

January 30, 1969

SENATE FILE 124

Passed on File

*Judiciary - Pass, 2-13
for " 3-14, Pass 1-12-70, adopted 1-14*

By SULLIVAN

Passed Senate, Date *3-12-69* Passed House, Date *1-15-70*

Vote: Ayes *35* Nays *23* Vote: Ayes *100* Nays *4*

Approved *2-2-70*

*as amended 1-20
45-11*

*as concurred in 1-26
94-0*

A BILL FOR

- 1 An Act relating to attorney fees.
- 2 *Be It Enacted by the General Assembly of the State of Iowa:*
- 3 Section 1. Section seven hundred seventy-five point five
- 4 (775.5), Code 1966, is hereby amended by adding thereto the
- 5 following new paragraph:
- 6 "The attorney fees, including the sum or sums decided and
- 7 determined in each case by the court and paid out of any public
- 8 funds, shall be taxed to the defendant, or to the defendant
- 9 and his parents if he be a minor, and the clerk of the court
- 10 shall issue a fee bill as provided in section six hundred
- 11 twenty-six point one hundred eight (626.108), Code 1966. The
- 12 defendant, or the defendant and his parents, if the defendant
- 13 is a minor, shall be present at the time the court determines
- 14 the attorney fees."

EXPLANATION OF SENATE FILE 124

- 1 This bill allows the county to charge back to a defendant
- 2 or to his parents if he be a minor, the fees paid to
- 3 his court appointive attorney. The person to be charged
- 4 will be in court to assist in the setting of the fees.

HOUSE AMENDMENT TO SENATE FILE 124

1 Amend senate File 124 by striking everything after the
2 enacting clause and inserting in lieu thereof the following:

3 Section 1. As used in this Act:

4 1. "Attorney" means a lawyer appointed by a court to
5 represent an incompetent or indigent person.

6 2. "Client" means an incompetent or indigent person
7 represented by a court-appointed lawyer or public defender.

8 3. "Financial statement" means a full disclosure of all
9 assets, liabilities, current income, dependents and such
10 other information as the court or public defender may require
11 to determine if the client should have legal assistance at
12 public expense.

13 Sec. 2. Before an attorney is appointed under the provisions
14 of sections sixty-eight point eight (68.8), one hundred forty-
15 five point seventeen (145.17), one hundred forty-five
16 point nineteen (145.19), two hundred twenty-two point twenty-
17 two (222.22), two hundred thirty-two point twenty-eight
18 (232.28), seven hundred seventy-five point four (775.4) or
19 seven hundred seventy-seven point twelve (777.12) of the
20 Code, or to represent any person charged with a crime in this
21 state, the court shall require the client, or his parent,
22 guardian, or custodian to complete under oath a detailed
23 financial statement.

24 Sec. 3. Any person requesting the assistance of a public
25 defender under the provisions of chapter three hundred thirty-
26 six A (336A) of the Code shall be required to complete a
27 financial statement.

28 Sec. 4. Whenever a client is granted legal assistance
29 at public expense, the financial statement required by
30 this Act shall be filed in the client's court file and
31 shall be retained as a permanent part thereof.

32 Sec. 5. Any person that submits to a court or to a
33 public defender a materially false financial statement,
34 for the purpose of obtaining legal assistance at public
35 expense, shall be guilty of a misdemeanor and shall be
36 punished by a fine of not more than one hundred dollars or
37 by imprisonment for not more than thirty days.

38 Sec. 6. If a court finds that a person should have
39 legal assistance, and is financially able to secure counsel
40 but refuses to employ an attorney, the court shall appoint
41 an attorney to represent such person at public expense. The
42 attorney fee paid by the state or county in such cases shall
43 be taxed as part of the court costs against the person
44 receiving the legal assistance, and the state or county shall
45 be reimbursed for said fee when the court costs are paid.

46 Sec. 7. Section seven hundred seventy-five point six
47 (775.6), Code 1966, is hereby repealed and the following
48 enacted in lieu thereof:

49 "An attorney appointed at public expense may receive
50 or contract to receive, a partial payment on behalf of the
51 client he is appointed to represent. Such attorney shall
52 fully disclose to the court, by affidavit, any sums he has
53 received or contracted for, and any such sums shall be
54 considered by the court in determining the portion of the
55 attorney fee to be paid by the public."

56 Further amend by striking from the title everything
57 after the word "relating" and inserting in lieu thereof the
58 following: "to court-appointed counsel and public defenders."

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- 1 Amend the House amendment to Senate File 124 dated
 - 2 January 19, 1970, line 38, by striking the words
 - 3 "should have" and inserting in lieu thereof the
 - 4 word "desires".

Filed and adopted
January 20, 1970

By DeKOSTER

- 1 Amend the House amendment to Senate File 124 by
- 2 striking section 6 thereof and renumbering the remainder.

Filed and withdrawn
January 20, 1970

By GLENN

SENATE FILE 124

1 Amend Senate File 124 by striking everything after the en-
2 acting clause and inserting in lieu thereof the following:

3 Section 1. As used in this Act:

4 1. "Attorney" means a lawyer appointed by a court to
5 represent an incompetent or indigent person.

6 2. "Client" means an incompetent or indigent person
7 represented by a court-appointed lawyer or public defender.

8 3. "Financial statement" means a full disclosure of all
9 assets, liabilities, current income, dependents and such
10 other information as the court or public defender may require
11 to determine if the client should have legal assistance at
12 public expense.

13 Sec. 2. Before an attorney is appointed under the pro-
14 visions of sections sixty-eight point eight (68.8), one
15 hundred forty-five point seventeen (145.17), one hundred
16 forty-five point nineteen (145.19), two hundred twenty-two
17 point twenty-two (222.22), two hundred thirty-two point
18 twenty-eight (232.28), seven hundred seventy-five point
19 four (775.4) or seven hundred seventy-seven point twelve
20 (777.12) of the Code, or to represent any person charged
21 with a crime in this state, the court shall require the
22 client, or his parent, guardian, or custodian to complete
23 under oath a detailed financial statement.

24 Sec. 3. Any person requesting the assistance of a public
25 defender under the provisions of chapter three hundred
26 thirty-six A (336A) of the Code shall be required to com-
27 plete a financial statement.

28 Sec. 4. Whenever a client is granted legal assistance
29 at public expense, the financial statement required by this
30 Act shall be filed in the client's court file and shall be
31 retained as a permanent part thereof.

32 Sec. 5. Any person that submits to a court or to a public
33 defender a materially false financial statement, for the pur-
34 pose of obtaining legal assistance at public expense, shall
35 be guilty of a misdemeanor and shall be punished by a fine
36 of not more than one hundred dollars or by imprisonment for
37 not more than thirty days.

38 Sec. 6. If a court finds that a person should have legal
39 assistance, and is financially able to secure counsel but
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41 attorney to represent such person at public expense. The
42 attorney fee paid by the state or county in such cases shall
43 be taxed as part of the court costs against the person receiv-
44 ing the legal assistance, and the state or county shall be
45 reimbursed for said fee when the court costs are paid.

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50 contract to receive, a partial payment on behalf of the client

House 6

51 he is appointed to represent. Such attorney shall fully dis-
52 close to the court, by affidavit, any sums he has received
53 or contracted for, and any such sums shall be considered by the
54 court in determining the portion of the attorney fee to be
55 paid by the public."

56 Further amend by striking from the title everything
57 after the word "relating" and inserting in lieu thereof the
58 following: "to court-appointed counsel and public defenders."

EXPLANATION

This bill will require persons who seek legal assistance at public expense to make a full disclosure of their financial position before such assistance is granted. The bill will also provide penalties for false disclosures, and will permit attorneys to receive partial compensation from an indigent client and receive the balance, as approved by the court, from the county.

Filed - *accepted 1-15*

May 14, 1969

PELTON of Clinton

SENATE AMENDMENT TO HOUSE AMENDMENT TO SENATE FILE 124

1 Amend the House amendment to Senate File 124, line 38, by
2 striking the words "should have" and inserting in lieu thereof the
3 word "desires".

Received from the Senate
January 22, 1970

House concurred 1-26-70