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CLERK SUPREME COURT

**IN THE SUPREME COURT OF IOWA**

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| **IN THE MATTER OF INTERIM PROCEDURES GOVERNING THE COLLECTION OF COURT FINES AND FEES** | ) ) ) ) | **SUPERVISORY ORDER** |

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Earlier this year, the legislature approved sweeping changes to the state's procedures for collecting debt obligations owed to the state, including debt owed for fines and court fees. See S.F. 2383; 4 Iowa Legis. Service 558 (West 2010). Among the changes affecting the collection of fines and fees, this bill:

- Retains the requirement that all fines imposed by the court shall be paid on the day the fine is imposed. However, this bill adds a new requirement to this process. It requires the court *to direct a person who owes a fine to pay such fine with the office of the clerk of district court on the date the fine is imposed.* (Emphasis added.)

- Eliminates a long-standing provision that allowed a judge to "fix a date in the future which is not more than one hundred twenty days from the date the fine is imposed for payment of the fine . . . ."

- Retains the provision giving judges the *discretion* to order a fine to be paid in installments, but requires that the first installment payment *must be paid within thirty days of being imposed.* In addition, the bill provides that "all other terms and conditions of an installment payment plan ordered pursuant to this section *shall be established by rule by the judicial branch.* (Emphasis added.)

In the near future, this court plans to establish an advisory committee composed of judges, magistrates, and court staff who work on collecting fines and fees to study the judicial branch's fine collection efforts and to advise the court on effective practices, procedures, and programs to strengthen these efforts. As part of its charge, the court will instruct this committee to study and recommend rules regarding the terms and conditions for installment payment plans authorized pursuant to Iowa Code section 909.3(2)(b), as amended by S.F. 2383. In the meantime, however, and upon recommendation

of the Judicial Council, the court adopts the following interim provisions that will govern installment payment plans and other collection activities of the judicial branch until the adoption of permanent rules. These interim procedures shall apply to all court debt as defined in Iowa Code section 602.8107(1).

**A. Installment Payment Plans**

(1) At sentencing or upon imposition of a fine, a person shall be instructed to pay fines and other court debts with the office of the clerk of court on the date of sentencing or imposition of the fine and court debt. See S.F. 2383, § 22; 4 Iowa Legis. Service 588 (West 2010).

(2) If a person establishes that he or she does not have the financial means to pay the debt in full on the date it is imposed, the judge *may* order the person to pay the debt in installments. When deciding whether to enter a court–ordered installment payment plan, the court shall consider other options available to a person who desires to pay court debt through an installment payment plan, including a plan arranged by the central collection unit of the department of revenue or a plan arranged through a county attorney who is collecting court debt pursuant to Iowa Code section 602.8107(4).

(3) When ordering an installment payment plan, except in cases involving a restitution plan of payment pursuant to Iowa Code section 907.8, a judicial officer shall:

(a) Structure the payments to be due at least once a month;

(b) Require the payments to be at least $50 each month; and

(c) Structure the payment plan so the entire debt is scheduled to be fully satisfied within two years or less. A judicial officer shall not structure any payment plan for a period of more than two years from the date the fine and court debt are imposed.

(4) A judicial officer shall not order an installment payment plan for any court debt that is already deemed delinquent pursuant Iowa Code section 602.8107(2)(d) because it was not paid within thirty days of the date it was imposed.

(5) A judicial officer shall not waive or forgive any installment payments or continue or extend the due date for any installment payment. If a person fails to make an installment payment within thirty days of the date it was due, the judicial branch will immediately assign the debt to either the central collection unit or a county attorney for additional collection procedures.

(6) A judicial officer may modify an existing installment payment plan to correct an error or omission regarding the amount of court debt owed by the defendant.

(7) A judicial officer may modify or restructure an existing installment payment plan so long as the entire debt is scheduled to be fully satisfied within two years from the date the fine and court debt was originally imposed and the payments are at least $50 a month.

**B. Court Debt Collection Procedures**

In addition, judicial officers shall comply with the following procedures with regard to court debt, whether or not subject to an installment payment plan.

(1) Except for collection orders, procedures, and arrangements that are the subject of a petition for judicial review, a judicial officer shall not block, rescind, waive, modify, void, or stay any installment payment plan or other court debt collection agreement or procedure arranged, initiated, or enforced by a county attorney collecting court debt pursuant to Iowa Code section 602.8107(4) and Iowa Code section 321.210B, the centralized collection unit of the department of revenue collecting court debt pursuant to Iowa Code section

602.8107(3), a county treasurer pursuant to Iowa Code section 321.40(9), the department of transportation pursuant to Iowa Code section321.210A, the department of revenue pursuant to Iowa Code section 8A.504, the clerk of court pursuant to Iowa Code section 602.8103(6), and a private collection agency approved by the state court administrator pursuant to Iowa Code section 602.8107(5), as amended by S.F. 2383. As used in this paragraph, court debt collection agreements and procedures include but are not limited to garnishments, administrative levies, wage assignments, installment payment plans, executions, income tax offsets, driver's license suspension, vehicle registration holds, professional licensure suspension, and other procedures authorized by law.

(2) Effective July 1, 2010, a judicial officer no longer has the authority to "fix a date in the future which is not more than one hundred twenty days from the date the fine is imposed for payment of the fine." *See* Iowa Code § 909.3(2), repealed by S.F. 2383, 4 Iowa Legis. Service 558 (West 2010). In cases in which the court had previously given a defendant time to pay court debt pursuant to this statute, a judicial officer shall not extend or continue the time for payment of the court debt or order an installment payment plan.

(3) Pursuant to Iowa Code section 909.3A, all orders for community service in lieu of a fine shall require a defendant to perform the number of hours of community service that are equal to the total amount of the court fine imposed divided by 7.25. (The current state and federal minimum wage rate is $7.25/hour.) For example, if a defendant owes a total of $1250 in fines, the court shall divide $1250 by 7.25 for a total of 172.4 hours of community service to be served by the defendant.

**C. Application and Effective Date.**

(1) The provisions of this order take effect July 12, 2010.

(2) The provisions of sections A.3 apply to orders in which the court imposes a fine and other court debt on or after July 12, 2010.

Dated this 2nd day of July, 2010.

THE SUPREME COURT OF IOWA

By Marsha K. Ternus

Marsha K. Ternus, Chief Justice