

February 25, 1965.

Judiciary. *Be amended & do pass 3/17*

House File 354

By REDFERN.

Passed House, Date *4/23*

Passed Senate, Date *5/4*

Vote: Ayes *90* Nays *0*

Vote: Ayes *55* Nays *1*

Approved *May 10, 1965*

# A BILL FOR

*passed on file 7/26  
Judiciary 7/27  
substituted for SF 238 - 5/4*

An Act to pay out of state funds the costs and fees of habeas corpus proceedings on behalf of plaintiffs confined in state institutions where such proceedings are successful or where the plaintiff is not able to pay.

*Be It Enacted by the General Assembly of the State of Iowa:*

- 1 Section six hundred sixty-three point forty-four (663.44),
- 2 Code 1962, is hereby amended by adding thereto the following:
- 3 "However, where the plaintiff is an inmate of any state insti-
- 4 tution, and is discharged in habeas corpus proceedings, or where
- 5 the habeas corpus proceedings fail and costs and fees cannot be
- 6 collected from the person liable to pay the same, the facts shall
- 7 be certified by the clerk of the district court under his seal of
- 8 office to the state comptroller. A statement of the amount of
- 9 fees or costs incurred shall be approved by the presiding judge
- 10 in writing appended to the statement or indorsed thereon and such
- 11 costs and fees shall be paid out of the state treasury from the
- 12 general fund."

## EXPLANATION OF HOUSE FILE 354

The law now provides that costs and fees of successful habeas corpus proceedings are to be paid by the county where the action lies. This puts an unfair burden on those counties in which the state institutions are located. This act makes such costs and fees the burden of the state, the same as such costs for escape proceedings and crimes committed by inmates of state institutions. The act further provides for the state to bear the burden of such proceedings when action is brought by indigent inmates.

HOUSE FILE 354

1 Amend House File 354 by striking all after the word "same," in  
2 line six (6) and inserting in lieu thereof the following:  
3 "such costs and fees shall be paid by the county in which such  
4 state institution is located. The facts of such payment and the  
5 proceedings on which it is based, with a statement of the amount  
6 of fees or costs incurred, with approval in writing by the presid-  
7 ing judge appended to such statement or endorsed thereon, shall then  
8 be certified by the clerk of the district court under his seal of  
9 office to the state executive council. The executive council shall  
10 then review the proceedings and authorize reimbursement for all such  
11 fees and costs or such part thereof as the executive council shall  
12 find justified, and shall notify the state comptroller to draw a  
13 warrant to such county treasurer on the state general fund for the  
14 amount authorized."

Filed *adopted 4/23*  
March 17, 1965.

JUDICIARY COMMITTEE,  
JOHN L. DUFFY, *Chairman.*