

Senate File 374 - Enrolled

Senate File 374

AN ACT

RELATING TO PROVIDING LEGAL ASSISTANCE TO INDIGENT PERSONS
IN CRIMINAL PROCEEDINGS, AND INCLUDING EFFECTIVE DATE
PROVISIONS.

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

Section 1. Section 13B.4, subsection 1, Code 2017, is amended to read as follows:

1. a. The state public defender shall coordinate the provision of legal representation ~~of~~ to all indigents under arrest or charged with a crime, who face the possibility

of imprisonment under the applicable criminal statute or ordinance.

b. The state public defender shall also coordinate the provision of legal representation to all indigents seeking postconviction relief, against whom a contempt action is pending, in proceedings under section 811.1A or chapter 229A or 812, in juvenile proceedings, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and may provide for the representation of indigents in proceedings instituted pursuant to chapter 908.

c. The state public defender shall not engage in the private practice of law.

Sec. 2. Section 13B.4, subsection 3, Code 2017, is amended to read as follows:

3. The state public defender may contract with persons admitted to practice law in this state and nonprofit legal organizations ~~employing persons admitted to practice law in this state~~ for the provision of legal services to indigent persons. The contract may incorporate administrative rules into the terms of the contract or expressly provide that payments may be paid that are other than on an hourly rate basis for legal services provided, including but not limited to a fixed rate per case or per month.

Sec. 3. Section 13B.8, subsection 4, Code 2017, is amended to read as follows:

4. a. The state public defender shall provide separate and suitable office space, furniture, equipment, computers, ~~computer networks,~~ support staff, and supplies for each office of the local public defender out of funds appropriated to the state public defender for this purpose.

b. The state public defender may enter into agreements with the office of the chief information officer created in chapter 8B to provide or procure suitable computer networks and other information technology services to or for each office of the state public defender, including the central administrative office and the office of the state appellate defender, and to each office of the local public defender.

Sec. 4. Section 815.9, subsection 4, paragraph a, Code 2017, is amended to read as follows:

a. If the appointed attorney is a public defender, the attorney shall submit a report to the court specifying the total hours of service plus expenses incurred in providing legal assistance to the person, unless the court has ordered that the cost of legal assistance is not required to be reimbursed to the state. In a criminal case, the report shall be submitted within ~~ten days of~~ a reasonable period of time after the date of sentencing, acquittal, or dismissal. In a case other than a criminal case, the report shall be submitted within ~~ten days of~~ a reasonable period of time after the date of any court ruling or the conclusion of a trial held in the case, or if the case is dismissed within ~~ten days of the~~ a reasonable period of time after the date of dismissal.

Sec. 5. Section 815.10, subsection 1, Code 2017, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. For purposes of this subsection, a criminal proceeding in which an indigent person is entitled to legal assistance at public expense is a proceeding where the person faces the possibility of imprisonment under the applicable criminal statute or ordinance. This section does not require the appointment of an attorney if the indigent person does not request the appointment of an attorney or waives the right to an appointed attorney.

Sec. 6. NEW SECTION. 815.15 **Violations of local ordinances — reimbursement.**

1. If an attorney is appointed in a case to represent an indigent person for an alleged violation of a local ordinance that may require a term of confinement, the office of the state public defender shall seek reimbursement from the political subdivision of the state that was the plaintiff in the case for the compensation paid to and the expenses incurred by the attorney.

2. A political subdivision of the state shall reimburse the office of the state public defender for the compensation and expenses paid from the indigent defense fund in section 815.11 to an attorney who represented the indigent person pursuant to subsection 1.

Sec. 7. EFFECTIVE DATE. The following provision of this Act takes effect January 1, 2018:

1. The section of this Act enacting section 815.15.

JACK WHITVER
President of the Senate

LINDA UPMAYER
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 374, Eighty-seventh General Assembly.

W. CHARLES SMITHSON
Secretary of the Senate

Approved _____, 2017

TERRY E. BRANSTAD
Governor