwithstanding the deposit provisions of sections 321.218A and 321A.32A, moneys collected during the fiscal year beginning July 1, 1997, and ending June 30, 1998, by the state department of transportation pursuant to those sections are deposited with the department of human services for the fiscal year beginning July 1, 1997, and ending June 30, 1998, and shall be allocated as follows:

a. The first \$1,000,000 shall be used for the establishment, improvement, operation, and maintenance of county or multicounty juvenile detention homes. Funds allocated in this paragraph shall be prorated among eligible detention homes.

b. Moneys in excess of \$1,000,000 shall be allocated to the judicial districts as determined by the state court administrator to be used by the judicial districts pursuant to recommendations of the planning group for court-ordered services for juveniles provided in each judicial district which were established pursuant to 1991 Iowa Acts, chapter 267, section 119. Moneys allocated and distributed pursuant to this paragraph shall be used for the improvement, expansion, construction, and operation of runaway assessment facilities, runaway assessment services, and juvenile delinquency prevention and intervention services.

2. Notwithstanding section 8.33, moneys appropriated in this section which remain unobligated or unexpended at the close of the fiscal year shall not revert to the general fund of the state but shall remain available only for the purposes designated in this section in the succeeding fiscal year.

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