

F I N A L R E P O R T

COURT ADMINISTRATIVE SERVICES STUDY COMMITTEE

February, 1988

The Court Administrative Services Study Committee was established by the Legislative Council to review the impact of court reorganization on the functions of county offices, and document the amount of property tax relief generated and the potential cost savings which will result from court reorganization.

Members serving on the Study Committee were:

Senator Berl E. Priebe, Co-chairperson
Representative Daniel J. Jay, Co-chairperson
Senator Eugene Fraise
Senator Richard Varn
Senator Jack Hester
Senator Richard Drake
Representative Robert D. Fuller
Representative Louis J. Muhlbauer
Representative Donald Paulin
Representative Vic Stueland

The Committee was authorized two meetings which were held on October 22 and November 24, 1987. The Committee heard testimony from persons representing the judicial department, the Clerks of Court Association, the Juvenile Court Officers Association, the Shorthand Reporters Association, and the Iowa Association of Counties. The Committee also heard from persons advocating the creation of new judicial districts.

Rebecca Reznicek, Executive Assistant to the Chief Justice of the Iowa Supreme Court, briefed the Committee on the history of court reorganization. She informed the Committee that prior to reorganization, 75 percent of the cost of the court system was borne by the counties through property taxes which resulted in inequities due to the differences in assessed property values in the various counties. A study was commissioned in 1979 which resulted in the passage of the Court Reorganization Act in 1983 which provided for a phased state assumption of the cost of the court system which has resulted in net property tax relief of \$28,437,321. She also provided the Committee with information concerning cost of fully implementing comparable worth for the clerks, the cost of establishing a new judicial district, and the number of filings, dispositions, and judges per district and subdistrict.

Court Administrative Services Study Committee
Final Report - February, 1988
Page 2

Mr. Dale Halverson, Mr. James Bartosh, Mr. Jerry Weis, and Ms. Shirley Redenius testified on behalf of the Clerks of Court Association. They supported court reorganization, but objected to the fact that their salaries were capped and not subject to comparable worth resulting, in their view, in an inequitable salary structure under which the clerks and their deputies may have a lower salary than some of their employees. The issue of child support recovery was discussed, which process was one of the duties of the clerks of court before being entrusted to the Child Support Recovery Unit of the Department of Human Services, and Co-chairpersons Priebe and Jay expressed a desire to see that responsibility returned to the clerks of court.

Mr. Don Wyingarden, President of the Juvenile Court Officers Association, stated that juvenile court officers do belong under the judicial system and commented that the salary schedule established under reorganization has had a positive impact. He cautioned that a number of his colleagues fear their communication process has become too formal and are concerned that a bureaucratic hierarchy is being established that will unnecessarily complicate their work.

Ms. Pam Day, President of the Shorthand Reporters Association, stated that one problem with reorganization was placing the shorthand reporters under supervision of the district court administrator which places the administrator between the reporter and the judge the reporter works for and in effect leaves the reporter with two persons directing the reporters activities. She also complained that reorganization placed the reporters on a two-week, eighty hour pay period basis which does not accurately conform to a reporter's work schedule which consists of irregular hours due to the trial schedule. She also noted that the 62.5 percent of reporters are at the top of their pay schedule under comparable worth.

Mr. Victor Elias, representing the Iowa State Association of Counties, stated that state assumption of court costs had not reduced property taxes due to other pressures on county budgets but probably had averted an increase.

The Committee heard from Mr. Keith McKinley, Chair of the Subdistrict Separation Committee, District 2A; Judge Ralph F. McCartney, District Court Judge, District 2A; and Judge C.H. Wild, Ret., on the issue of creating a new judicial district out of Judicial Subdistrict 2A. They noted that twenty-one judicial districts in 1967 were reduced to eighteen and further reduced to eight in 1971. They argued the size of the judicial districts, and theirs in particular, which is eighteen percent larger than the next largest district, made effective administration impossible. They contended that creating a new district would require some additional personnel, but costs would be minimal and disputed as being too high, the estimated cost figures for creating a new judicial district which the Supreme Court supplied.

Court Administrative Services Study Committee
Final Report - February, 1988
Page 3

Judge James P. Denato, District Court Judge, District 5, declared that the General Assembly should not look at the specific issue of creating a new district from District 2A, but should look at the state as a whole when determining how best the court can serve the state.

During the Committee's second meeting on November 24, 1987, the Committee again received presentations from the Judicial Department. Mr. David Boyd, Deputy State Court Administrator briefed the Committee on the Judicial Department budget and the court costs in the various counties. He also briefed the Committee on county base funding of the juvenile court system. He noted that the county base was on the rise in the last decade with a total base of 3.3 million dollars in 1987. He added that in fiscal year 1988 there was an initial budget of 3 million dollars with 1.8 million to the juvenile court and 1.2 million to the Department of Human Services.

Mr. Boyd also briefed the Committee on the Department's plan to automate the court system to decentralize organization and provide better information. He reported that the plan was based upon the recommendation of a consultant's study received in September and calls for computerization of the Department for administration and case management over the next four to five years. Larry Murphy, a former district court administrator in the second district, who was a member of the court's advisory committee on computerization, reported that the Committee had been working over two and one-half years with Honeywell to setup the system.

At the conclusion of the Department's testimony, the Committee reviewed and adopted a proposed bill to eliminate the county base for juvenile court funding and to shift those costs to the state.

The Committee also examined the issue regarding child support recovery and problems which have been experienced with the Collection Services Center of the Child Support Recovery Unit of the Department of Human Services. Sharon Sheppard, Clerk of Court of Appanoose County, testified to the problems which had been experienced in her county, consisting mostly of late arrival of checks when the payment had been made as required to the Collection Services Center. She observed that even when calls were made to the Center, the response was often inaccurate or ineffective. Chris Ill, Administrator of the Collection Services Center appeared before the Committee and testified that there had been problems in the operations of the Center but they were being corrected as they arise. She blamed part of the problem on computer programming which makes address correction difficult. She stated that the Center was aiming for a twenty-four hour turnaround time on checks received, but estimated that out of one thousand checks received, fifty will have problems. She noted that only twenty-two counties have been converted to the Collection Services Center to date and that they were behind schedule, but anticipated meeting their target date.

Court Administrative Services Study Committee
Final Report - February, 1988
Page 4

James Carney of the Iowa Bar Association contended that the creation of the Collection Services Center was in response to the inducement of a federal grant and was not really an effective child support recovery tool. He contended that the clerks of court had been doing an excellent job of receiving and disbursing checks and that the Center did little more than receive checks and issue state warrants; a process which was less efficient and less accurate. He noted that the twenty-two counties converted are largely rural counties and predicted more problems with the more populous counties. He declared that there are other more effective tools for child support recovery such as tax refund liens and wage garnishment and stated that the Bar would propose a bill to return child support collection to the clerks of court. A number of the Committee members commented that they had more calls on this issue than on any in recent memory.

The Committee reviewed, amended, and adopted a proposed bill to abolish the Collection Services Center and return the duty to the clerks of court.

The Study Committee recommends to the Legislative Council for consideration of the appropriate standing committees of the Seventy-second General Assembly, LSB 7743IS, a bill for An Act relating to the funding of the juvenile justice system, and LSB 7235IS, a bill for An Act relating to the receipt and disbursement of support payments, providing for the Act's applicability, and providing effective dates.

A copy of both bill drafts as recommended by the Study Committee is attached to and by this reference made a part of this report.

HOUSE FILE _____
BY (PROPOSED COURT
ADMINISTRATIVE SERVICES
STUDY COMMITTEE BILL)

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

A BILL FOR

1 An Act relating to the funding of the juvenile justice system.
2 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

- 3
- 4
- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 232.11, subsection 3, paragraph b, Code
2 1987, is amended to read as follows:

3 b. If the court determines that the parent, guardian or
4 custodian cannot pay any part of the expenses of counsel to
5 represent the child, it shall appoint such counsel, who shall
6 be reimbursed according to ~~the provisions of~~ section 232.141,
7 subsection 1, paragraph "d" "b".

8 Sec. 2. Section 232.52, subsection 2, paragraph c,
9 subparagraph (2), Code 1987, is amended to read as follows:

10 (2) If the court deems appropriate, ordering the parent,
11 guardian, or custodian to reimburse the ~~county~~ state for any
12 costs incurred as provided in section 232.141, subsection 2 4
13 or to otherwise pay or provide for such care and treatment.

14 Sec. 3. Section 232.89, subsection 3, Code 1987, is
15 amended to read as follows:

16 3. The court shall determine, after giving the parent,
17 guardian or custodian an opportunity to be heard, whether such
18 person has the ability to pay in whole or in part for counsel
19 appointed for the child. If the court determines that ~~such~~
20 the person possesses sufficient financial ability, the court
21 shall then consult with the department of human services, the
22 juvenile probation office or other authorized agency or
23 individual regarding the likelihood of impairment of the
24 relationship between the child and the child's parent,
25 guardian or custodian as a result of ordering the parent,
26 guardian or custodian to pay for the child's counsel. If
27 impairment is deemed unlikely, the court shall order that
28 person to pay such sums as the court finds appropriate in the
29 manner and to whom the court directs. If the person so
30 ordered fails to comply with the order without good reason,
31 the court shall enter judgment against the person. If
32 impairment is deemed likely or if the court determines that
33 the parent, guardian or custodian cannot pay any part of the
34 expenses of counsel appointed to represent the child, counsel
35 shall be reimbursed pursuant to section 232.141, subsection 1,

1 paragraph "d" "b".

2 Sec. 4. Section 232.141, Code Supplement 1987, is amended
3 to read as follows:

4 232.141 EXPENSES CHARGED TO COUNTY STATE.

5 1. The following expenses upon certification of the judge
6 to the ~~board-of-supervisors~~ state court administrator or upon
7 such other authorization as provided by law are a charge upon
8 the ~~county-in-which-the-proceedings-are-held-to-the-extent~~
9 provided-in-subsection-8 state and shall be paid by the
10 judicial department.

11 a. The fees and mileage of witnesses and the expenses and
12 mileage of officers serving notices and subpoenas.

13 b. Reasonable compensation for an attorney appointed by
14 the court to serve as counsel or guardian ad litem.

15 2. The following expenses upon certification of the judge
16 to the ~~board-of-supervisors~~ department of human services or
17 upon such other authorization as provided by law are a charge
18 upon the ~~county-identified-pursuant-to-subsection-4-to-the~~
19 extent-provided-in-subsection-8 state and shall be paid by the
20 department of human services:

21 a. The expenses of transporting a child to a place
22 designated by a child placing agency for the care of a child
23 if the court transfers legal custody to a child placing
24 agency.

25 b. The expense of transporting a child to or from a place
26 designated by the court.

27 c. The expense of treatment or care ordered by the court
28 under an authority of subsection 3.

29 3. If legal custody of a minor is transferred by the
30 court, if the minor is placed by the court with someone other
31 than the parents, if a minor is given physical or mental
32 examinations or treatment under order of the court, or if a
33 minor is given physical or mental examination or treatment
34 with the consent of the parent, guardian, or legal custodian
35 relating to a child abuse investigation, and no provision is

1 otherwise made by law for payment for the care, examination,
 2 or treatment of the minor, the costs shall be charged upon the
 3 funds of the county-identified-pursuant-to-subsection-4 state.

4 ~~4.--The-expenses-certified-under-subsection-2-that-are-the
 5 result-of-a-court-proceeding-shall-be-a-charge-upon-the-county
 6 in-which-the-proceedings-are-held.--The-expenses-certified
 7 under-subsection-2-that-are-the-result-of-a-child-abuse
 8 investigation-and-not-a-court-proceeding-shall-be-a-charge
 9 upon-the-county-in-which-the-child-resides.~~

10 5 4. For court-ordered care, examination, and treatment
 11 authorized by this section, except where the parent-child
 12 relationship is terminated, the court may inquire into the
 13 ability of the parents to support the minor and after giving
 14 the parents a reasonable opportunity to be heard may order the
 15 parents to pay in the manner and to whom the court may direct,
 16 such sums as will cover in whole or in part the cost of care,
 17 examination, or treatment of the minor. An order entered
 18 under this section shall not obligate a parent paying child
 19 support under a custody decree, except that any part of such a
 20 monthly support payment may be used to satisfy the obligations
 21 imposed by an order entered under this section. If the
 22 parents fail to pay the sum without good reason, the parents
 23 may be proceeded against for contempt or the court may inform
 24 the county attorney who shall proceed against the parents to
 25 collect the unpaid sums or both. Any such sums ordered by the
 26 court shall be a judgment against each of the parents and a
 27 lien as provided in section 624.23. If all or any part of the
 28 sums that the parents are ordered to pay is subsequently paid
 29 by the county state, the judgment and lien shall be against
 30 each of the parents in favor of the county state to the extent
 31 of the county's payments.

32 6 5. Upon the issuance of a court order for the care,
 33 examination, or treatment of a minor, the court shall furnish
 34 a copy of the court order to all providers of the care,
 35 examination, or treatment.

1 7.--The county charged with the cost and expenses under
 2 subsection 1 or pursuant to subsection 4 may recover the costs
 3 and expenses from the county where the child has legal
 4 settlement by filing verified claims which shall be payable as
 5 are other claims against the county state.--A detailed
 6 statement of the facts upon which the claim is based shall
 7 accompany the claim.--Any dispute involving the legal
 8 settlement of a child for which the court has ordered payment
 9 under authority of this section shall be settled in accordance
 10 with sections 252:22 and 252:23.

11 8.--Costs incurred under this section shall be paid as
 12 follows:

13 a.--The costs incurred under the provisions of section
 14 232:52 of prior Codes by each county for the fiscal years
 15 beginning July 1, 1975, 1976 and 1977 shall be averaged.--The
 16 average cost for each county shall be that county's base cost
 17 for the first fiscal year after July 1, 1979.

18 b.--Each county shall be required to pay for the first
 19 fiscal year after July 1, 1979 an amount equal to its base
 20 cost plus an amount equal to the percentage rate of change in
 21 the consumer price index as tabulated by the bureau of labor
 22 statistics for the current fiscal year times the base cost.

23 c.--A county's base cost for a fiscal year plus the
 24 percentage rate of change amount as computed in paragraph "b"
 25 shall become that county's base cost for the succeeding fiscal
 26 year.--The amount to be paid in the succeeding year by the
 27 county shall be computed as provided in paragraph "b".

28 d.--The total amounts to be paid by a county shall be
 29 computed as provided in paragraphs "a", "b", and "c".--For the
 30 fiscal year beginning July 1, 1987 and subsequent fiscal
 31 years, each county's base cost shall be divided into two
 32 separate base costs, representing the costs of witness and
 33 mileage fees and attorney fees paid pursuant to subsection 1,
 34 paragraphs "a" and "b", to be reimbursed by the judicial
 35 department, and representing the costs of transportation and

S.F. _____ H.F. _____

1 treatment-or-care-paid-pursuant-to-subsection-2, paragraphs
 2 "a", "b", and "c", to be reimbursed by the department of human
 3 services. The ratio of the separate bases for each county
 4 shall equal the ratio of expenses identified in subsection 1
 5 to the expenses identified in subsection 2 incurred during the
 6 fiscal year beginning July 1, 1986 and ending June 30, 1987,
 7 and paid by either the county or the state. Costs incurred
 8 under this section which are not paid by the county under
 9 paragraphs "a", "b" and "c" shall be paid by the state. The
 10 counties shall apply for reimbursement to the judicial
 11 department pursuant to rules adopted by the judicial
 12 department. The counties shall apply for reimbursement to the
 13 department of human services pursuant to rules adopted by the
 14 department.

15 Sec. 5. Section 331.401, subsection 1, paragraph c, Code
 16 1987, is amended by striking the paragraph.

17 Sec. 6. Section 602.1303, subsection 5, Code 1987, is
 18 amended by striking the subsection.

19 EXPLANATION

20 This bill eliminates county-base funding for certain costs
 21 of juvenile justice administration. The state, through the
 22 judicial department and the department of human services, will
 23 assume all costs.

24 COMPANION TO LSB 7106IS

25

26

27

28

29

30

31

32

33

34

35

HOUSE FILE _____
BY (PROPOSED COURT
ADMINISTRATIVE SERVICES
STUDY COMMITTEE BILL)

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

A BILL FOR

1 An Act relating to the receipt and disbursement of support
2 payments, providing for the Act's applicability, and providing
3 effective dates.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

S.F. _____ H.F. _____

1 Section 1. Section 252D.6, Code 1987, is amended to read
2 as follows:

3 252D.6 ADMINISTRATION OF WAGE WITHHOLDING PROCEDURES.

4 ~~The collection-services-center, established pursuant to~~
5 ~~section-252B-13,~~ child support recovery unit is designated as
6 the public agency of the state to administer wage withholding
7 in accordance with procedure specified for keeping adequate
8 records to document, track and monitor support payments in
9 accordance with Title IV-D of the United States Social
10 Security Act.

11 Sec. 2. Section 598.22, Code 1987, is amended to read as
12 follows:

13 598.22 SUPPORT PAYMENTS -- CLERK OF COURT -- ~~COLLECTION~~
14 ~~SERVICES-CENTER---~~ DEFAULTS -- SECURITY.

15 ~~This-section-applies-to-all-initial-or-modified-orders-for~~
16 ~~support-entered-under-this-chapter, chapter-234, 252A, 252C,~~
17 ~~675, or any other chapter of the Code. All orders or~~
18 ~~judgments for support entered on or before March 31, 1987,~~
19 entered under chapter 234, 252A, 252C, or 675, under this
20 chapter, or any other chapter which provide for temporary or
21 permanent support payments shall direct the payment of those
22 sums to the clerk of the district court for the use of the
23 person for whom the payments have been awarded. ~~All orders or~~
24 ~~judgments for support entered on or after April 1, 1987, shall~~
25 ~~direct the payment of those sums to the collection-services~~
26 ~~center established pursuant to section-252B-13. Payments to~~
27 persons other than the clerk of the district court ~~and the~~
28 ~~collection-services-center~~ do not satisfy the support
29 obligations created by the orders or judgments, except as
30 provided for trusts in section 252D.1, 598.23, or this section
31 or for tax refunds or rebates in section 602.8102, subsection
32 47.

33 Upon a finding of previous failure to pay child support,
34 the court may order the person obligated for permanent child
35 support to make an assignment of periodic earnings or trust

1 income to the clerk of court ~~or-the-collection-services-center~~
2 ~~established-pursuant-to-section-252B:13~~ for the use of the
3 person for whom the assignment is ordered. The assignment of
4 earnings ordered by the court shall not exceed the amounts set
5 forth in 15 U.S.C. § 1673(b)(1982). The assignment is binding
6 on the employer, trustee, or other payor of the funds two
7 weeks after service upon that person of notice that the
8 assignment has been made. The payor shall withhold from the
9 earnings or trust income payable to the person obligated the
10 amount specified in the assignment and shall transmit the
11 payments to the clerk ~~or-the-collection-services-center,~~ as
12 appropriate. However, for trusts governed by the federal
13 Retirement Equity Act of 1984, Pub. L. No. 98-397, the payor
14 shall transmit the payments to the alternate payee in
15 accordance with the federal Act. The payor may deduct from
16 each payment a sum not exceeding two dollars as a
17 reimbursement for costs. An employer who dismisses an
18 employee due to the entry of an assignment order commits a
19 simple misdemeanor.

20 An order or judgment entered by the court for temporary or
21 permanent support or for an assignment shall be filed with the
22 clerk. The orders have the same force and effect as judgments
23 when entered in the judgment docket and lien index and are
24 records open to the public. The clerk ~~or-the-collection~~
25 ~~services-center,~~ as appropriate, shall disburse the payments
26 received pursuant to the orders or judgments within ten
27 working days of the receipt of the payments. All moneys
28 received or disbursed under this section shall be entered in a
29 record book kept by the clerk ~~or-the-collection-services~~
30 ~~center,~~ as appropriate, which shall be open to the public.
31 The clerk ~~or-the-collection-services-center~~ shall not enter
32 any moneys paid in the record book if not paid directly to the
33 clerk ~~or-the-center,~~ as appropriate, except as provided for
34 trusts in section 252D.1, 598.23 or this section or for tax
35 refunds or rebates in section 602.8102, subsection 47.

1 If the sums ordered to be paid in a support payment order
2 are not paid to the clerk ~~or the collection services center,~~
3 ~~as appropriate,~~ at the time provided in the order or judgment,
4 the clerk ~~or the collection services center, as appropriate,~~
5 shall certify a default to the court which may, on its own
6 motion, proceed as provided in section 598.23.

7 Prompt payment of sums required to be paid under sections
8 598.11 and 598.21 ~~shall be~~ is the essence of such orders or
9 judgments and the court may act pursuant to section 598.23
10 regardless of whether the amounts in default are paid prior to
11 the contempt hearing.

12 Upon entry of an order for support or upon the failure of a
13 person to make payments pursuant to an order for support, the
14 court may require the person to provide security, a bond, or
15 other guarantee which the court determines is satisfactory to
16 secure the payment of the support. Upon the person's failure
17 to pay the support under the order, the court may declare the
18 security, bond, or other guarantee forfeited.

19 Sec. 3. DATA TRANSMISSION. The judicial department and
20 the department of human services shall establish a plan for
21 the development of a system of electronic data storage and
22 transmission between the clerks of the district court, the
23 state court administrator's office, and the child support
24 recovery unit. Priority shall be given to the development of
25 the system's operation regarding child support and the
26 enforcement of temporary and permanent support orders.

27 Sec. 4. REPEALS.

28 1. Sections 252B.15 through 252B.17, Code 1987, are
29 repealed.

30 2. Sections 252B.13 and 252B.14, Code Supplement 1987, are
31 repealed.

32 Sec. 5. TRANSITION. For existing orders of support
33 entered before the effective date of this Act, which direct
34 the payments of support to the collection services center, the
35 following procedure shall be implemented to convert the

1 processing of those payments to the clerks of the district
2 court on or before July 1, 1988:

3 1. The department of human services and the judicial
4 department shall establish a mutually agreed effective date,
5 between March 1, 1988, and July 1, 1988, to effectuate the
6 transfer of these functions from the collection services
7 center to each clerk of the district court. The judicial
8 department shall cause to be published in the administrative
9 bulletin a cumulative list of effective dates by county, once
10 agreed upon and determined, which list shall be final and
11 inclusive of all counties on the next date of publication
12 subsequent to July 1, 1988.

13 2. In addition, for orders of support entered before the
14 effective date of this Act, the judicial department or the
15 child support recovery unit shall notify the payee and the
16 obligor that the obligor will be directed to pay future
17 support payments to the clerk of the district court as of the
18 date provided in the notice. The notice to the obligor shall
19 be equivalent of a court order directing the payment of the
20 sums to the clerk of the district court.

21 3. The notice of the change in the direction of payments
22 shall be sent by ordinary mail to the payee's and the
23 obligor's last known addresses or the persons shall be
24 personally served with the notice in the manner provided for
25 service of an original notice at least fifteen days prior to
26 the date provided in the notice for the redirection of the
27 payments. The notice shall include all of the following:

28 a. The name of the payee and, if different in whole or
29 part, the names of the persons to whom the obligation of
30 support is owed by the obligor.

31 b. The name of the obligor.

32 c. The amount of the periodic support payment, the due
33 dates of the payments and any arrearages.

34 d. The beginning date for sending payments to the clerk of
35 the district court.

