

JAN 24 2002
JUDICIARY

HOUSE FILE 2101
BY KREIMAN

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the payment of criminal fines, including
2 criminal surcharges, court costs, and applicable fees, by
3 allowing for immediate withholding of a defendant's income.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2101

1 Section 1. NEW SECTION. 909.8A IMMEDIATE INCOME
2 WITHHOLDING.

3 1. At the time of imposing sentence, the district court
4 may, in its discretion, enter an ex parte order for immediate
5 withholding of the defendant's income to satisfy the payment
6 of a criminal fine, including a criminal surcharge, court
7 costs, and applicable fees. The order shall notify the
8 defendant of the amount of income to be withheld and of the
9 procedure to file a motion to quash the order for income
10 withholding pursuant to subsection 3, and order the
11 withholding of specified sums to be deducted from the
12 defendant's income sufficient to pay the judgment imposed and
13 requiring the payments of such sums to the clerk of the
14 district court. This section is sufficient notice for the
15 implementation of immediate income withholding without any
16 further notice.

17 2. Notice of income withholding shall be provided to the
18 payor of income or employer by regular mail, with proof of
19 service completed according to rule of civil procedure 1.442.

20 3. A defendant under this section may move to quash an
21 income withholding order by filing a motion to quash with the
22 clerk of the district court. The clerk shall schedule a
23 hearing on the motion to quash for a time not later than seven
24 days after the filing of the motion to quash and the notice of
25 the motion to quash. The clerk shall mail to the parties
26 copies of the motion to quash, and the order scheduling the
27 hearing.

28 4. As used in this section:

29 a. "Income" means any periodic form of payment due an
30 individual, regardless of source, including but not limited to
31 wages, salaries, commissions, bonuses, workers' compensation,
32 disability payments, payments pursuant to a pension or
33 retirement program, and interest.

34 b. "Payor of income" or "employer" means and includes, but
35 is not limited to, a defendant's employer, trustee, the state

1 of Iowa and all governmental subdivisions and agencies, and
2 any other person from whom a defendant receives income.

3 EXPLANATION

4 This bill relates to the payment of criminal fines,
5 including criminal surcharges, court costs and applicable
6 fees, by allowing for immediate withholding of a defendant's
7 income.

8 The bill creates a new Code section which allows the
9 district court, at the time of imposing sentence, to enter an
10 ex parte order for immediate withholding of the defendant's
11 income to satisfy the payment of a criminal fine and
12 associated charges imposed on a defendant pursuant to Code
13 chapter 909. The bill provides that the order shall notify
14 the defendant of the amount of income to be withheld and of
15 the defendant's right to file a motion to quash the order for
16 income withholding with the clerk of the district court. If
17 the defendant files a motion to quash, the clerk of the
18 district court shall schedule a hearing on the motion to quash
19 not later than seven days after the filing of the motion to
20 quash and the notice of the motion to quash.

21 The bill also provides a definition of "income" to mean any
22 form of periodic payment due an individual, regardless of
23 source, including but not limited to wages, salaries,
24 commissions, bonuses, workers' compensation, disability
25 payments, payments pursuant to a pension or retirement
26 program, and interest. The bill further provides a definition
27 of "payor of income" or "employer" to mean and include, but
28 not be limited to, a defendant's employer, trustee, the state
29 of Iowa and all governmental subdivisions and agencies, and
30 any other person from whom the defendant receives income.

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