IOWA DISTRICT COURT, FIFTH JUDICIAL DISTRICT

PROCEDURES AND REQUIREMENTS CONCERNING COLLECTION OF COURT DEBT	**ADMINISTRATIVE ORDER 2009-5**

FILED
POLK COUNTY, IOWA
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CLERK DISTRICT COURT

Effective January 1, 1996, the Court entered an Administrative Order regarding Procedures and Requirements Concerning Criminal Financial Obligations, No. 1995/28. Since 1996, there have been numerous statutory changes affecting collection of court debt in criminal cases. The workload of the offices of the Clerks of Court has dramatically increased while the staffing of the Clerk's offices has decreased. Budget cuts for Fiscal Year '09 and Fiscal Year '10 will place further strain on the limited resources of the Court. The procedures established in Administrative Order 1995/28 have imposed unanticipated administrative burdens on the Clerk's offices. Therefore, it shall be the policy of the Fifth Judicial District that routine court orders for time to pay at a fixed future date or court ordered installment payment plans are discouraged. These procedures delay other statutory collection procedures. Show cause hearings and contempt proceedings place an unreasonable burden upon the Court and the Clerk's office. Statutory procedures for the collection of court debt are encouraged. Modern collection methods can be just as effective without these administrative burdens. See Iowa Code Section 602.8107 as amended 82G.A., Ch. 1172 (2008).

NOW THEREFORE IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

1. The Court strikes Administrative Order 1995/28 and substitutes this order in lieu thereof effective March 1, 2009.
2. Pursuant to Iowa Code Section 602.8107(1) "Court debt" means all fines, penalties, court costs, fees, forfeited bail, surcharges under Chapter 911, victim restitution, restitution for court appointed attorney fees or expenses of a public defender, or fees charged pursuant to Section 356.7 or 904.108.
3. Fines, surcharges, court costs and civil penalties shall be deemed to be assessed on the date they are imposed by judgment entry or deferred judgment entry. Iowa Code Sections 909.2(1), 907.3(1).
4. Restitution for court appointed attorney fees or expenses of a public defender shall be assessed in accordance with the provisions of Iowa Code Sections 815.9(4)-(9). Appointed attorneys and public defenders shall comply with the reporting requirements of Section 815.9(6) within the time provided in

815.9(4). The paid attorney fee restitution shall be collected as court debt under Section 602.8107.

5. Victim restitution shall be determined and assessed as provided in Iowa Code Section 910.3. County Attorneys shall provide statements of pecuniary damage amounts within the time provided in Section 910.3. The Court shall establish a plan of restitution at the earliest possible date. If the defendant is placed on probation, the plan of restitution shall be collected pursuant to Section 910.4. Unpaid restitution shall be collected as court debt under Section 602.8107.
6. Court debt shall be deemed delinquent if it is not paid within thirty (30) days after the date it is assessed. Iowa Code Section 602.8107(2)(d).
7. For counties of the Fifth Judicial District where the County Attorney has <u>not</u> filed a notice of full commitment to participate in the County Attorney Collection Program ("CAPP") pursuant to Iowa Code Section 602.8107(4), court debt shall be collected pursuant to the following statutory procedures:
    a) Court debt is deemed delinquent if it is not paid within thirty (30) days after the date it is assessed. Iowa Code Section 602.8107(2)(d). Within fifteen (15) days of delinquency, the Clerk of Court shall refer delinquent court debt to the Centralized Collection Unit of the Iowa Department of Revenue ("CCU") for collection pursuant to Iowa Code Section 602.8107(3).
    b) The Clerk of Court shall notify the directors of the Department of Revenue and the Department of Administrative Services of all accessed court debt for set off pursuant to Section 8A.504 for set off against any money due the defendant through income tax refunds, lottery winnings, vendor checks or other qualifying amounts.
    c) The Clerk of Court shall notify the director of the Iowa Department of Transportation and the County Treasurer of any delinquent court debt as deferred in Section 910(1)(4) for a hold on renewal of vehicle registration pursuant to the Iowa Code Section 321.40.
    d) The Clerk of Court shall notify the Iowa Department of Transportation for license suspension procedures under Iowa Code Section 321.210A upon the failure of a person to pay a fine, penalty, surcharge or court costs for conviction of violating a law relating to the operation of a motor vehicle within sixty (60) days' notice by the Clerk as provided in Section 321.210A(1).

8. For counties of the Fifth Judicial District where the County Attorney has filed a notice of full commitment to participate in the CAPP program (as of the date of this order this includes Dallas, Decatur, Lucas, Polk, Ringgold, Taylor and Warren counties), the County Attorney may collect any court debt allowed by Section 602.8107(4). County Attorney collections may begin sixty (60) days after the court debt is deemed delinquent under Section 602.8107(2)(d).
    a) County Attorneys participating in the CAPP may imply a variety of judgment collection techniques including but not limited to wage assignments, garnishments, installment payment plans, etc.
    b) Concurrently with collections under a CAPP, the Clerk of Court shall refer court debt for collection in accordance with the set off procedures of Section 8A.504, and vehicle registration holds under Section 321.40. The drivers license suspension under Section 321.210A shall also be used unless the County Attorney has lifted the suspension pursuant to a County Attorney payment plan under Section 321.40(9)(b).
9. County Attorneys and Judges of the Fifth Judicial District shall modify form orders for judgment entries, deferred judgments and other dispositional orders in a manner consistent with this Administrative Order and the statutes cited herein.

Dated this 4th day of February 2009.

ARTHUR E. GAMBLE, CHIEF JUDGE
FIFTH JUDICIAL DISTRICT OF IOWA

Cc: All 5th District Judges and Magistrates
All 5th District Clerks of Court
All 5th District County Attorneys
David Boyd, State Court Administrator
Michael Streit, Supreme Court Liaison Justice
Marsha Ternus, Chief Justice, Supreme Court
Mark Smith, Acting State Public Defender
Valerie Wilson, Polk County Public Defender
Kathy Miller, Polk County Juvenile Public Defender
Carol Moore, Case Coordinator
Gaila Conklin, Case Coordinator