

FILED FEB 13 1973

SENATE FILE 182

*Indorsing 2-14-73, Pass 5-10*

By WILLITS and KINLEY

Potter, Chairman  
McCartney  
Willits

Senate File 182  
Edclen, Chairman  
Logue  
Poney

*The Judiciary Law Enforcement 1-14-74, Pass for 2515 3/15*

Passed Senate, Date 6-11-73 (1645) Passed House, Date 4-15-74 (1730)

Vote: Ayes 38 Nays 1 Vote: Ayes 90 Nays 2

Approved May 2, 1974

*Passed as amended by House and further  
amended by Senate 4-22-74 (1464)*

*Passed per Senate amendment 4-24-74 (2011)*  
4-24-74 (2011)  
73-0

47-0

## A BILL FOR

1 An Act relating to the office of public defender.

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

3 Section 1. Chapter three hundred thirty-six A (336A),  
4 Code 1973, is amended by adding the following new section:

5 NEW SECTION. Notwithstanding the provisions of section  
6 three hundred thirty-six A point one (336A.1) of the Code,  
7 the board of supervisors of any county with a population in  
8 excess of fifty thousand may establish and abolish the  
9 office of public defender by resolution and the public  
10 defender may be appointed without regard to the provisions  
11 of section three hundred thirty-six A point three (336A.3),  
12 subsection one (1) of the Code and the public defender shall  
13 serve at the pleasure of the board of supervisors. A public  
14 defender appointed under this section shall be a qualified  
15 attorney, admitted to practice before the supreme court.

### EXPLANATION

16  
17 This bill provides that the board of supervisors in counties  
18 having a population of 50,000 or more may establish and abolish  
19 the office of public defender by resolution. Present law  
20 requires a vote of the people to abolish the office once  
21 established.

22 The bill also provides that the supervisors in these  
23 counties may appoint a public defender without regard to  
24 section 336A.3, subsection 1.

25

LSB 722  
dh/dg

S-2800

- 1 Amend the House Amendment to Senate File 182 as
- 2 follows:
- 3 1. Page 1, line 9, by striking the words "Office
- 4 established and abolished." and inserting in lieu
- 5 thereof the following: "OFFICE ESTABLISHED AND
- 6 ABOLISHED."
- 7 2. Page 2, line 6, by inserting after the word
- 8 "by" the words "~~a-vote-of-the-people~~".
- 9 3. Page 2, line 7, by striking the second word
- 10 "of" and inserting in lieu thereof the word "of".
- 11 4. Page 2, line 11, by striking the words
- 12 "Nomination and appointment." and inserting in
- 13 lieu thereof the following: "NOMINATION AND
- 14 APPOINTMENT."

S-2800 Filed *adopted 4/22*  
April 18, 1974

By WILLITS and KINLEY

SENATE AMENDMENT TO HOUSE AMENDMENT TO  
SENATE FILE 182

- 1 Amend the House Amendment to Senate File 182 as
- 2 follows:
- 3 1. Page 1, line 9, by striking the words "Office
- 4 established and abolished." and inserting in lieu
- 5 thereof the following: "OFFICE ESTABLISHED AND
- 6 ABOLISHED."
- 7 2. Page 2, line 6, by inserting after the word
- 8 "by" the words "~~a-vote-of-the-people~~".
- 9 3. Page 2, line 7, by striking the second word
- 10 "of" and inserting in lieu thereof the word "of".
- 11 4. Page 2, line 11, by striking the words
- 12 "Nomination and appointment." and inserting in
- 13 lieu thereof the following: "NOMINATION AND
- 14 APPOINTMENT."

Received from the Senate  
April 23, 1974

*House Amended 4/24*

HOUSE AMENDMENT TO SENATE FILE 182

1 Amend Senate File 182 as passed by the Senate by striking  
2 everything after the enacting clause and inserting in lieu  
3 thereof the following:

4 "Section 1. Section three hundred thirty-six A point one  
5 (336A.1), Code 1973, as amended by Acts of the Sixty-fifth  
6 General Assembly, 1973 Session, chapter one hundred thirty-six  
7 (136), section three hundred fifty-six (356), is amended to  
8 read as follows:

9 "336A.1 Office established and abolished. In any county  
10 the board of supervisors may establish or abolish, by resolution  
11 of the board, the office of public defender. A county may join  
12 with one or more other contiguous counties within its judicial  
13 district to establish one office of public defender to serve  
14 those counties.

15 ~~The office of public defender may be abolished by the follow-~~  
16 ~~ing procedure:~~

17 ~~1. A board of county supervisors shall submit the issue~~  
18 ~~that the office of public defender be abolished to a vote of~~  
19 ~~the people of the county upon receipt of a petition that the~~  
20 ~~office of public defender be abolished, signed by not less than~~  
21 ~~ten percent of those voting for president of the United States~~  
22 ~~or governor, as the case may be, in the last general election,~~  
23 ~~and shall submit the issue to a vote of the people at the next~~  
24 ~~general election or at a special election called therefor in~~  
25 ~~the form and manner required for the submission of public~~

Page 2

1 ~~measures in the title on elections. If a majority of the~~  
2 ~~votes cast approve the issue, the office of public~~  
3 ~~defender shall be abolished on the date specified on the ballot.~~

4 If more than one county is involved in the abolishment of the  
5 office of public defender, the office shall not be abolished  
6 unless the abolishment is authorized by resolution of the board  
7 of supervisors of in each of the counties involved.

8 Sec. 2. Section three hundred thirty-six A point three  
9 (336A.3), subsection one (1), Code 1973 is amended to read as  
10 follows:

11 "336A.3 Nomination and appointment.

12 1. The public defender shall be a qualified attorney admitted  
13 to practice before the Iowa supreme court. When a vacancy exists  
14 in the office of the public defender, the district court judges  
15 of the judicial district court of containing the county or  
16 counties which the defender is to serve, sitting en banc, shall  
17 nominate two attorneys qualified to serve as public defender and  
18 certify the names of such nominees to the board(s) of super-  
19 visors of the county or counties which the public defender is  
20 to serve. The supervisors shall, within thirty days after such  
21 certification, appoint by majority vote, one of these nominees  
22 to be public defender for a term of six years so long as he  
23 shall remain qualified as otherwise provided in this chapter."

1 Amend Senate File 182 as passed by the Senate by  
2 striking everything after the enacting clause and  
3 inserting in lieu thereof the following:

4 "Section 1. Section three hundred thirty-six A  
5 point one (336A.1), Code 1973, as amended by Acts of  
6 the Sixty-fifth General Assembly, 1973 Session,  
7 chapter one hundred thirty-six (136), section three  
8 hundred fifty-six (356), is amended to read as follows:

9 "336A.1 Office established and abolished. In  
10 any county the board of supervisors may establish or  
11 abolish, by resolution of the board, the office of  
12 public defender. A county may join with one or more  
13 other contiguous counties within its judicial dis-  
14 trict to establish one office of public defender to  
15 serve those counties.

16 ~~The office of public defender may be abolished~~  
17 ~~by the following procedure:~~

18 ~~1. A board of county supervisors shall submit~~  
19 ~~the issue that the office of public defender be abol-~~  
20 ~~ished to a vote of the people of the county upon~~  
21 ~~receipt of a petition that the office of public~~  
22 ~~defender be abolished, signed by not less than ten~~  
23 ~~percent of those voting for president of the United~~  
24 ~~States or governor, as the case may be, in the last~~  
25 ~~general election, and shall submit the issue to a~~  
26 ~~vote of the people at the next general election or~~  
27 ~~at a special election called therefor in the form and~~  
28 ~~manner required for the submission of public measures~~  
29 ~~in the title on elections; If a majority of the votes~~  
30 ~~cast approve the issue, the office of public defender~~  
31 ~~shall be abolished on the date specified on the~~  
32 ~~ballot.~~

33 If more than one county is involved in the abol-  
34 ishment of the office of public defender, the office  
35 shall not be abolished unless the abolishment is  
36 authorized by resolution of the board of supervisors  
37 of in each of the counties involved.

38 Sec. 2. Section three hundred thirty-six A  
39 point three (336A.3), subsection one (1), Code 1973  
40 is amended to read as follows:

41 "336A.3 Nomination and appointment.

42 1. The public defender shall be a qualified  
43 attorney admitted to practice before the Iowa supreme  
44 court. When a vacancy exists in the office of the  
45 public defender, the district court judges of the  
46 judicial district whereof containing the county or  
47 counties which the defender is to serve, sitting en  
48 banc, shall nominate two attorneys qualified to serve  
49 as public defender and certify the names of such  
50 nominees to the board(s) of supervisors of the county  
51 or counties which the public defender is to serve.  
52 The supervisors shall, within thirty days after such  
53 certification, appoint by majority vote, one of these  
54 nominees to be public defender for a term of six  
55 years so long as he shall remain qualified as other-  
56 wise provided in this chapter."