

Senate Amendment 3088

Amendment Text

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1 1 Amend [House File 2](#) as amended, passed, and
1 2 reprinted by the House, as follows:
1 3 #1. Page 1, by inserting before line 1, the
1 4 following:
1 5 "Section 1. NEW SECTION. 13.32 DEATH PENALTY
1 6 TRAINING.
1 7 The attorney general, in conjunction with the
1 8 prosecuting attorneys training coordinator, shall
1 9 conduct or sponsor specialized training programs for
1 10 prosecutors who will or may be representing the state
1 11 in cases where a defendant may be executed. The
1 12 programs shall be free of charge to the program
1 13 participants. The costs of sponsoring the programs
1 14 shall be paid by the state under section 902.14."
1 15 #2. Page 1, line 11, by inserting after the word
1 16 "imposed." the following: "The costs of providing or
1 17 contracting with the attorneys shall be paid by the
1 18 state under section 902.14."
1 19 #3. Page 1, line 13, by inserting after the word
1 20 "executed." the following: "The programs shall be
1 21 free of charge to the program participants. The costs
1 22 of sponsoring or conducting the programs shall be paid
1 23 by the state under section 902.14."
1 24 #4. Page 1, by inserting after line 33 the
1 25 following:
1 26 "Sec. _____. Section 331.757, subsection 1, Code
1 27 1995, is amended to read as follows:
1 28 1. The county attorney may employ, with the
1 29 approval of a judge of the district court, a temporary
1 30 assistant to assist in the trial of a person charged
1 31 with a felony. The temporary assistant shall be paid
1 32 a reasonable compensation as determined by the board
1 33 upon certification of the services rendered by the
1 34 district judge before whom the defendant was tried.
1 35 If the temporary assistant is employed for purposes of
1 36 assisting in the trial of a person who has been
1 37 charged with first degree murder, in which a notice of
1 38 intent to seek the death penalty has been filed, the
1 39 determination of the amount of compensation determined
1 40 to be reasonable by the board shall be forwarded to
1 41 the treasurer of state and the compensation shall be
1 42 paid by the state under section 902.14.
1 43 Sec. _____. Section [356.15](#), Code 1995, is amended to
1 44 read as follows:
1 45 356.15 EXPENSES.
1 46 All charges and expenses for the safekeeping and
1 47 maintenance of prisoners shall be allowed by the board
1 48 of supervisors, except those committed or detained by
1 49 the authority of the courts of the United States, in
1 50 which

~~cases~~

- ~~case~~ the United States

~~must~~

- ~~shall~~ pay such

2 1 expenses to the county, except those detained during a

2 2 penalty proceeding in a first degree murder case in
2 3 which a notice of intent to seek the death penalty has
2 4 been filed, in which case the state shall pay the
2 5 expenses to the county under section 902.14, and
2 6 except those committed for violation of a city
2 7 ordinance, in which case the city shall pay expenses
2 8 to the county.

2 9 Sec. _____. Section 669.14, Code 1995, is amended by
2 10 adding the following new subsection:

2 11 NEW SUBSECTION. 14. A claim to compensate for
2 12 miscarriages of justice for any person innocent of any
2 13 homicidal act who is erroneously sentenced to death.
2 14 For purposes of this section, damages shall include
2 15 actual, nominal, and special damages, and may include,
2 16 but are not limited to, claims for loss of income,
2 17 consortium, medical expenses, emotional distress, loss
2 18 of enjoyment of life, and any related legal fees or
2 19 expenses.

2 20 Sec. _____. NEW SECTION. 669.25 LIABILITY FOR
2 21 ERRONEOUS DEATH SENTENCES.

2 22 Notwithstanding any provision of this chapter to
2 23 the contrary, if a person establishes a claim against
2 24 the state for damages to compensate for miscarriages
2 25 of justice for any person innocent of any homicidal
2 26 act who is erroneously sentenced to death, the state's
2 27 liability to each such person shall be limited to one
2 28 million dollars. Claims against the state made under
2 29 this section may be filed directly in the district
2 30 court of the county in which the plaintiff is a
2 31 resident or in which the act or omission occurred and,
2 32 if allowed, shall be paid under section 902.14."

2 33 #5. Page 4, by inserting after line 32 the
2 34 following:

2 35 "Sec. _____. Section 815.13, Code 1995, is amended
2 36 to read as follows:

2 37 815.13 PAYMENT OF PROSECUTION COSTS.

2 38 1.

~~The~~

- Except as provided in subsection 2, county

2 39 or city which has the duty to prosecute a criminal
2 40 action shall pay the costs of depositions taken on
2 41 behalf of the prosecution, the costs of transcripts
2 42 requested by the prosecution, and in criminal actions
2 43 prosecuted by the county or city under county or city
2 44 ordinance the fees that are payable to the clerk of
2 45 the district court for services rendered and the court
2 46 costs taxed in connection with the trial of the action
2 47 or appeals from the judgment. The county or city
2 48 shall pay witness fees and mileage in trials of
2 49 criminal actions prosecuted by the county or city
2 50 under county or city ordinance. These fees and costs
3 1 are recoverable by the county or city from the
3 2 defendant unless the defendant is found not guilty or
3 3 the action is dismissed, in which case the state shall
3 4 pay the witness fees and mileage in cases prosecuted
3 5 under state law.

3 6 2. In a criminal action for first degree murder
3 7 under section 707.2, where a notice of intent to seek
3 8 the death penalty has been filed, the state shall pay
3 9 under section 902.14 the costs of depositions,
3 10 transcripts, the fees payable to the clerk of district
3 11 court, court costs taxed in connection with the trial
3 12 or appeal which are incurred by the county, as well as
3 13 any witness fees and mileage."

3 14 #6. Page 15, by inserting after line 26, the
3 15 following:

3 16 "Sec. ____ NEW SECTION. 902.14 DEATH PENALTY
3 17 EXPENSE FUND.

3 18 1. A death penalty expense fund is established as
3 19 a separate fund in the state treasury to serve as a
3 20 repository for the moneys received under the death
3 21 penalty income surtax imposed pursuant to section
3 22 902.15. There is appropriated to the department of
3 23 management out of any moneys in the fund an amount, or
3 24 so much thereof as may be necessary, to pay any claims
3 25 against the fund for costs associated with the
3 26 administration and imposition of the death penalty
3 27 under the laws of this state.

3 28 2. If in any year, there are insufficient funds
3 29 available in the death penalty expense fund to pay all
3 30 of the costs associated with the administration and
3 31 imposition of the death penalty, there is appropriated
3 32 from funds in the state treasury not otherwise
3 33 appropriated a sum sufficient to pay for the unpaid
3 34 expenses associated with the administration and
3 35 imposition of the death penalty. The moneys in the
3 36 death penalty expense fund received during the next
3 37 fiscal year shall be used to reimburse the state
3 38 treasury for any moneys expended under this
3 39 subsection.

3 40 Sec. ____ NEW SECTION. 902.15 DEATH PENALTY –
3 41 INCOME SURTAX.

3 42 1. Effective for each year beginning with the
3 43 taxable year commencing on January 1, 1995, a death
3 44 penalty income surtax is imposed on the state
3 45 individual income tax. The department of management
3 46 shall establish the amount of the death penalty income
3 47 surtax to be imposed. During the first year of the
3 48 imposition of the surtax, the department shall
3 49 determine the amount of tax necessary to raise from
3 50 the surtax based upon the most recent figures
4 1 available from other states as to the costs associated
4 2 with the administration and imposition of the death
4 3 penalty which are in addition to the costs associated
4 4 in this state with the trial of class "A" felonies.
4 5 In subsequent years, the determination of the amount
4 6 of tax necessary to raise from the surtax shall be
4 7 based on the amount of the claims made against the
4 8 fund in the previous year. The death penalty surtax
4 9 shall be imposed on the state individual income tax on
4 10 the last day of the applicable tax year. As used in
4 11 this section, "state individual income tax" means the
4 12 taxes computed under section 422.5, less the credits
4 13 allowed in sections 422.11A, 422.11B, 422.11C, 422.12,
4 14 and 422.12B.

4 15 2. The director of revenue and finance shall
4 16 administer the death penalty income surtax imposed
4 17 under this chapter, and sections 422.20, 422.22 to
4 18 422.31, 422.68, and 422.72 to 422.75 shall apply with
4 19 respect to administration of the death penalty income
4 20 surtax.

4 21 3. The death penalty income surtax shall be made a
4 22 part of the Iowa individual income tax return subject
4 23 to the conditions and restrictions set forth in
4 24 section 422.21.

4 25 4. The director of revenue and finance shall
4 26 deposit all moneys received as death penalty income
4 27 surtax to the credit of the death penalty expense fund
4 28 which is established in section 902.14.

4 29 5. On or before October 20 each year, the director
4 30 of revenue and finance shall make an accounting of the
4 31 death penalty income surtax collected under this
4 32 chapter applicable to tax returns for the last

4 33 preceding calendar year, and shall certify to the
4 34 department of management the amount of total death
4 35 penalty income surtax credited from the taxpayers."
4 36 #7. By designating, redesignating, and correcting
4 37 internal references as necessary.
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4 40 _____
4 41 MARY [NEUHAUSER](#)
4 42 [HF 2](#).560 76
4 43 lh/jw