CHAPTER 13

ATTORNEY GENERAL

Referred to in §12E.8, 257C.6, 463C.8, 654A.7

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SUBCHAPTER I

GENERAL PROVISIONS

13.1 Department of justice.

The department of justice, with the attorney general as head thereof, shall be located at the seat of government.

[R60, §124; C73, §150, 3770; C97, §208, 211; S13, §208, 211; C24, 27, 31, 35, 39, §**148;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.1]

13.2 Duties.

1. It shall be the duty of the attorney general, except as otherwise provided by law to:

a. Prosecute and defend all causes in the appellate courts in which the state is a party or interested.

b. Prosecute and defend in any other court or tribunal, all actions and proceedings, civil or criminal, in which the state may be a party or interested, when, in the attorney general's judgment, the interest of the state requires such action, or when requested to do so by the governor, executive council, or general assembly.

c. Prosecute and defend all actions and proceedings brought by or against any state officer in the officer's official capacity.

d. Prosecute and defend all actions and proceedings brought by or against any employee of a judicial district department of correctional services in the performance of an assessment of risk.

e. Give an opinion in writing, when requested, upon all questions of law submitted by the general assembly or by either house thereof, or by any state officer, elective or appointive. Questions submitted by state officers must be of a public nature and relate to the duties of such officer.

f. Prepare drafts for contracts, forms, and other writings which may be required for the use of the state.

g. Report to the governor, at the time provided by law, the condition of the attorney general's office, opinions rendered, and business transacted of public interest.

h. Supervise county attorneys in all matters pertaining to the duties of their offices, and from time to time to require of them reports as to the condition of public business entrusted to their charge.

i. Promptly account, to the treasurer of state, for all state funds received by the attorney general.

j. Keep in proper books a record of all official opinions, and a register of all actions, prosecuted and defended by the attorney general, and of all proceedings had in relation thereto, which books shall be delivered to the attorney general's successor.

k. Perform all other duties required by law.

l. Inform prosecuting attorneys and assistant prosecuting attorneys to the state of all changes in law and matters pertaining to their office and establish programs for the continuing education of prosecuting attorneys and assistant prosecuting attorneys. The attorney general may accept funds, grants and gifts from any public or private source which shall be used to defray the expenses incident to implementing duties under this paragraph.

m. Establish and administer, in cooperation with the law schools of Drake university and the state university of Iowa, a prosecutor intern program incorporating the essential elements of the pilot program denominated "law student intern program in prosecutors' office" funded by the Iowa crime commission and participating counties. The attorney general shall consult with an advisory committee including representatives of each participating law school and the Iowa county attorneys association, inc. concerning development, administration, and critique of this program. The attorney general shall report on the program's operation annually to the general assembly and the supreme court.

n. Develop written procedures and policies to be followed by prosecuting attorneys in the prosecution of domestic abuse cases under chapters 236 and 708.

o. Develop written procedures and policies to be followed by prosecuting attorneys in the prosecution of elder abuse of a vulnerable elder under chapter 235F.

p. Submit a report by January 15 of each year to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, to the executive council, and to the legislative services agency detailing the amount of annual money receipts generated by each settlement or judgment in excess of two hundred fifty thousand dollars collected pursuant to legal proceedings under chapters 455B, 553, and 714. The report shall include the name of the civil or criminal case involved, the court of jurisdiction, the settlement amount, the state's share of the settlement amount, the name of the fund in which the receipts were deposited, and the planned use of the moneys.

2. Executing the duties of this section shall not be deemed a violation of section 68B.6.

[R60, §124 – 127, 130, 131; C73, §150 – 153; C97, §208 – 210; S13, §208-a; C24, 27, 31, 35, 39, §**149;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.2]

95 Acts, ch 180, §1; 99 Acts, ch 112, §1; 2004 Acts, ch 1091, §1; 2008 Acts, ch 1032, §121; 2009 Acts, ch 119, §32; 2014 Acts, ch 1107, §9; 2014 Acts, ch 1138, §17; 2015 Acts, ch 30, §6

Referred to in **§331.756(12)**

13.3 Disqualification — substitute.

1. If, for any reason, the attorney general is disqualified from appearing in any action or proceeding, the executive council shall authorize the appointment of a suitable person for that purpose. There is appropriated from moneys in the general fund not otherwise appropriated an amount necessary to pay the reasonable expense for the person appointed. The department involved in the action or proceeding shall be requested to recommend a suitable person to represent the department and when the executive council concurs in the recommendation, the person recommended shall be appointed.

2. If the governor or a department is represented by an attorney other than the attorney general in a court proceeding as provided in this section, at the conclusion of the court proceedings, the court shall review the fees charged to the state to determine if the fees are

fair and reasonable. The executive council shall not authorize reimbursement of attorney fees in excess of those determined by the court to be fair and reasonable.

[C24, 27, 31, 35, 39, §**150;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.3]

92 Acts, ch 1240, §12; 2011 Acts, ch 131, §19, 158

Referred to in §8F.2

13.4 Assistant attorneys general.

The attorney general may appoint a first assistant attorney general and such other assistant attorneys general as may be authorized by law, who shall devote their entire time to the duties of their positions. The assistant attorneys general shall, subject to the direction of the attorney general, have the same power and authority as the attorney general.

[C97, §212; S13, §212; C24, 27, 31, 35, 39, §**151;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.4]

13.5 Assistant for department of revenue.

The attorney general may appoint one assistant attorney general to perform and supervise the legal work of the department of revenue, and in such event the salary and necessary traveling expenses of such assistant attorney general shall be paid from the appropriation to said department of revenue, and upon request of the attorney general the department of revenue shall provide and equip a suitable office and the necessary secretarial assistance for such assistant attorney general.

[C39, §**151.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.5]

2003 Acts, ch 145, §286

13.6 Assistant for human services department.

The attorney general may appoint one assistant attorney general to perform and supervise the legal work of the division of child and family services of the department of human services, and in such event the salary and necessary traveling expenses of such assistant attorney general shall be paid from the appropriation to said division, and upon request of the attorney general the director of the department of human services shall provide and equip a suitable office and the necessary secretarial assistance for such assistant attorney general.

[C39, §**151.2;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.6]

83 Acts, ch 96, §157, 159

13.7 Special counsel.

1. Compensation shall not be allowed to any person for services as an attorney or counselor to an executive department of the state government, or the head of an executive department of state government, or to a state board or commission. However, the executive council may authorize employment of legal assistance, at a reasonable compensation, in a pending action or proceeding to protect the interests of the state, but only upon a sufficient showing, in writing, made by the attorney general, that the department of justice cannot for reasons stated by the attorney general perform the service. The reasons and action of the executive council shall be entered upon its records. If the attorney general determines that the department of justice cannot perform legal service in an action or proceeding, the executive council shall request the department involved in the action or proceeding to recommend legal counsel to represent the department. If the attorney general concurs with the department that the person recommended is qualified and suitable to represent the department, the person recommended shall be employed. If the attorney general does not concur in the recommendation, the department shall submit a new recommendation. This subsection does not affect the general counsel for the utilities board of the department of commerce, the legal counsel of the department of workforce development, or the general counsel for the property assessment appeal board.

2. The executive branch and the attorney general shall also comply with chapter 23B when retaining legal counsel on a contingency fee basis under this section, as appropriate.

[S13, §208-b; C24, 27, 31, 35, 39, §**152;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.7; 81 Acts, ch 22, §1]

83 Acts, ch 127, §1; 96 Acts, ch 1186, §23; 2005 Acts, ch 150, §120; 2011 Acts, ch 131, §20, 158; 2012 Acts, ch 1112, §1; 2016 Acts, ch 1073, §5

Referred to in §8F.2, 68B.32, 252B.7, 262.9

13.8 Expenses.

The attorney general and the attorney general's assistants shall be repaid their actual and necessary expenses incurred in transacting their official duties at places other than the seat of government.

[C73, §3770; C97, §211; S13, §211; C24, 27, 31, 35, 39, §**153;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.8]

13.9 Salary.

The salary of the attorney general shall be as fixed by the general assembly, and the salaries of the first assistant attorney general and other assistant attorneys general shall be such as may be fixed by law.

[C31, 35, §153-c1; C39, §**153.1;** C46, 50, 54, 58, 62, 66, 71, 73, 75, 77, 79, 81, §13.9]

13.10 Physical criminal evidence — DNA profiling. Repealed by 2005 Acts, ch 158, §17, 19. See chapter 81.

13.11 and 13.12 Reserved.

SUBCHAPTER II

FARM ASSISTANCE PROGRAM

Legislative findings; 90 Acts, ch 1143, §1

13.13 Farm assistance program coordinator — contract for mediation services.

1. The attorney general or the attorney general's designee shall serve as the farm assistance program coordinator. The coordinator has the powers and duties specified in this subchapter.

2. The farm assistance program coordinator shall contract with a nonprofit organization chartered in this state to provide mediation services as provided in chapters 654A, 654B, and 654C. The contract may be terminated by the coordinator upon written notice and for good cause. The organization awarded the contract is designated as the farm mediation service for the duration of the contract. The organization may, upon approval by the coordinator, provide mediation services other than as provided by law. The farm mediation service is not a state agency for the purposes of chapter 8A, subchapter IV, and chapters 20 and 669.

90 Acts, ch 1143, §3; 95 Acts, ch 195, §1; 2003 Acts, ch 145, §133

Referred to in §654A.1, 654B.1, 654C.1

13.14 Farm mediation service — confidentiality.

1. Meetings of the farm mediation service are closed meetings and are not subject to chapter 21.

2. Confidentiality is also protected as provided in section 679C.108.

90 Acts, ch 1143, §4; 98 Acts, ch 1062, §6; 2005 Acts, ch 68, §1

13.15 Rules and forms — fees.

1. The farm mediation service shall recommend rules to the farm assistance program coordinator. The coordinator shall adopt rules pursuant to chapter 17A to set the compensation of mediators and to implement this subchapter and chapters 654A, 654B, and 654C.

2. *a.* The rules shall provide for an hourly mediation fee not to exceed fifty dollars for the borrower and one hundred dollars for the creditor. The hourly mediation fee may be waived for any party demonstrating financial hardship upon application to the farm mediation service.

b. The compensation of a mediator shall be no more than twenty-five dollars per hour, and all parties shall contribute an equal amount of the cost.

3. The coordinator shall adopt voluntary mediation application and mediation request forms.

90 Acts, ch 1143, §5; 91 Acts, ch 267, §410; 95 Acts, ch 195, §2; 2016 Acts, ch 1011, §2

13.16 Limitation on liability — immunity from special actions.

1. A member of the farm mediation staff, including a mediator, employee, or agent of the service, or member of a board for the service, is not liable for civil damages for a statement or decision made in the process of mediation, unless the member acts in bad faith, with malicious purpose, or in a manner exhibiting willful and wanton disregard of human rights, safety, or property.

2. A judicial action which seeks an injunction, mandamus, or similar equitable relief shall not be brought against the farm mediation service, including a mediator, employee, or agent of the service, or a member of a board for the service until completion of the mediation process.

90 Acts, ch 1143, §6

13.17 through 13.19 Reserved.

13.20 Authority to contract for legal assistance program.

The farm assistance program coordinator, provided in this subchapter, shall contract with an eligible nonprofit organization to provide legal assistance to financially distressed farmers. The contract shall be awarded within thirty days after May 30, 1986. The contract may be terminated by the coordinator upon written notice and for good cause.

86 Acts, ch 1214, §2; 90 Acts, ch 1143, §7

Referred to in §13.21, 13.22, 13.24

13.21 Eligible organization.

To be eligible for a contract under section 13.20, an organization must:

1. Be a nonprofit organization chartered in the state.

2. Have attorneys admitted to practice in the Iowa supreme court and the United States district courts.

3. Have offices throughout the state of Iowa.

4. Have attorneys and staff qualified to address agricultural legal problems and agricultural credit problems affecting financially distressed farmers.

86 Acts, ch 1214, §3

13.22 Program requirements.

A legal services provider which enters into a contract with the coordinator under authority of section 13.20 shall:

1. Offer direct representation of individual farmers in litigation and administrative cases.

2. Offer technical support to individual farmers.

3. Cooperate to the fullest extent feasible with the Iowa state university agricultural extension service so that its economic and farm management counseling services are utilized by eligible persons.

4. Utilize, to the fullest extent feasible, existing resources of accredited law schools within the state of Iowa to provide consulting assistance to attorneys in the agricultural law field.

5. Assist, to the fullest extent feasible, accredited law schools within the state of Iowa in enhancing their expertise in the area of agricultural law so that all attorneys within the state will have a resource available to provide training and experience in the agricultural law field.

6. Cooperate to the fullest extent feasible with the existing informational and referral networks among farmers, farmer advocates, and others concerned with the economic crisis

in agricultural areas. The legal services provider is not a state agency for the purposes of chapter 8A, subchapter IV, and chapters 20 and 669.

86 Acts, ch 1214, §4; 2003 Acts, ch 145, §134

13.23 Persons eligible for legal assistance.

A person may obtain legal representation and legal assistance from the contracting legal services provider if the person meets all of the following criteria:

1. Is a resident of the state of Iowa.
2. Is a farmer, or a family shareholder of a family farm corporation, and has an occupation of farming.
3. Is engaged in a farm business that has a debt-to-asset ratio greater than fifty percent.
4. Has received less than twenty thousand dollars of taxable income in the last taxable year.
5. Is financially unable to acquire legal assistance.

86 Acts, ch 1214, §5

13.24 Report.

1. The legal services provider which enters into a contract with the coordinator under authority of 1986 Iowa Acts, ch. 1214 shall submit to the coordinator a working plan for the accomplishment of the objectives of 1986 Iowa Acts, ch. 1214 within thirty days after the contract is awarded. The plan must establish priorities and procedures, and set forth its annual operating budget for the fiscal year including projected salaries and all anticipated expenses. This budget shall set forth the maximum obligation of financial aid proposed for payment by the state and the availability of any additional funds or resources from the federal government and other sources to meet such expenses of operation.
2. At the end of each fiscal year the contracting legal services provider shall provide to the coordinator an audited statement of actual expenses incurred. The report shall also summarize the legal services provided and make recommendations for improved services for financially distressed farmers.
3. The contract entered into pursuant to section 13.20 shall provide that any contractual payments to the legal services provider are to be made monthly.

86 Acts, ch 1214, §6; 2006 Acts, ch 1010, §6

13.25 through 13.30 Reserved.

SUBCHAPTER III

VICTIM ASSISTANCE PROGRAM

13.31 Victim assistance program.

A victim assistance program is established in the department of justice, which shall do all of the following:

1. Administer grants received under the federal Victims of Crime Act pursuant to Pub. L. No. 98-473, Tit. 2, ch. 14, 42 U.S.C. §10601, as amended by the federal Children's Justice and Assistance Act, Pub. L. No. 99-401, 100 Stat. 903 (1986).
2. Administer the state crime victim compensation program as provided in chapter 915.
3. Administer the domestic abuse program provided in chapter 236 and the sexual abuse program provided in chapter 236A.
4. Administer the family violence prevention and services grants pursuant to the federal Child Abuse Amendments of 1984, Pub. L. No. 98-457, 42 U.S.C. §10401.
5. Administer payment for sexual abuse medical examinations pursuant to section 915.41.
6. Administer the violence against women program and grants received pursuant to the federal Violence Against Women Act, Tit. IV of the Violent Crime Control and Law Enforcement Act of 1994, Pub. L. No. 103-322, 42 U.S.C. §13701.

7. Administer an automated victim notification system as authorized pursuant to section 915.10A.

89 Acts, ch 279, §1; 90 Acts, ch 1251, §1; 91 Acts, ch 181, §16; 98 Acts, ch 1090, §58, 84; 2002 Acts, ch 1016, §1; 2007 Acts, ch 27, §1; 2010 Acts, ch 1061, §180; 2017 Acts, ch 121, §1
Referred to in §13.32
Subsection 3 amended

13.32 Victim assistance grant programs — annual report.

1. *a.* The department of justice shall compile an annual report relating to the victim assistance grant programs administered under section 13.31, subsections 1, 3, 4, and 6, which shall include all of the following:

(1) A mission statement and table of organization of the department of justice relating to the victim assistance grant programs, a program summary, and statistics, including but not limited to sources and uses of funds and the numbers of victims served.

(2) An itemization of out-of-state travel expenses incurred by an employee of the department of justice and an itemization of travel expenses paid to a contractor.

(3) An itemization of overtime paid to an employee of the department or a contractor.

(4) An itemization of any bonuses paid to an employee of the department or a contractor.

(5) A summary of expenditures reimbursed through the programs, including but not limited to compensation paid to nonprofit organizations for travel and training expenses, utilities, payroll, benefits, equipment repairs and maintenance, rent, communications, advertising, supplies, insurance, and other direct expenses.

b. The report shall be provided to the co-chairpersons and ranking members of the joint appropriations subcommittee on the justice system, the governor, and the legislative services agency by January 15, 2015, and each January 15 thereafter.

2. The department of justice shall adopt rules to administer claims for victim assistance grants described in subsection 1. The rules shall standardize the claim forms for contractors, including designating a place on the form for an itemization of services provided, mileage incurred, and expenses incurred. The rules shall further specify that the department of justice shall process the claims through the grants enterprise management office.

2014 Acts, ch 1138, §18, 23; 2015 Acts, ch 30, §7

13.33 Reserved.

SUBCHAPTER IV

LEGAL ASSISTANCE FOR PERSONS IN POVERTY

13.34 Legal services for persons in poverty grant program.

1. For the purposes of this section, *"eligible individual"* means an individual or household with an annual income which is less than one hundred twenty-five percent of the poverty guidelines established by the United States office of management and budget. The attorney general shall contract with an eligible nonprofit organization to provide legal assistance to eligible individuals in poverty. The contract shall be awarded within thirty days after May 30, 1996. The contract may be terminated by the attorney general after a hearing upon written notice and for good cause.

2. A nonprofit organization must comply with all of the following to be eligible for a contract under this section:

a. Be a nonprofit organization incorporated in this state.

b. Has lost or will lose funding due to a reduction in federal funding for the legal services corporation for federal fiscal year 1995-1996.

c. Employ attorneys admitted to practice before the Iowa supreme court and the United States district courts.

d. Employ attorneys and staff qualified to address legal problems experienced by eligible individuals.

3. The contracting nonprofit organization shall do all of the following:

a. Offer direct representation of eligible individuals in litigation and administrative cases, in accordance with priorities established by the organization's board.

b. Offer technical support to eligible individuals.

c. Involve private attorneys through volunteer lawyer projects to represent eligible individuals.

d. Utilize, to the fullest extent feasible, existing resources of accredited law schools within this state to provide consulting assistance to attorneys in the practice of law in their representation of persons in poverty.

e. Assist, to the fullest extent feasible, accredited law schools within this state in enhancing the schools' expertise in the practice of law representing persons in poverty so that all attorneys within the state will have a resource available to provide training and experience in the practice of law representing persons in poverty.

f. Cooperate, to the fullest extent feasible, with existing informational and referral networks among persons in poverty, providers of assistance to persons in poverty, and others concerned with assistance to persons in poverty.

4. The contracting nonprofit organization is not a state agency for the purposes of chapter 8A, subchapter IV, and chapters 20 and 669.

5. An individual is eligible to obtain legal representation and legal assistance from the contracting nonprofit organization if the eligible individual meets all of the following criteria:

a. The eligible individual is a resident of this state.

b. The eligible individual is financially unable to acquire legal assistance, in accordance with criteria established by the organization's board.

96 Acts, ch 1216, §27; 2003 Acts, ch 145, §135