

MAR 9 2005
Place On Calendar

HOUSE FILE 682
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 209)

Passed House, Date 3-16-05 Passed Senate, Date 4-20-05
Vote: Ayes 79 Nays 19 Vote: Ayes 48 Nays 1
Re-passed Approved 6/3/05
4-21-05 95-4

A BILL FOR

1 An Act relating to the assessment of a civil penalty upon the
2 entry of a deferred judgment.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 682

1 Section 1. Section 907.1, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. "Deferred judgment" means a sentencing option whereby
4 both the adjudication of guilt and the imposition of a
5 sentence are deferred by the court and whereby the court
6 assesses a civil penalty as provided in section 907.14 upon
7 the entry of the deferred judgment. The court retains the
8 power to pronounce judgment and impose sentence subject to the
9 defendant's compliance with conditions set by the court as a
10 requirement of the deferred judgment.

11 Sec. 2. Section 907.3, subsection 1, unnumbered paragraph
12 1, Code 2005, is amended to read as follows:

13 With the consent of the defendant, the court may defer
14 judgment and may place the defendant on probation upon
15 conditions as it may require. However, a civil penalty shall
16 be assessed as provided in section 907.14 upon the entry of a
17 deferred judgment. Upon a showing that the defendant is not
18 cooperating with the program of probation or is not responding
19 to it, the court may withdraw the defendant from the program,
20 pronounce judgment, and impose any sentence authorized by law.
21 Before taking such action, the court shall give the defendant
22 an opportunity to be heard on any matter relevant to the
23 proposed action. Upon fulfillment of the conditions of
24 probation and the payment of fees imposed and not waived by
25 the judicial district department of correctional services
26 under section 905.14, the defendant shall be discharged
27 without entry of judgment. Upon violation of the conditions
28 of probation, the court may proceed as provided in chapter
29 908.

30 Sec. 3. NEW SECTION. 907.14 DEFERRED JUDGMENT -- CIVIL
31 PENALTY -- DISTRIBUTION.

32 1. Upon the entry of a deferred judgment pursuant to
33 section 907.3, a defendant shall be assessed a civil penalty
34 of an amount not less than the amount of any criminal fine
35 authorized by law for the offense under section 902.9 or

1 section 903.1.

2 2. The clerk of the district court shall collect and remit
3 the civil penalty to the state court administrator for deposit
4 in the general fund of the state as provided in section
5 602.8108.

6 EXPLANATION

7 This bill relates to the assessment of a civil penalty upon
8 the entry of a deferred judgment criminal sentence.

9 Under the bill, if a defendant receives a deferred
10 judgment, the defendant shall be assessed a civil penalty of
11 an amount not less than the amount of the criminal fine
12 authorized by law for the offense under Code section 902.9
13 (felony) or Code section 903.1 (misdemeanor).

14 The bill provides that the clerk of the district court
15 shall collect and remit the civil penalty to the state court
16 administrator for deposit in the general fund of the state as
17 provided in Code section 602.8108.

18 Current law provides that upon receiving a deferred
19 judgment, the defendant does not pay a fine because no
20 judgment has been entered against the defendant.

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Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 682 - Deferred Judgment, Civil Penalty (LSB 2604 HV)
Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version - New

Description

House File 682 relates to the assessment of a civil penalty upon the entry of a deferred judgment.

Background

1. In calendar year 2004, there were 1,496 felony convictions which received a deferred judgment, as well as 1,055 aggravated misdemeanors, 6,197 serious misdemeanors, and 1,623 simple misdemeanors which received a deferred judgment.
2. Pursuant to the Bill, the judge imposes the fine. If the person cannot pay the civil penalty, the Judicial Branch would use all the statutory procedures available to obtain the fine such as noticing, income tax offset, and county attorney special enforcement.

Assumptions

1. The collection rate for the first year is 25.0%. At the end of two years, the total amount collected would be 45.0% of the original fine.
2. House File 682 may result in an additional five to eight minutes for clerk processing time per case at an estimated total cost ranging from \$14,000 to \$23,000 a year.
3. House File 682 may result in more trials because defendants may have less incentive to plead guilty and take a deferred judgment. House File 682 is estimated to result in 130 additional trials a year (5.0%) at the District Court level and 390 additional trials a year (5.0%) at the District Associate Judge level. Each trial is estimated to last approximately 30 minutes. This may add between \$8,500 and \$24,000 costs for additional trials.

Fiscal Impact

House File 682 would have a minimal fiscal impact on the Judicial Branch.

House File 682 generates \$1.1 million in revenue in FY 2006 and \$1.9 million in revenue in FY 2007 and each year thereafter. This additional revenue will be deposited into the General Fund.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJP)
Judicial Branch

/s/ Holly M. Lyons

March 16, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

S-3103

1 Amend House File 682, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Sec. ____ . Section 602.8108, subsection 3, Code
6 2005, is amended to read as follows:

7 3. The clerk of the district court shall remit to
8 the state court administrator, not later than the
9 fifteenth day of each month, ninety-five percent of
10 all moneys collected from the criminal penalty
11 surcharge provided in section 911.1 during the
12 preceding calendar month. The clerk shall remit the
13 remainder to the county treasurer of the county that
14 was the plaintiff in the action or to the city that
15 was the plaintiff in the action. Of the amount
16 received from the clerk, the state court administrator
17 shall allocate ~~eighteen~~ seventeen percent to be
18 deposited in the victim compensation fund established
19 in section 915.94, and ~~eighty-two~~ eighty-three percent
20 to be deposited in the general fund.

21 Sec. ____ . Section 602.8108, Code 2005, is amended
22 by adding the following new subsection:

23 NEW SUBSECTION. 9. A criminalistics laboratory
24 fund is created as a separate fund in the state
25 treasury under the control of the department of public
26 safety. The fund shall consist of appropriations made
27 to the fund and transfers of interest, and earnings.
28 All moneys in the fund are appropriated to the
29 department of public safety for use by the department
30 in criminalistics laboratory equipment purchasing,
31 maintenance, depreciation, and training. Any balance
32 in the fund on June 30 of any fiscal year shall not
33 revert to any other fund of the state but shall remain
34 available for the purposes described in this
35 subsection."

36 2. Page 1, by striking lines 5 through 7 and
37 inserting the following: "sentence are deferred by
38 the court and whereby a civil penalty may be assessed
39 by the court as provided in section 907.14 upon the
40 entry of a deferred judgment. The court retains the".

41 3. Page 1, line 15, by striking the word "shall"
42 and inserting the following: "may".

43 4. Page 1, line 33, by striking the word "shall"
44 and inserting the following: "may".

45 5. By striking page 1, line 34, through page 2,
46 line 1, and inserting the following: "of at least one
47 hundred dollars but not exceeding one thousand
48 dollars."

49 6. Page 2, by inserting after line 5 the
50 following:

S-3103

S-3103

Page 2

1 "Sec. ____ . Section 911.1, subsection 1, Code 2005,
2 is amended to read as follows:

3 1. A criminal penalty surcharge shall be levied
4 against law violators as provided in this section.
5 When a court imposes a fine or forfeiture for a
6 violation of state law, or a city or county ordinance,
7 except an ordinance regulating the parking of motor
8 vehicles, the court or the clerk of the district court
9 shall assess an additional penalty in the form of a
10 criminal penalty surcharge equal to ~~thirty~~ thirty-two
11 percent of the fine or forfeiture imposed."

12 7. Title page, lines 1 and 2, by striking the
13 words "upon the entry of a deferred judgment" and
14 inserting the following: "and criminal penalty
15 surcharge, and creating a criminalistics laboratory
16 fund".

17 8. By renumbering, relettering, or redesignating
18 and correcting internal references as necessary.

COMMITTEE ON JUDICIARY

KEITH A. KREIMAN, CO-CHAIRPERSON

DAVID MILLER, CO-CHAIRPERSON

S-3103 FILED APRIL 11, 2005

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 682 – Crime Lab Surcharge and Deferred Judgment, Civil Penalty (LSB 2604 HV.1)
Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version – As amended by S-3103

Description

House File 682, as amended by S-3103, increases the criminal penalty surcharge from 30.0% to 32.0% and creates a Criminalistics Laboratory Fund to purchase or fund equipment, maintenance, depreciation, and training. House File 682, as amended by S-3103, also relates to the assessment of a civil penalty upon the entry of a deferred judgment.

Background

1. In calendar year 2004, \$47.1 million in State fines and forfeited bail were imposed and \$9.0 million in county and local government fines were imposed. The total revenue for calendar year 2004 was \$56.1 million. Parking violation revenue is not included in the estimate.
2. The cumulative collection rate for scheduled traffic fines in year one is 71.5%, year two is 81.2%, and year three and ongoing years is 93.8%. The cumulative collection rate for non-scheduled traffic fines in year one is 27.3%, year two is 31.0%, and year three and ongoing years is 36.0%. (Non-scheduled traffic violations require a court appearance whereas scheduled traffic violations do not require a court appearance.)
3. The 32.0% Criminal Surcharge will become effective July 1, 2005.
4. Under current law, of the revenue received from the 30.0% criminal surcharge, the State share is 95.0% and the counties/local governments receive 5.0%. Of the 95.0% State share, 18.0% is distributed to the Victim Compensation Fund and 82.0% is deposited in the General Fund.
5. In calendar year 2004, there were 1,496 felony convictions which received a deferred judgment, as well as 1,055 aggravated misdemeanors, 6,197 serious misdemeanors, and 1,623 simple misdemeanors which received a deferred judgment.
6. Pursuant to the Bill, the judge may impose a civil penalty fine on a deferred judgment.

Assumptions

1. A lag effect of six months is assumed from the law's effective date. An additional lag is assumed on the first full year of collection since the surcharge is a mixture of citations, felonies, and misdemeanors. The first full year of collection does not occur until the fourth year due to the lag applied in year one, the application of a three-year collection rate, and the case processing time of non-scheduled traffic violations.
2. The one-time cost for the Judicial Branch to program a new financial code in the Iowa Court Information System is approximately \$5,000.
3. Under the Bill, of the revenue received from the 32.0% criminal surcharge, the State's share is 95.0% and the counties/local governments receive 5.0%. Of the 95.0% State share, 17.0% is distributed to the Victim Compensation Fund and 83.0% is deposited in the General Fund.
4. House File 682, as amended by S-3103, adds a non-reversionary Criminalistics Laboratory Fund to the language in Section 602.8108(3), Code of Iowa. Receipts in this Fund consist of General Fund appropriations and interest earned.
5. The Victim Compensation Fund would receive approximately the same amount of funding under the 32.0% surcharge at a rate of 17.0% as it currently does under the 30.0% surcharge at a rate of 18.0%. The Victim Compensation Fund currently receives approximately \$1.6 million, and under the Bill, the Victim Compensation Fund is estimated to receive an increase of \$12,000 in FY 2009.

6. The estimated cost for crime lab instruments is \$523,000 annually or \$2.6 million over five years. The estimated cost for repair, replacement, and updating of lab equipment is \$129,000 annually or \$645,000 over five years. The ongoing yearly cost for equipment and training is estimated to be \$220,000. The estimated cost for maintenance agreements is \$150,000 annually.
7. The average fine amounts for the civil penalty on a deferred judgment are as follows: \$100 for a simple misdemeanor, \$350 for a serious misdemeanor, \$500 for an aggravated misdemeanor, and \$950 for a felony.
8. The collection rate for the first year is 25.0%. At the end of two years, the total amount collected would be 45.0% of the original fine.
9. House File 682, as amended by S-3103, may result in an additional five to eight minutes for clerk processing time per case at an estimated total cost of \$9,000 a year.
10. House File 682, as amended by S-3103, may result in more trials because defendants may have less incentive to plead guilty and take a deferred judgment. House File 682, as amended by S-3103, is estimated to result in 65 additional trials a year (5.0%) at the District Court level and 195 additional trials a year (5.0%) at the District Associate Judge level. Each trial is estimated to last approximately 30 minutes. This may add between \$4,000 and \$12,000 costs for additional trials.

Fiscal Impact

House File 682, as amended by S-3103, increases revenue to the General Fund, Victim Compensation Fund, and to county and local governments as well as increases revenue to the General Fund from the civil penalty on deferred judgments. The Bill also creates a new, non-reversionary fund within the Division of Criminal Investigation for the Crime Lab. The General Assembly has discretion over the amount appropriated to the Criminalistics Laboratory Fund. The chart below shows the anticipated increase in net revenue from HF 682 as amended by S-3103:

Estimated Net Revenues Generated From House File 682

	FY 2006	FY 2007
General Fund	\$ 504,000	\$ 777,000
Victim Compensation Fund	7,000	10,000
Local Governments	18,000	26,000

House File 682, as amended by S-3103, would have a minimal fiscal impact on the Judicial Branch regarding the civil penalty.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJP)
 Judicial Branch
 Department of Public Safety
 State Public Defender

Dennis C Prouty

April 12, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

**SENATE AMENDMENT TO
HOUSE FILE 682**

H-1438

1 Amend House File 682, as passed by the House, as
2 follows:

3 1. Page 1, by inserting before line 1 the
4 following:

5 "Sec. _____. Section 602.8108, subsection 3, Code
6 2005, is amended to read as follows:

7 3. The clerk of the district court shall remit to
8 the state court administrator, not later than the
9 fifteenth day of each month, ninety-five percent of
10 all moneys collected from the criminal penalty
11 surcharge provided in section 911.1 during the
12 preceding calendar month. The clerk shall remit the
13 remainder to the county treasurer of the county that
14 was the plaintiff in the action or to the city that
15 was the plaintiff in the action. Of the amount
16 received from the clerk, the state court administrator
17 shall allocate ~~eighteen~~ seventeen percent to be
18 deposited in the victim compensation fund established
19 in section 915.94, and ~~eighty-two~~ eighty-three percent
20 to be deposited in the general fund.

21 Sec. _____. Section 602.8108, Code 2005, is amended
22 by adding the following new subsection:

23 NEW SUBSECTION. 9. A criminalistics laboratory
24 fund is created as a separate fund in the state
25 treasury under the control of the department of public
26 safety. The fund shall consist of appropriations made
27 to the fund and transfers of interest, and earnings.
28 All moneys in the fund are appropriated to the
29 department of public safety for use by the department
30 in criminalistics laboratory equipment purchasing,
31 maintenance, depreciation, and training. Any balance
32 in the fund on June 30 of any fiscal year shall not
33 revert to any other fund of the state but shall remain
34 available for the purposes described in this
35 subsection."

36 2. Page 2, by inserting after line 5 the
37 following:

38 "Sec. _____. Section 911.1, subsection 1, Code 2005,
39 is amended to read as follows:

40 1. A criminal penalty surcharge shall be levied
41 against law violators as provided in this section.
42 When a court imposes a fine or forfeiture for a
43 violation of state law, or a city or county ordinance,
44 except an ordinance regulating the parking of motor
45 vehicles, the court or the clerk of the district court
46 shall assess an additional penalty in the form of a
47 criminal penalty surcharge equal to ~~thirty~~ thirty-two
48 percent of the fine or forfeiture imposed."

49 3. Title page, lines 1 and 2, by striking the
50 words "upon the entry of a deferred judgment" and

H-1438

H-1438

Page 2

- 1 inserting the following: "and criminal penalty
- 2 surcharge, and creating a criminalistics laboratory
- 3 fund".
- 4 4. By renumbering, relettering, or redesignating
- 5 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-1438 FILED APRIL 20, 2005

Fiscal Services Division
Legislative Services Agency
Fiscal Note

HF 682 – Crime Lab Surcharge and Deferred Judgment, Civil Penalty (LSB 2604 HV.2)
Analyst: Jennifer Acton (Phone: (515) 281-7846) (jennifer.acton@legis.state.ia.us)
Fiscal Note Version – S-3103 as amended and passed by the Senate

Description

House File 682, as amended by S-3103, increases the criminal penalty surcharge from 30.0% to 32.0% and creates a Criminalistics Laboratory Fund to purchase or fund equipment, maintenance, depreciation, and training. House File 682, as amended by S-3103, also relates to the assessment of a civil penalty upon the entry of a deferred judgment.

Background

1. In calendar year 2004, \$47.1 million in State fines and forfeited bail were imposed and \$9.0 million in county and local government fines were imposed. The total revenue for calendar year 2004 was \$56.1 million. Parking violation revenue is not included in the estimate.
2. The cumulative collection rate for scheduled traffic fines in year one is 71.5%, year two is 81.2%, and year three and ongoing years is 93.8%. The cumulative collection rate for non-scheduled traffic fines in year one is 27.3%, year two is 31.0%, and year three and ongoing years is 36.0%. (Non-scheduled traffic violations require a court appearance whereas scheduled traffic violations do not require a court appearance.)
3. The 32.0% Criminal Surcharge will become effective July 1, 2005.
4. Under current law, of the revenue received from the 30.0% criminal surcharge, the State share is 95.0% and the counties/local governments receive 5.0%. Of the 95.0% State share, 18.0% is distributed to the Victim Compensation Fund and 82.0% is deposited in the General Fund.
5. In calendar year 2004, there were 1,496 felony convictions which received a deferred judgment, as well as 1,055 aggravated misdemeanors, 6,197 serious misdemeanors, and 1,623 simple misdemeanors which received a deferred judgment.
6. Pursuant to the Bill, the judge imposes the fine. If the person cannot pay the civil penalty, the Judicial Branch would use all the statutory procedures available to obtain the fine such as noticing, income tax offset, and county attorney special enforcement.

Assumptions

1. A lag effect of six months is assumed from the law's effective date. An additional lag is assumed on the first full year of collection since the surcharge is a mixture of citations, felonies, and misdemeanors. The first full year of collection does not occur until the fourth year due to the lag applied in year one, the application of a three-year collection rate, and the case processing time of non-scheduled traffic violations.
2. The one-time cost for the Judicial Branch to program a new financial code in the Iowa Court Information System is approximately \$5,000.
3. Under the Bill, of the revenue received from the 32.0% criminal surcharge, the State's share is 95.0% and the counties/local governments receive 5.0%. Of the 95.0% State share, 17.0% is distributed to the Victim Compensation Fund and 83.0% is deposited in the General Fund.
4. House File 682, as amended by S-3103, adds a non-reversionary Criminalistics Laboratory Fund to the language in Section 602.8108(3), Code of Iowa. Receipts in this Fund consist of General Fund appropriations and interest earned.
5. The Victim Compensation Fund would receive approximately the same amount of funding under the 32.0% surcharge at a rate of 17.0% as it currently does under the 30.0% surcharge at a rate of 18.0%. The Victim Compensation Fund currently receives

approximately \$1.6 million, and under the Bill, the Victim Compensation Fund is estimated to receive an increase of \$12,000 in FY 2009.

6. The estimated cost for crime lab instruments is \$523,000 annually or \$2.6 million over five years. The estimated cost for repair, replacement, and updating of lab equipment is \$129,000 annually or \$645,000 over five years. The ongoing yearly cost for equipment and training is estimated to be \$220,000. The estimated cost for maintenance agreements is \$150,000 annually.
7. The average fine amounts for the civil penalty on a deferred judgment are as follows: \$100 for a simple misdemeanor, \$350 for a serious misdemeanor, \$500 for an aggravated misdemeanor, and \$950 for a felony.
8. The collection rate for the first year is 25.0%. At the end of two years, the total amount collected would be 45.0% of the original fine.
9. House File 682, as amended by S-3103, may result in an additional five to eight minutes for clerk processing time per case at an estimated cost ranging from \$14,000 to \$23,000 a year.
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Fiscal Impact

House File 682, as amended by S-3103, increases revenue to the General Fund, Victim Compensation Fund, and to county and local governments as well as increases revenue to the General Fund from the civil penalty on deferred judgments. The Bill also creates a new, non-reversionary fund within the Division of Criminal Investigation for the Crime Lab. The General Assembly has discretion over the amount appropriated to the Criminalistics Laboratory Fund. The chart below shows the anticipated increase in net revenue from HF 682 as amended by S-3103:

Estimated Net Revenues Generated From House File 682

	<u>FY 2006</u>	<u>FY 2007</u>
General Fund	\$1,416,000	\$2,417,000
Victim Compensation Fund	7,000	10,000
Local Governments	18,000	26,000

House File 682, as amended by S-3103, would have a minimal fiscal impact on the Judicial Branch regarding the civil penalty.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division (CJJP)
Judicial Branch
Department of Public Safety
State Public Defender

Dennis C Prouty

April 20, 2005

The fiscal note and correctional impact statement for this bill was prepared pursuant to Joint Rule 17 and pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Fiscal Services Division, Legislative Services Agency to members of the Legislature upon request.

Boat-ch
Kaufmann
Olson

HSB 209

JUDICIARY

R.

HOUSE FILE 0682

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 upon the
2 entry of a deferred judgment.

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

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1 Section 1. Section 907.1, subsection 1, Code 2005, is
2 amended to read as follows:

3 1. "Deferred judgment" means a sentencing option whereby
4 both the adjudication of guilt and the imposition of a
5 sentence are deferred by the court and whereby the court
6 assesses a civil penalty as provided in section 907.14 upon
7 the entry of the deferred judgment. The court retains the
8 power to pronounce judgment and impose sentence subject to the
9 defendant's compliance with conditions set by the court as a
10 requirement of the deferred judgment.

11 Sec. 2. Section 907.3, subsection 1, unnumbered paragraph
12 1, Code 2005, is amended to read as follows:

13 With the consent of the defendant, the court may defer
14 judgment and may place the defendant on probation upon
15 conditions as it may require. However, a civil penalty shall
16 be assessed as provided in section 907.14 upon the entry of a
17 deferred judgment. Upon a showing that the defendant is not
18 cooperating with the program of probation or is not responding
19 to it, the court may withdraw the defendant from the program,
20 pronounce judgment, and impose any sentence authorized by law.
21 Before taking such action, the court shall give the defendant
22 an opportunity to be heard on any matter relevant to the
23 proposed action. Upon fulfillment of the conditions of
24 probation and the payment of fees imposed and not waived by
25 the judicial district department of correctional services
26 under section 905.14, the defendant shall be discharged
27 without entry of judgment. Upon violation of the conditions
28 of probation, the court may proceed as provided in chapter
29 908.

30 Sec. 3. NEW SECTION. 907.14 DEFERRED JUDGMENT -- CIVIL
31 PENALTY -- DISTRIBUTION.

32 1. Upon the entry of a deferred judgment pursuant to
33 section 907.3, a defendant shall be assessed a civil penalty
34 of an amount not less than the amount of any criminal fine
35 authorized by law for the offense under section 902.9 or

1 section 903.1.

2 2. The clerk of the district court shall collect and remit
3 the civil penalty to the state court administrator for deposit
4 in the general fund of the state as provided in section
5 602.8108.

6 EXPLANATION

7 This bill relates to the assessment of a civil penalty upon
8 the entry of a deferred judgment criminal sentence.

9 Under the bill, if a defendant receives a deferred
10 judgment, the defendant shall be assessed a civil penalty of
11 an amount not less than the amount of the criminal fine
12 authorized by law for the offense under Code section 902.9
13 (felony) or Code section 903.1 (misdemeanor).

14 The bill provides that the clerk of the district court
15 shall collect and remit the civil penalty to the state court
16 administrator for deposit in the general fund of the state as
17 provided in Code section 602.8108.

18 Current law provides that upon receiving a deferred
19 judgment, the defendant does not pay a fine because no
20 judgment has been entered against the defendant.

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HOUSE FILE 682

AN ACT

RELATING TO THE ASSESSMENT OF A CIVIL PENALTY AND CRIMINAL PENALTY SURCHARGE, AND CREATING A CRIMINALISTICS LABORATORY FUND.

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

Section 1. Section 602.8108, subsection 3, Code 2005, is amended to read as follows:

3. The clerk of the district court shall remit to the state court administrator, not later than the fifteenth day of each month, ninety-five percent of all moneys collected from the criminal penalty surcharge provided in section 911.1 during the preceding calendar month. The clerk shall remit

the remainder to the county treasurer of the county that was the plaintiff in the action or to the city that was the plaintiff in the action. Of the amount received from the clerk, the state court administrator shall allocate eighteen seventeen percent to be deposited in the victim compensation fund established in section 915.94, and eighty-two eighty-three percent to be deposited in the general fund.

Sec. 2. Section 602.8108, Code 2005, is amended by adding the following new subsection:

NEW SUBSECTION. 9. A criminalistics laboratory fund is created as a separate fund in the state treasury under the control of the department of public safety. The fund shall consist of appropriations made to the fund and transfers of interest, and earnings. All moneys in the fund are appropriated to the department of public safety for use by the department in criminalistics laboratory equipment purchasing, maintenance, depreciation, and training. Any balance in the fund on June 30 of any fiscal year shall not revert to any other fund of the state but shall remain available for the purposes described in this subsection.

Sec. 3. Section 907.1, subsection 1, Code 2005, is amended to read as follows:

1. "Deferred judgment" means a sentencing option whereby both the adjudication of guilt and the imposition of a sentence are deferred by the court and whereby the court assesses a civil penalty as provided in section 907.14 upon the entry of the deferred judgment. The court retains the power to pronounce judgment and impose sentence subject to the defendant's compliance with conditions set by the court as a requirement of the deferred judgment.

Sec. 4. Section 907.3, subsection 1, unnumbered paragraph 1, Code 2005, 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

conditions as it may require. However, a civil penalty shall be assessed as provided in section 907.14 upon the entry of a deferred judgment. 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. 5. NEW SECTION. 907.14 DEFERRED JUDGMENT -- CIVIL PENALTY -- DISTRIBUTION.

1. Upon the entry of a deferred judgment pursuant to section 907.3, a defendant shall be assessed a civil penalty of an amount not less than the amount of any criminal fine authorized by law for the offense under section 902.9 or section 903.1.

2. The clerk of the district court shall collect and remit the civil penalty to the state court administrator for deposit in the general fund of the state as provided in section 602.8108.

Sec. 6. Section 911.1, subsection 1, Code 2005, is amended to read as follows:

1. A criminal penalty surcharge shall be levied against law violators as provided in this section. When a court imposes a fine or forfeiture for a violation of state law, or a city or county ordinance, except an ordinance regulating the parking of motor vehicles, the court or the clerk of the district court shall assess an additional penalty in the form

of a criminal penalty surcharge equal to thirty thirty-two percent of the fine or forfeiture imposed.

CHRISTOPHER C. RANTS
Speaker of the House

JOHN P. KIBBIE
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 682, Eighty-first General Assembly.

MARGARET THOMSON
Chief Clerk of the House

Approved 6/3, 2005

THOMAS J. VILSACK
Governor