

See Judiciary 3/22 Do Pass 5/3 (p. 1250)

HOUSE FILE 279

Judiciary
Willits, Chairperson
Doderer
DeKoster

1977

Calendar

HOUSE FILE 279

By COMMITTEE ON JUDICIARY AND
LAW ENFORCEMENT

(Formerly Study Bill 87)

Passed House, Date 3-17-77 (p. 874) Passed Senate, Date 5-5-77 (p. 1365)
Vote: Ayes 94 Nays 0 Vote: Ayes 43 Nays 0
Approved 7/7/77

A BILL FOR

1 An Act relating to the salaries of, and time devoted to office
2 by, public defenders and assistant public defenders in
3 certain counties.

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

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1 Section 1. Section three hundred thirty-six A point eleven
2 (336A.11), Code 1977, is amended to read as follows:

3 336A.11 PROHIBITED CONDUCT. No public defender or
4 assistant public defender ~~who-is-subject-to-the-preceding~~
5 ~~section~~ shall directly or indirectly refer any legal matter
6 or civil or criminal litigation to any particular lawyer or
7 lawyers or directly or indirectly recommend or suggest to
8 any person the employment of any particular lawyer or lawyers
9 to counsel in, conduct, defend, or prosecute any legal matter
10 or litigation, if the county is or is likely to be a party
11 thereto or have a substantial interest therein; or receive
12 any direct or indirect fee or compensation for or in connection
13 with any such referral, recommendation, or suggestion.

14 However, he or she may recommend a lawyer when requested to
15 do so by any court, governmental agency, or legal aid society.

16 Sec. 2. Section three hundred thirty-six A point ten
17 (336A.10), Code 1977, is amended to read as follows:

18 336A.10 TIME DEVOTED TO OFFICE. Any public defender whose
19 annual salary rate is twelve thousand dollars or more, and
20 any assistant public defender whose annual salary rate is
21 ten thousand dollars or more, in a county of more than eighty
22 thousand population, shall devote his or her full time to
23 the discharge of his or her duties and shall not directly
24 or indirectly engage in the private practice of law, except
25 that he or she may be a member of a law partnership on leave
26 of absence.

27 Sec. 3. This Act is effective January 1, 1978.

28 EXPLANATION

29 This bill eliminates the requirement that a public defender
30 in a county of less than 80,000 population devote full time
31 to the discharge of duties if his or her salary is \$12,000
32 or more. It also eliminates the requirement that an assistant
33 public defender in a county of less than 80,000 population
34 devote full time to the discharge of duties if his or her
35 salary is \$10,000 or more.

HOUSE FILE 279

H-3303

1 Amend House File 279 as follows:

2 1. Page 1, by inserting after line 26 the
3 following:

4 "Sec. _____. Chapter one thousand two hundred
5 forty-five (1245), Acts of the Sixty-sixth General
6 Assembly, 1976 Session, chapter two (2), section
7 one thousand five hundred seven (1507), is
8 amended to read as follows:

9 SEC. 1507. NEW SECTION. FEES TO ATTORNEYS.

10 An attorney appointed by the court to represent
11 any person charged with a crime in this state
12 shall be entitled to a reasonable compensation
13 ~~which shall be the ordinary and customary charges~~
14 ~~for like services in the community~~ to be decided
15 in each case by the district court judge, includ-
16 ing such sum or sums as the court may determine
17 are necessary for investigation in the interests
18 of justice and in the event of appeal the cost of
19 obtaining the transcript of the trial and the
20 printing of the trial record and necessary briefs
21 in behalf of the defendant. Such attorney need
22 not follow the case into another county or into
23 the supreme court unless so directed by the court
24 at the request of the defendant, where grounds for
25 further litigation are not capricious or unreason-
26 able, but if such attorney does so his or her fee
27 shall be determined accordingly. Only one attorney
28 fee shall be so awarded in any one case except that
29 in class A felony cases, two may be authorized."

H-3303 FILED - *Referred* BY SCHNEKLOTH of Scott
MARCH 16, 1977 *Germane 3/17*
(p. 873)

HOUSE FILE 279

H-3300

1 Amend amendment H-3285, to House File 279, as
2 follows:

3 1. Page 1, line 8, by inserting after the
4 word "attorneys" the following: "and public
5 defenders".

H-3300 FILED - *Adopted 3/17* BY MILLER of Buchanan
MARCH 16, 1977 *(272)*

HOUSE FILE 279

H-3286

1 Amend amendment H-3253 to House File 279 as
2 follows:
3 1. Page 1, line 12, by inserting after the word
4 "law" the following: "except that he or she may be
5 a member of a law partnership or a professional
6 corporation on leave of absence".

H-3286 FILED - *Adopted 3/17* BY SPEAR of Lee
MARCH 16, 1977 (*871*)

HOUSE FILE 279

H-3285

1 Amend House File 279 as follows:
2 1. Page 1, by inserting after line 26 the follow-
3 ing section:
4 "Sec. ____ Chapter three hundred thirty-six A
5 (336A), Code 1977, is amended by adding the following
6 new section:
7 NEW SECTION. CASE RECORDS MADE AND KEPT. County
8 attorneys shall keep records of all cases they handle.
9 The records shall include the following information:
10 1. The number of cases handled each year. .
11 2. The nature of each case.
12 3. The length of time spent on each case.
13 The prosecuting attorney training coordinator shall
14 obtain this information from the county attorneys
15 and keep it in a centralized location.
16 These records shall be accumulated and kept for
17 the first two consecutive years of each five-year
18 period starting on January 1, 1978."
19 2. The title page, line 3, By inserting after
20 the word "counties" the words "and relating to case
21 records to be kept".
22 3. By renumbering the remaining section to conform
23 to this amendment.

H-3285 FILED - *Filed 3/17* BY MILLER of Buchanan
MARCH 16, 1977 (*872*)

H-3274

1 Amend amendment H-3253 to House File 279 as
2 follows:
3 1. Page 1, line 12, by inserting after the word
4 "law" the following: "except that he or she may be
5 a member, of a law partnership or legal corporation,
6 on leave of absence".

H-3274 FILED - *Withdrawn 3/17* BY SPEAR of Lee
MARCH 15, 1977 (*870*)

H-3243

- 1 Amend H-3139 to House File 279 as follows:
- 2 1. Line 5, by striking the word and figure "two
- 3 (2) and inserting in lieu thereof the word and figure
- 4 "one (1)".
- 5 2. By striking lines 7 through 41 and inserting
- 6 in lieu thereof the following:
- 7 "1. The compensation of the public defender
- 8 shall be fixed by the board(s) of supervisors. ~~The-~~
- 9 ~~compensation shall not be more than that paid the high-~~
- 10 ~~est paid county attorney of the county or counties the~~
- 11 ~~public defender serves."~~

H-3243 FILED - *Withdrawn 2/16* BY JESSE of Polk
MARCH 11, 1977 (*255*)

H-3246

- 1 Amend House File 279 as follows:
- 2 1. Page 1, by inserting before line 1 the
- 3 following section:
- 4 "Section 1. Section three hundred thirty-
- 5 six A point five (336A.5), subsection one (1),
- 6 Code 1977, is amended to read as follows:
- 7 1. The compensation of the public defender
- 8 shall be fixed by the board(s) of supervisors.
- 9 ~~The compensation shall not be more than that~~
- 10 ~~paid the highest paid county attorney of the~~
- 11 ~~county or counties the public defender serves."~~

H-3246 FILED - *Adopted 2/16* BY SPEAR of Lee
MARCH 11, 1977 (*257*)

H-3253

- 1 Amend House File 279 as follows:
- 2 1. Page 1, by striking lines 17 through 26
- 3 and inserting in lieu thereof the following:
- 4 "(336A.10), Code 1977, is amended by striking
- 5 that section and inserting in lieu thereof the
- 6 following:
- 7 336A.10. The board(s) of supervisors of a
- 8 county may require a public defender or assistant
- 9 public defender to devote his or her full time
- 10 to the discharge of his or her duties and not
- 11 to directly or indirectly engage in the private
- 12 practice of law."

H-3253 FILED - *Adopted re* BY SPEAR of Lee
MARCH 11, 1977 *amended by*
3226 3/17 (271)

HOUSE FILE 279

H-3264

- 1 Amend House File 279 as follows:
- 2 Page 1, by striking line 27.

H-3264 FILED - *Adopted 3/17* BY SPEAR of Lee
MARCH 14, 1977 (*273*)

3139

1 Amend House File 279 as follows:

2 1. Page 1, by inserting before line 1 the follow-
3 ing new section:

4 "Section 1. Section three hundred thirty-six A
5 point five (336A.5), subsection two (2), Code 1977,
6 is amended to read as follows:

7 2. The public defender may appoint as many assis-
8 tant attorneys, clerks, investigators, stenographers,
9 and other employees as the board(s) consider(s) neces-
10 sary to enable him or her to carry out his or her
11 responsibilities. However, no public defender may
12 appoint an assistant attorney unless the district
13 court judges of the judicial district containing the
14 county or counties which the assistant attorney is
15 to serve determine all the following:

16 a. That the public defender works full time;

17 b. That justice is not being served as the consti-
18 tution requires by the present makeup of the public
19 defender office; and

20 c. That a sufficient caseload exists to justify
21 appointment of an assistant attorney.

22 Furthermore, when an assistant attorney is appointed,
23 he or she shall only serve in that capacity so long
24 as is necessary to reduce the caseload to a point
25 where the public defender alone is able to handle
26 the work. Appointments under this section shall be
27 made in the manner prescribed by the county board(s)
28 of supervisors. An assistant attorney must be a
29 qualified attorney licensed to practice before the
30 supreme court."

31 2. Page 1, line 15, by inserting after the word
32 "society" the words "if the recommendation is made
33 in the following manner: the names of all eligible
34 lawyers shall be placed in a container, and after
35 thoroughly mixing the names, the clerk of court shall
36 draw names until one is drawn who is available to
37 handle the case".

38 3. The title page, line 3, by inserting after
39 the word "counties" the words "and relating to
40 assistant attorneys and the recommendation of a lawyer
41 upon request".

42 4. By renumbering the sections to conform to this
43 amendment.

H-3139 FILED

BY MILLER of Buchanan

MARCH 3, 1977

A. *Bulld german and last 3/16 (p. 858)*
B. *Bulld not german 3/16 (859)*

HOUSE FILE 279

AN ACT

RELATING TO THE SALARIES OF, AND TIME DEVOTED TO OFFICE BY,
PUBLIC DEFENDERS AND ASSISTANT PUBLIC DEFENDERS IN CERTAIN
COUNTIES.

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

Section 1. Section three hundred thirty-six A point five (336A.5), subsection one (1), Code 1977, is amended to read as follows:

1. The compensation of the public defender shall be fixed by the board(s) of supervisors. ~~The compensation shall not be more than that paid the highest paid county attorney of the county or counties the public defender serves.~~

Sec. 2. Section three hundred thirty-six A point eleven (336A.11), Code 1977, is amended to read as follows:

336A.11 PROHIBITED CONDUCT. No public defender or assistant public defender ~~who is subject to the preceding section~~ shall directly or indirectly refer any legal matter or civil or criminal litigation to any particular lawyer or lawyers or directly or indirectly recommend or suggest to any person the employment of any particular lawyer or lawyers to counsel in, conduct, defend, or prosecute any legal matter or litigation, if the county is or is likely to be a party thereto or have a substantial interest therein; or receive any direct or indirect fee or compensation for or in connection with any such referral, recommendation, or suggestion. However, he or she may recommend a lawyer when requested to do so by any court, governmental agency, or legal aid society.

Sec. 3. Section three hundred thirty-six A point ten (336A.10), Code 1977, is amended by striking that section and inserting in lieu thereof the following:

336A.10. The board(s) of supervisors of a county may require a public defender or assistant public defender to devote his or her full time to the discharge of his or her duties and not to directly or indirectly engage in the private practice of law except that he or she may be a member of a law partnership or a professional corporation on leave of absence.

DALE M. COCHRAN
Speaker of the House

ARTHUR A. NEU
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 279, Sixty-seventh General Assembly.

DAVID L. WRAY
Chief Clerk of the House

Approved July 7, 1977

ROBERT D. RAY
Governor