

April 26, 1965.
Place on Calendar.

House File 655
By JUDICIARY COMMITTEE.

Passed House, Date 5/4
Vote: Ayes 28 Nays 28

Passed Senate, Date 5/24
Vote: Ayes 40 Nays 9

Approved June 2, 1965

*passed on file 5/5
judiciary 5/7
pass 5/14*

A BILL FOR

An Act enabling boards of supervisors to establish the office of public defender.

*3/24 motion to reconsider filed
motion lost 5/26 (21-30)*

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

1 Section 1. In any county, the board of supervisors may
2 establish the office of public defender. A county may join
3 with one or more other contiguous counties within its judicial
4 district to establish one office of public defender to serve
5 those counties.

1 Sec. 2. In addition to such funds as may be appropriated
2 by the county for this purpose, a county may accept money and
3 other contributions from private organizations and individuals,
4 and other public agencies, in order to finance the establishment
5 or operation of the office of public defender, and be strictly
6 accountable therefore.

1 Sec. 3. 1. The public defender shall be a qualified
2 attorney admitted to practice before the Iowa supreme court and
3 shall be selected by a majority of the supervisors of the
4 county or counties which he is to serve.

5 2. The public defender shall represent without charge,
6 each indigent person who is under arrest or charged with a
7 crime if:

8 a. The defendant requests it; or

9 b. The court, on its own motion or otherwise so orders.

1 Sec. 4. For the purpose of this Act, an indigent shall be
2 any person who would be unable to retain in his behalf, legal
3 counsel without prejudicing his financial ability to provide
4 economic necessities for himself or his family.

5 Before the initial arraignment or other initial court
6 appearance, the determination of indigency shall be made by the
7 public defender within criteria set by the board(s) of super-
8 visors. At or after arraignment or other initial court
9 appearance, the determination shall be made by the court.

1 Sec. 5. 1. The term and compensation of the public
2 defender shall be fixed by the board(s) of supervisors. The
3 compensation shall not be less than that paid the highest
4 paid county attorney of the county or counties the public
5 defender serves.

6 2. The public defender may appoint as many assistant
7 attorneys, clerks, investigators, stenographers, and other
8 employees as the board(s) consider(s) necessary to enable him
9 to carry out his responsibilities. Appointments under this
10 section shall be made in the manner prescribed by the county
11 board(s) of supervisors. An assistant attorney must be a
12 qualified attorney licensed to practice before the supreme
13 court.

14 3. The compensation of persons appointed under subsection
15 two (2) shall be fixed by the county board(s) of supervisors.

1 Sec. 6. When representing an indigent person in a criminal
2 proceeding, the public defender shall counsel and defend
3 him, whether he is held in custody without commitment or
4 charged with a criminal offense, at every stage of the proceed-

5 ings against him; and prosecute any appeals or other remedies
6 before or after conviction that he considers to be in the
7 interest of justice.

1 Sec. 7. The court may, for cause, upon the application
2 of the indigent person or the public defender, or on its
3 own motion, appoint an attorney other than the public
4 defender, to represent the indigent person at any state of
5 the proceedings or on appeal. The attorney so appointed shall
6 be compensated as provided in section seven hundred seventy-
7 five point five (775.5) of the Code.

1 Sec. 8. The public defender shall make an annual report
2 to the judges of the district court sitting in any county
3 he serves, the attorney general and the board(s) of supervisors
4 of any county he serves reporting all cases handled by him
5 during the preceding year.

1 Sec. 9. The county board(s) of supervisors shall provide
2 office space, furniture, equipment, and supplies for the use
3 of the public defender suitable for the business of his
4 office. However, an allowance may be provided in place of
5 facilities. Each item is a charge against the county in which
6 the services were rendered. If the public defender serves
7 more than one county, expenses that are properly allocable
8 to the business of more than one of those counties shall be
9 pro-rated among the counties concerned.

EXPLANATION OF HOUSE FILE 655

This is an act to enable boards of supervisors to accept private funds and/or appropriate public funds to establish and operate an office of public defender which could provide legal assistance to indigents in criminal matters.

HOUSE FILE 655

last

1 Amend House File 655 as follows:
 2 1. By striking all of section one (1) and inserting in
 3 lieu thereof the following:
 4 The office of public defender may be established and
 5 maintained by any county or any two (2) or more contiguous
 6 counties by the following procedure:
 7 1. A board of county supervisors may submit the issue that
 8 the office of public defender be established to a vote of the
 9 people of the county and upon receipt of a petition that the
 10 office of public defender be established, signed by not less
 11 than ten (10) percent of those voting for governor in the
 12 last general election, shall submit the issue to a vote of the
 13 people at the next general election or at a special election
 14 called therefor in the form and manner required for the
 15 submission of a public measure in the title on elections. If
 16 a majority of the votes cast approve the issue, the office of
 17 public defender shall be established on a date specified on the
 18 ballot.
 19 If more than one (1) county is involved in the establishment of
 20 the office of public defender, the office shall not be established
 21 unless authorized by a vote of the people in each of the counties
 22 involved.

adopted

23 "The office of public defender may be abolished by the
 24 following procedure:
 25 1. A board of county supervisors shall submit the issue
 26 that the office of public defender be abolished to a vote of
 27 the people of the county upon receipt of a petition that the
 28 office of public defender be abolished, signed by not less
 29 than ten (10) percent of those voting for governor in the
 30 last general election, and shall submit the issue to a vote of
 31 the people at the next general election or at a special election
 32 called therefor in the form and manner required for the
 33 submission of public measures in the title on elections. If a
 34 majority of the votes cast approve the issue, the office of
 35 public defender shall be abolished on the date specified on the
 36 ballot.
 37 If more than one (1) county is involved in the abolishment
 38 of the office of public defender, the office shall not be
 39 abolished unless the abolishment is authorized by a vote of the
 40 people in each of the counties involved."

last
4-58
last

41 2. Strike from section two (2) in lines one (1) and two (2)
 42 the following words, "In addition to such funds as may be
 43 appropriated by the county for this purpose, a" insert in
 44 lieu thereof the word "A".
 45 3. Strike from section seven (7) everything following the
 46 period in line five (5) and insert in lieu thereof the following:
 47 "An attorney appointed by the court shall be entitled to a
 48 reasonable compensation to be decided by the court."

Filed
April 29, 1965.

McNAMARA of Linn.

[Faint, illegible text at the bottom of the page]

HOUSE FILE 655

- 1 Amend House File 655, section five (5), by striking from
- 2 line three (3) the words "not be less than" and inserting in
- 3 lieu thereof the words "be the same as".

Filed and lost
April 30, 1965.

DENATO of Polk.

HOUSE FILE 655

- 1 Amend House File 655 as follows:
- 2 By striking the word "less" in line 3, section 5, and
- 3 inserting in lieu thereof the word "more".

Filed
April 30, 1965.

adopted 7/30

BUSCH of Bremer.

HOUSE FILE 655

- 1 Amend section five of House File 655 by striking in line
- 2 1 the words "term and".

Filed and adopted
April 30, 1965.

motion to reconsider filed 5/3

O'MALLEY of Polk.

HOUSE FILE 655

- 1 Amend the title to House File 655 by striking the
- 2 "." after the word "defender" and adding the following
- 3 thereto:
- 4 'and the compensation and duties of public defenders
- 5 and assistant public defenders.'

Filed
April 30, 1965.

adopted 5/4

O'MALLEY of Polk.

HOUSE FILE 655

- 1 Amend House File 655, section two (2), by adding after the
- 2 word "appropriated" in line one (1) the words "from the court
- 3 fund".

Filed and adopted
April 30, 1965.

GLENN of Wapello.

HOUSE FILE 655

- 1 Amend House File 655 by striking all of section 3
- 2 after the word "be" in line 3 and inserting in lieu thereof
- 3 the following:
- 4 "elected by the people at a general election as are
- 5 other county officers and said elective term for this office
- 6 shall be for a period of four (4) years."

Filed
April 30, 1965.

adopted 7/30 motion to reconsider filed 5/3 prevailed 5/4 adopted as amended 5/4

O'MALLEY of Polk.

HOUSE FILE 655

- 1 Amend House File 655 as follows:
- 2 1. Amend section one (1), by inserting in line one (1)
- 3 after the word "county" the words "with a population of over
- 4 one hundred thousand (100,000)".

Filed and lost
April 30, 1965.

REDFERN of Lee.

HOUSE FILE 655

- 1 Amend House File 655 as follows:
- 2 Amend section 3 by striking all of said section after the
- 3 word "selected" in line three (3) and insert in lieu thereof
- 4 the following:
- 5 "in the following manner:
- 6 When a vacancy exists in the office of the public defender,
- 7 the judges of the district court of the county or counties
- 8 which the defender is to serve shall nominate two (2) attorneys
- 9 qualified to serve as public defender and certify the names
- 10 of such nominees to the board(s) of supervisors of the county
- 11 or counties which the public defender is to serve. The super-
- 12 visors shall, within thirty (30) days after such certification,
- 13 appoint by majority vote, one of these nominees to be public
- 14 defender for a term of six (6) years so long as he shall
- 15 remain qualified as otherwise provided in this Act."

Filed
May 3, 1965.

withdrawn 5/4

KEMPTER of Jackson.
GAUDINEER of Polk.

HOUSE FILE 655

- 1 Amend the Kempter and Gaudineer amendment filed May 3, 1965,
2 to House File 655 as follows:
3 1. By striking from line seven (7) the words "judges of the
4 district court" and inserting in lieu thereof the words "board(s)
5 of supervisors".
6 2. By striking from line eight (8) the word and figure
7 "two (2)".
8 3. By striking from line ten (10) the words "board(s) of
9 supervisors" and inserting in lieu thereof the words "judges of
10 the district court".
11 4. By striking from lines eleven (11) and twelve (12) the
12 word "supervisors" and inserting in lieu thereof the words
13 "judges of the district court of the county or counties which
14 the public defender is to serve".

Filed
May 3, 1965.

withdrawn 5/4

RENDA of Polk.

HOUSE FILE 655

- adopted (95-10)*
adopted (67-50)
- 1 Amend the O'Malley amendment of April 30, 1965 as follows:
2 1. By inserting after the word and figure "section 3" and
3 before the word "after" the word and figure "subsection one (1)".
4 2. Further amend the O'Malley amendment by striking every-
5 thing after the word "word" in line two (2) and inserting in
6 lieu thereof following: "court" in line two (2) and in-
7 serting in lieu thereof the following:
8 " . When a vacancy exists in the office of the public defender,
9 the judges of the district court of the county or counties which
10 the defender is to serve shall nominate two (2) attorneys quali-
11 fied to serve as public defender and certify the names of such
12 nominees to the board(s) of supervisors of the county or counties
13 which the public defender is to serve. The supervisors shall,
14 within thirty (30) days after such certification, appoint by
15 majority vote, one of these nominees to be public defender for
16 a term of six (6) years so long as he shall remain qualified
17 as otherwise provided in this Act."

Filed and adopted
May 4, 1965.

UBAN of Black Hawk.