



[HF 553](#) – Class A Felony, Attorneys (LSB1231HV)
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Fiscal Note Version – New

Description

[House File 553](#) relates to the appointment of counsel for indigent persons in Class A felony cases. The Bill provides that in a Class A felony case involving an indigent person where a court determines that the appointment of two attorneys is appropriate, upon request of the indigent person, at least one of the attorneys appointed shall be an attorney who has a contract with the State Public Defender to represent the person in the particular type of case and in the county in which the case is pending. If the court determines that no contract attorney is available to represent the person, the court may appoint a noncontract attorney and the order of appointment shall include a specific finding that no contract attorney was available.

Background

Under Iowa Code section [815.10](#)(1)(b), an indigent person is entitled to the appointment of one attorney in all cases, and the court may appoint two attorneys in Class A felony cases. A Class A felony is punishable by confinement for life without the possibility of parole.

Assumptions

- The number of hours the private appointed attorney will be involved in the Class A felony case, if court-appointed, will be 174 hours per claim. This is the average number of hours per claim that a private attorney has spent on a Class A felony, if appointed.
- The hourly rate for payment of private contract attorneys for a Class A felony will remain constant at \$73 per hour, the current rate.
- The Defendant in a Class A felony will always request the appointment of two court-appointed attorneys, and the Court will always grant the request. All defendants, if granted the option, will elect to have a private attorney appointed in addition to a public defender.
- Over the past three fiscal years, there have been an average of 106 Class A felonies per year which have reached disposition. It is assumed there will be 106 Class A felonies annually and all of the defendants will be indigent.

Fiscal Impact

House File 553 is estimated to increase costs to the Indigent Defense Fund by \$1.4 million annually beginning in FY 2022. This impact represents the cost of hiring one contract attorney for every Class A felony case in addition to a public defender assigned to each case.

In addition, the Office of the State Public Defender estimates an additional \$350,000 to \$700,000 annual cost to the Office of the State Public Defender and the Indigent Defense Fund due to inefficiencies and duplication of effort created under this Bill. This includes duplication of presence at hearings and review of discovery, inefficient communication and exchange of information, and the retention of different private investigators and expert witnesses at State expense. Additionally, the Office typically has a lower-level public defender assisting Public Defender 3s on Class A felony cases. The purpose is to provide mentoring opportunities for the lower-level public defender in order to gain enough experience to be a lead counsel in a Class A felony case. The Office anticipates this practice would continue even with a private attorney

also assigned to the case. Therefore, the Office would not experience any cost savings from this Bill.

Sources

Office of the State Public Defender

/s/ Holly M. Lyons

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The fiscal note for this Bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.

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