

MAR 7 2006  
Place On Calendar'

HOUSE FILE 2692  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 757)

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:

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HF 2692

1 Section 1. Section 907.1, subsection 1, Code Supplement  
2 2005, is 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~~ may assess a civil penalty as provided in section  
7 907.14 upon the entry of the deferred judgment. The court  
8 retains the power to pronounce judgment and impose sentence  
9 subject to the defendant's compliance with conditions set by  
10 the court as a requirement of the deferred judgment.

11 Sec. 2. Section 907.3, subsection 1, unnumbered paragraph  
12 1, Code Supplement 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 may be assessed as provided in section 907.14 upon the entry  
17 of a deferred judgment. Upon a showing that the defendant is  
18 not cooperating with the program of probation or is not  
19 responding to it, the court may withdraw the defendant from  
20 the program, pronounce judgment, and impose any sentence  
21 authorized by law. Before taking such action, the court shall  
22 give the defendant an opportunity to be heard on any matter  
23 relevant to the proposed action. Upon fulfillment of the  
24 conditions of probation and the payment of fees imposed and  
25 not waived by the judicial district department of correctional  
26 services under section 905.14, the defendant shall be  
27 discharged without entry of judgment. Upon violation of the  
28 conditions of probation, the court may proceed as provided in  
29 chapter 908.

30 Sec. 3. Section 907.14, subsection 1, Code Supplement  
31 2005, is amended to read as follows:

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

1 902.9 or section 903.1.

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EXPLANATION

3 This bill relates to the assessment of a civil penalty when  
4 a person receives a deferred judgment in a criminal  
5 proceeding.

6 Under the bill, the court may assess a civil penalty when a  
7 person receives a deferred judgment of an amount that does not  
8 exceed the amount of any criminal fine authorized by law.  
9 Current law requires the court to assess a civil penalty of an  
10 amount that is not less than the criminal fine authorized by  
11 law.

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**Fiscal Services Division**  
**Legislative Services Agency**  
**Fiscal Note**

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HF 2692 - Deferred Judgment Civil Penalties (LSB 6541 HV)  
Analyst: Jennifer Acton (Phone: [515] 281-7846) ([jennifer.acton@legis.state.ia.us](mailto:jennifer.acton@legis.state.ia.us))  
Fiscal Note Version - New

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**Description**

House File 2692 allows the Judicial Branch to access a civil penalty when a person receives a deferred judgment of an amount that does not exceed the amount of any criminal fine authorized by law.

**Background**

The 2005 General Assembly passed HF 682 (Deferred Judgment, Civil Penalty), which required a civil penalty be assessed against individuals with deferred judgments. House File 2692 provides for judicial discretion in the assessment of a civil penalty on a deferred judgment.

**Assumptions**

1. The law will become effective July 1, 2006. A lag effect of six months is assumed, from the law's effective date to the date of the first entry of affected offenders into the correctional system (to allow for court case processing time).
2. In calendar year 2005, there were 11,149 deferred judgments.
3. Since July 1, 2005, there have been 2,658 deferred judgment cases with civil fines imposed. The total amount imposed is \$1.4 million and the total amount collected is \$338,000 (24.1% collection rate).

**Correctional Impact**

It is uncertain what effect this Bill will have on the imposition of civil fines, but it is anticipated the number of deferred judgment cases with a civil fine imposed will most likely decrease.

**Fiscal Impact**

The revenue generated from the imposition of the civil fine will most likely decrease; however, the amount cannot be determined.

**Sources**

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

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/s/ Holly M. Lyons

March 8, 2006

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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.

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Tamerson-oh  
Van Fossen  
Olson

HSB 757

JUDICIARY

HOUSE FILE \_\_\_\_\_ **2692**  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY  
CHAIRPERSON PAULSEN)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
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25 not waived by the judicial district department of correctional  
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