

Senate File 2217 - Enrolled

PAG LIN

SENATE FILE 2217

AN ACT

RELATING TO PROVIDING LEGAL REPRESENTATION TO AN ELIGIBLE
INDIGENT PERSON AND THE APPOINTMENT OF A GUARDIAN AD LITEM.

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

Section 1. Section 13B.4, subsection 2, Code Supplement
2007, is amended to read as follows:

2. The state public defender shall file a notice with the
clerk of the district court in each county served by a public
defender designating which public defender office shall
receive notice of appointment of cases. The state public
defender may also designate a nonprofit organization which has
a contract with the state public defender to provide legal
services to eligible indigent persons ~~prior to July 1, 2004.~~

~~Except as otherwise provided, in~~ In each county in which the
state public defender files a designation, the state public
defender's designee shall be appointed by the court to
represent all eligible ~~indigents~~ persons or to serve as
guardian ad litem for eligible children in juvenile court in
~~all of the cases and proceedings specified in the designation.~~
The appointment shall not be made if the state public defender
notifies the court that the state public defender ~~defender's~~
designee will not provide legal representation services in
certain cases as identified in the designation by the state
public defender.

Sec. 2. Section 13B.9, subsection 1, paragraph c, Code
2007, is amended by striking the paragraph and inserting in
lieu thereof the following:

c. Serve as guardian ad litem for each child in all cases
in which the local public defender office is the state public
defender's designee. The local public defender shall be
responsible for determining who shall perform the duties of
the guardian ad litem as defined in section 232.2 and shall be
responsible for assuring the court that the duties of the
guardian ad litem have been fulfilled.

Sec. 3. Section 13B.9, subsection 4, Code 2007, is amended
to read as follows:

4. a. If a conflict of interest arises or if the local
public defender is unable to handle a case because of a
temporary overload of cases, the local public defender shall
return the case to the court. If the case is returned and the
state public defender has filed a successor designation, the
court shall appoint the successor designee. If there is no
successor designee on file, the court shall make the
appointment pursuant to section 815.10. As used in this
subsection, "successor designee" may include another local
public defender office or a nonprofit organization that has
contracted with the state public defender under section 13B.4,
subsection 3.

b. If a conflict of interest arises in any case,
subsection 1 does not affect the local public defender's
obligation to withdraw as counsel or as guardian ad litem.

Sec. 4. Section 814.11, subsection 2, Code 2007, is
amended to read as follows:

2. If the appeal involves an indictable offense or denial
of postconviction relief, the appointment shall be made to the
state appellate defender unless the state appellate defender
notifies the court that the state appellate defender is unable
to handle the case due to a conflict of interest or because of
~~a temporary overload of cases.~~

Sec. 5. Section 814.11, Code 2007, is amended by adding
the following new subsection:

NEW SUBSECTION. 2A. In a juvenile case in which a
petition on appeal is required, the trial attorney shall
continue representation throughout the appeal without an
additional appointment order unless the court grants the
attorney permission to withdraw from the case.

Sec. 6. Section 814.11, subsections 3 and 4, Code 2007,
are amended to read as follows:

3. If the state appellate defender is unable to handle the

3 4 ~~case or withdraws from the case, or if the appeal is other~~
3 5 ~~than an indictable offense or denial of postconviction relief~~
3 6 ~~or if the state appellate defender is unable to handle the~~
3 7 ~~case, including a juvenile case in which a petition on appeal~~
3 8 ~~is not required or a juvenile case in which the trial attorney~~
3 9 ~~has withdrawn from the case,~~ the court shall appoint an
3 10 attorney who has a contract with the state public defender to
3 11 handle such an appeal.

3 12 4. If the court determines that no contract attorney is
3 13 available to handle the appeal, the court may appoint a
3 14 noncontract attorney, if the state public defender consents to
3 15 the appointment of the noncontract attorney. The order of
3 16 appointment shall include a specific finding that no contract
3 17 attorney ~~was~~ is available and the state public defender
3 18 consents to the appointment.

3 19 Sec. 7. Section 815.10A, subsection 2, Code 2007, is
3 20 amended to read as follows:

3 21 2. Claims for compensation and reimbursement submitted by
3 22 an attorney appointed after June 30, 2004, are not considered
3 23 timely unless the claim is submitted to the state public
3 24 defender within forty-five days of ~~the a withdrawal order,~~
3 25 sentencing, acquittal, or dismissal of, whichever is earliest,
3 26 in a criminal case or the withdrawal order, final ruling, or
3 27 dismissal of, whichever is earliest, in any other type of
3 28 case.

3 29 Sec. 8. Section 815.11, Code Supplement 2007, is amended
3 30 to read as follows:

3 31 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE == FUND
3 32 CREATED.

3 33 Costs incurred for legal representation by a
3 34 court-appointed attorney under chapter 229A, 665, 822, or 908,
3 35 or section 232.141, subsection 3, paragraph "d", or section
4 1 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or
4 2 815.10 on behalf of an indigent shall be paid from moneys
4 3 appropriated by the general assembly to the office of the
4 4 state public defender in the department of inspections and
4 5 appeals and deposited in an account to be known as the
4 6 indigent defense fund. Costs incurred representing an
4 7 indigent defendant in a contempt action, or representing an
4 8 indigent juvenile in a juvenile court proceeding ~~under chapter~~
4 9 ~~600,~~ are also payable from the fund. However, costs incurred
4 10 in any administrative proceeding or in any other proceeding
4 11 under this chapter or chapter 598, 600, 600A, 633, 633A, 814,
4 12 or 915 or other provisions of the Code or administrative rules
4 13 are not payable from the fund.

4 14
4 15
4 16
4 17 _____
4 18 JOHN P. KIBBIE
4 19 President of the Senate

4 20
4 21
4 22 _____
4 23 PATRICK J. MURPHY
4 24 Speaker of the House

4 25 I hereby certify that this bill originated in the Senate and
4 26 is known as Senate File 2217, Eighty-second General Assembly.

4 27
4 28
4 29
4 30 _____
4 31 MICHAEL E. MARSHALL
4 32 Secretary of the Senate

4 32 Approved _____, 2008

4 33
4 34
4 35 _____
5 1 CHESTER J. CULVER
5 2 Governor