

Sen. Judiciary
DO pass 4-7-89 (p.1261)

MAR 22 1989

Place On Calendar

HOUSE FILE 699
BY COMMITTEE ON JUDICIARY
AND LAW ENFORCEMENT

(SUCCESSOR TO HSB 359)

Passed House, Date 3-29-89 (p.1109) Passed Senate, Date 4-11-89 (p.1352)
Vote: Ayes 94 Nays 0 Vote: Ayes 48 Nays 0
Approved 4-27-89 (p.2138)

A BILL FOR

1 An Act relating to the state public defender and the appointment
2 of a state appellate defender.

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

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1 Section 1. Section 13B.4, Code 1989, is amended to read as
2 follows:

3 13B.4 JURISDICTION DUTIES OF STATE PUBLIC DEFENDER.

4 1. The state public defender shall represent coordinate
5 the provision of legal representation of indigents under
6 arrest or charged with a crime, on appeal in criminal cases,
7 and on appeal in proceedings to obtain postconviction relief
8 when appointed ordered to do so by the district court in which
9 the judgment or order was issued, and may represent provide
10 for the representation of indigents in proceedings instituted
11 pursuant to chapter 908, and shall not engage in the private
12 practice of law. ~~The court may, upon the application of the~~
13 ~~indigent or the indigent's trial attorney, or on its own~~
14 ~~motion, appoint the state public defender to represent the~~
15 ~~indigent on appeal or on appeal in postconviction proceedings.~~
16 The state public defender may represent an indigent under
17 arrest or charged with a crime at the discretion of the state
18 public defender or upon the request of a local public
19 defender.

20 2. The state public defender may contract with persons
21 admitted to practice law in this state for the provision of
22 legal services to indigents where there is no local public
23 defender office in the area.

24 Sec. 2. NEW SECTION. 13B.11 STATE APPELLATE DEFENDER.

25 The state public defender shall appoint a state appellate
26 defender who shall represent indigents on appeal in criminal
27 cases and on appeal in proceedings to obtain postconviction
28 relief when appointed to do so by the district court in which
29 the judgment or order was issued, and may represent indigents
30 in proceedings instituted pursuant to chapter 908 when
31 required to do so by the state public defender, and shall not
32 engage in the private practice of law.

33 EXPLANATION

34 This bill provides that the state public defender is to
35 coordinate the provision of legal services to indigents in

1 criminal cases. The state public defender is given the
2 authority to defend an indigent at trial at the discretion of
3 the state public defender or upon the request of a local
4 public defender.

5 The state public defender is to appoint a state appellate
6 defender to represent indigents on appeal. This function is
7 currently to be exercised by the state public defender.

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Judiciary & Law Enforcement

*Public Law
111-11
12-1-11*

HOUSE FILE _____
BY (PROPOSED COMMITTEE
ON JUDICIARY AND LAW
ENFORCEMENT BILL)

Passed House, Date _____ Passed Senate, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the state public defender and the appointment
2 of a state appellate defender.

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

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1 Section 1. Section 13B.4, Code 1989, is amended to read as
2 follows:

3 13B.4 ~~JURISDICTION~~ DUTIES OF STATE PUBLIC DEFENDER.

4 1. The state public defender shall represent coordinate
5 the provision of legal representation of indigents under
6 arrest or charged with a crime, on appeal in criminal cases,
7 and on appeal in proceedings to obtain postconviction relief
8 when appointed ordered to do so by the district court in which
9 the judgment or order was issued, and may represent provide
10 for the representation of indigents in proceedings instituted
11 pursuant to chapter 908, and shall not engage in the private
12 practice of law. ~~The court may, upon the application of the~~
13 ~~indigent or the indigent's trial attorney, or on its own~~
14 ~~motion, appoint the state public defender to represent the~~
15 ~~indigent on appeal or on appeal in postconviction proceedings:~~
16 The state public defender may represent an indigent under
17 arrest or charged with a crime at the discretion of the state
18 public defender or upon the request of a local public
19 defender.

20 2. The state public defender may contract with persons
21 admitted to practice law in this state for the provision of
22 legal services to indigents where there is no local public
23 defender office in the area.

24 Sec. 2. Section 13B.8, subsection 2, Code 1989, is amended
25 to read as follows:

26 2. The state public defender may appoint a local public
27 defender and may remove the local public defender for cause
28 who shall serve at the pleasure of the state public defender.

29 The local public defender must be an attorney admitted to the
30 practice of law before the Iowa supreme court.

31 Sec. 3. NEW SECTION. 13B.11 STATE APPELLATE DEFENDER.

32 The state public defender shall appoint a state appellate
33 defender who shall represent indigents on appeal in criminal
34 cases and on appeal in proceedings to obtain postconviction
35 relief when appointed to do so by the district court in which

1 the judgment or order was issued, and may represent indigents
2 in proceedings instituted pursuant to chapter 908 when
3 required to do so by the state public defender, and shall not
4 engage in the private practice of law.

5 EXPLANATION

6 This bill provides that the state public defender is to
7 coordinate the provision of legal services to indigents in
8 criminal cases. The state public defender is given the
9 authority to defend an indigent at trial at the discretion of
10 the state public defender or upon the request of a local
11 public defender.

12 A local public defender is to serve at the pleasure of the
13 state public defender. Current law provides that the local
14 public defender may only be removed from office for cause.

15 The state public defender is to appoint a state appellate
16 defender to represent indigents on appeal. This function is
17 currently to be exercised by the state public defender.

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H.F.S. FILE 699

AN ACT
RELATING TO THE STATE PUBLIC DEFENDER AND THE APPOINTMENT
OF A STATE APPELLATE DEFENDER

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

Section 1. Section 118 A, Code 1987, is amended to read as follows:

118 A SUBSTITUTION DUTIES OF STATE PUBLIC DEFENDER

1. The state public defender shall represent coordinate the provision of legal representation of indigent under arrest or charged with a crime, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when appointed prior to or by the district court in which the judgment of order was issued, and may represent provide for the representation of indigent in proceedings instituted pursuant to chapter 90B, and shall not engage in the private practice of law. The court may, upon the application of the indigent or the indigent's trial attorney or on its own motion, appoint the state public defender to represent the indigent on appeal or on appeal in postconviction proceedings. The state public defender may represent an indigent under arrest or charged with a crime at the institution of the state public defender or upon the request of a judicial officer.

2. The state public defender may contract with persons admitted to practice law in this state for the provision of legal services to indigents where there is no local public defender office in the area.

Sec. 2. H.F.S. 118 A, STATE APPELLATE DEFENDER
The state public defender shall appoint a state appellate defender and shall represent indigents on appeal in criminal cases and on appeal in proceedings to obtain postconviction

relief when appointed to do so by the district court in which the judgment of order was issued and may represent indigents in proceedings instituted pursuant to chapter 91B when required to do so by the state public defender, and shall not engage in the private practice of law.

DONALD D. AVENSON
Speaker of the House

JO ANN ZIMMERMAN
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 699. Signed, this General Assembly.

JOSEPH O'MEARA
Chief Clerk of the House

Approved _____ 1989

4/27

TIPPER B. SPAIN
Governor