

se 2/24/97 [Signature]

FEB 26 1997

JUDICIARY

HOUSE FILE **361**
BY DIX and TYRRELL

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

A BILL FOR

1 An Act relating to the reimbursement of defense costs for a peace
2 officer of the department of public safety.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 361

1 Section 1. Section 80.37, Code 1997, is amended to read as
2 follows:

3 80.37 REIMBURSEMENT OF DEFENSE COSTS.

4 If a peace officer employed in any division of the
5 department is required to appear before a grand jury to answer
6 for a public offense or is charged with the alleged commission
7 of public offense, based on acts or omissions within the scope
8 of the officer's lawful duty or authority, and no indictment
9 is found and filed by the grand jury against the officer, or
10 the charge is dismissed or the officer is acquitted of the
11 charge, the presiding magistrate or judge shall enter judgment
12 awarding reimbursement to the officer for any costs incurred
13 in appearing before the grand jury or defending against the
14 charge, including but not limited to a reasonable attorney
15 ~~fee, if the court finds the existence of any of the following~~
16 grounds:

- 17 1. ~~The charge was without probable cause.~~
- 18 2. ~~The charge was filed for malicious purposes.~~
- 19 3. ~~The charge was unwarranted in consideration of all of~~
20 ~~the circumstances and matters of law attending the alleged~~
21 ~~offense.~~

22 The officer may apply for review of a failure or refusal to
23 rule or an adverse ruling ~~as to the existence of any of the~~
24 ~~above grounds~~ concerning the reimbursement of defense costs to
25 a peace officer as provided in this section. The application
26 shall be to a district judge if the officer is seeking review
27 of the act of a magistrate or district associate judge and it
28 shall be to a different district judge if review is sought of
29 an act of a district judge.

30 EXPLANATION

31 This bill provides that a peace officer employed by the
32 department of public safety is entitled to a reimbursement of
33 defense costs if the officer is required to appear before a
34 grand jury to answer for a public offense and no indictment is
35 returned by the grand jury. In addition, the bill eliminates

1 the requirement that a peace officer seeking reimbursement of
2 defense costs establish that, in addition to having the charge
3 filed against the officer either dismissed or the officer
4 acquitted, the charge was filed without probable cause, filed
5 for a malicious purpose, or was unwarranted.

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