

REPRINTED

HOUSE FILE 662  
BY COMMITTEE ON JUDICIARY

MAR 17 1997  
Place On Calendar

(SUCCESSOR TO HSB 229)

Passed House, <sup>(P.982)</sup> Date 4-2-97 Passed Senate, Date 4-16-97 <sup>(P.1216)</sup>  
Vote: Ayes 81 Nays 15 Vote: Ayes 47 Nays 0  
Approved March 29, 1997  
*Vicki*

A BILL FOR

1 An Act relating to the defense of criminal charges, by making  
2 changes in the penalties applicable to certain offenses for  
3 which appointment of counsel is required, providing county  
4 attorneys or their designees with access to the centralized  
5 employee registry for purposes of collection of restitution,  
6 making changes relating to the determination of a person's  
7 indigency, prohibiting the submission of false information on  
8 an affidavit of financial status, requiring the state to  
9 enforce liens for restitution in criminal cases, and providing  
10 penalties.

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

HOUSE FILE 662

H-1298

1 Amend House File 662 as follows:  
2 1. Page 6, line 31, by inserting after the word  
3 "court." the following: "The court may, however;  
4 reduce the fee to ten dollars or waive the fee, if the  
5 person remains in custody or if, based on the  
6 affidavit of financial status, the court determines  
7 that the person does not have the financial resources  
8 to pay the fee."

By MILLAGE of Scott

H-1298 FILED MARCH 24, 1997

*Out of Order 4/2/97 (P.982)*

22  
23

H.F. 662

OFFICE OF THE ATTORNEY GENERAL

1 Section 1. Section 13B.9, subsection 6, Code 1997, is  
2 amended by striking the subsection.

3 Sec. 2. Section 252G.5, unnumbered paragraph 1, Code 1997,  
4 is amended to read as follows:

5 The records of the centralized employee registry are  
6 confidential records pursuant to section 22.7, and may be  
7 accessed only by state agencies, county attorneys, or county  
8 attorneys' designees as provided in this section. When a  
9 state agency accesses information in the registry, the agency  
10 may use the information to update the agency's own records.  
11 Access to and use of the information contained in the registry  
12 shall be limited to the following:

13 Sec. 3. Section 252G.5, Code 1997, is amended by adding  
14 the following new subsection:

15 NEW SUBSECTION. 4. County attorneys or designees procured  
16 by a county attorney for purposes of recovery of restitution  
17 ordered by the court pursuant to chapter 910.

18 Sec. 4. Section 321.218, subsections 1 and 4, Code 1997,  
19 are amended to read as follows:

20 1. A person whose motor vehicle license or operating  
21 privilege has been denied, canceled, suspended, or revoked as  
22 provided in this chapter or as provided in section 252J.8, and  
23 who operates a motor vehicle upon the highways of this state  
24 while the license or privilege is denied, canceled, suspended,  
25 or revoked, commits a serious misdemeanor punishable only by  
26 imposition of a fine of two hundred fifty dollars,  
27 notwithstanding section 903.1.

28 4. A person who operates a commercial motor vehicle upon  
29 the highways of this state when disqualified from operating  
30 the commercial motor vehicle under section 321.208 commits a  
31 serious misdemeanor punishable only by imposition of a fine of  
32 two hundred fifty dollars. notwithstanding section 903.1, if a  
33 commercial driver's license is required for the person to  
34 operate the commercial motor vehicle.

35 Sec. 5. Section 321A.32, Code 1997, is amended to read as

1 follows:

2 321A.32 OTHER VIOLATIONS -- PENALTIES.

3 1. Any person whose license or registration or  
4 nonresident's operating privilege has been suspended, denied  
5 or revoked under this chapter or continues to remain suspended  
6 or revoked under this chapter, and who, during such  
7 suspension, denial or revocation, or during such continuing  
8 suspension or continuing revocation, drives any motor vehicle  
9 upon any highway or knowingly permits any motor vehicle owned  
10 by such person to be operated by another upon any highway,  
11 except as permitted under this chapter, shall be guilty of a  
12 serious misdemeanor punishable only by imposition of a fine of  
13 two hundred fifty dollars, notwithstanding section 903.1.

14 2. Any person willfully failing to return license or  
15 registration as required in section 321A.31 shall be guilty of  
16 a simple misdemeanor.

17 3. Any person who shall forge or, without authority, sign  
18 any notice provided for under section 321A.5 that a policy or  
19 bond is in effect, or any evidence of proof of financial  
20 responsibility, or who files or offers for filing any such  
21 notice or evidence of proof knowing or having reason to  
22 believe that it is forged or signed without authority, shall  
23 be guilty of a serious misdemeanor punishable only by  
24 imposition of a fine of two hundred fifty dollars,  
25 notwithstanding section 903.1.

26 4. Any person who shall violate any provision of this  
27 chapter for which no penalty is otherwise provided shall be  
28 guilty of a serious misdemeanor punishable only by imposition  
29 of a fine of two hundred fifty dollars, notwithstanding  
30 section 903.1.

31 Sec. 6. Section 321J.21, Code 1997, is amended to read as  
32 follows:

33 321J.21 DRIVING WHILE LICENSE DENIED OR REVOKED.

34 A person whose motor vehicle license or nonresident  
35 operating privilege has been denied or revoked as provided in

1 this chapter and who drives a motor vehicle upon the highways  
2 of this state while the license or privilege is denied or  
3 revoked commits a serious misdemeanor punishable only by  
4 imposition of a fine of two hundred fifty dollars,  
5 notwithstanding section 903.1. The department, upon receiving  
6 the record of the conviction of a person under this section  
7 upon a charge of driving a motor vehicle while the license of  
8 the person was revoked or denied, shall extend the period of  
9 revocation or denial for an additional like period, and the  
10 department shall not issue a new license during the additional  
11 period.

12 Sec. 7. Section 719.1, subsections 1 and 2, Code 1997, are  
13 amended to read as follows:

14 1. A person who knowingly resists or obstructs anyone  
15 known by the person to be a peace officer, emergency medical  
16 care provider under chapter 147A, or fire fighter, whether  
17 paid or volunteer, in the performance of any act which is  
18 within the scope of the lawful duty or authority of that  
19 officer, emergency medical care provider under chapter 147A,  
20 or fire fighter, whether paid or volunteer, or who knowingly  
21 resists or obstructs the service or execution by any  
22 authorized person of any civil or criminal process or order of  
23 any court, commits a serious misdemeanor punishable only by  
24 imposition of a fine of two hundred fifty dollars,  
25 notwithstanding section 903.1. However, if a person commits  
26 an interference with official acts, as defined in this  
27 subsection, and in so doing inflicts bodily injury other than  
28 serious injury, that person commits an aggravated misdemeanor.  
29 If a person commits an interference with official acts, as  
30 defined in this subsection, and in so doing inflicts or  
31 attempts to inflict serious injury, or displays a dangerous  
32 weapon, as defined in section 702.7, or is armed with a  
33 firearm, that person commits a class "D" felony.

34 2. A person under the custody, control, or supervision of  
35 the department of corrections who knowingly resists,

1 obstructs, or interferes with a correctional officer, agent,  
2 employee, or contractor, whether paid or volunteer, in the  
3 performance of the person's official duties, commits a serious  
4 misdemeanor punishable only by imposition of a fine of two  
5 hundred fifty dollars, notwithstanding section 903.1. If a  
6 person violates this subsection and in so doing commits an  
7 assault, as defined in section 708.1, the person commits an  
8 aggravated misdemeanor. If a person violates this subsection  
9 and in so doing inflicts or attempts to inflict bodily injury  
10 other than serious injury to another, displays a dangerous  
11 weapon, as defined in section 702.7, or is armed with a  
12 firearm, the person commits a class "D" felony. If a person  
13 violates this subsection and uses or attempts to use a  
14 dangerous weapon, as defined in section 702.7, or inflicts  
15 serious injury to another, the person commits a class "C"  
16 felony.

17 Sec. 8. Section 815.7, Code 1997, is amended to read as  
18 follows:

19 815.7 FEES TO ATTORNEYS.

20 An attorney who has not entered into a contract authorized  
21 under section 13B.4 and who is appointed by the court to  
22 represent any person charged with a crime in this state shall  
23 be entitled to a reasonable compensation which shall be the  
24 ~~ordinary-and-customary-charges-for-like-services-in-the~~  
25 ~~community-to-be~~ decided in each case by a judge of the  
26 district court, including such sum or sums as the court may  
27 determine are necessary for investigation in the interests of  
28 justice and in the event of appeal the cost of obtaining the  
29 transcript of the trial and the printing of the trial record  
30 and necessary briefs in behalf of the defendant. ~~However,-the~~  
31 ~~reasonable-compensation-awarded-an-attorney-shall-not-be~~  
32 ~~calculated-based-upon-an-hourly-rate-that-exceeds-the-rate-a~~  
33 ~~contract-attorney-as-provided-in-section-13B.4-would-receive~~  
34 ~~in-a-similar-case.~~ Reasonable compensation awarded an  
35 attorney shall be calculated pursuant to the most recent

1 guidelines established by the supreme court for payment for  
2 indigent defense. Determination of the expense associated  
3 with the services of a public defender shall be determined  
4 based on time records kept by the public defender for the  
5 case. Such A court-appointed attorney need not follow the  
6 case into another county or into the appellate court unless so  
7 directed by the court at the request of the defendant, where  
8 grounds for further litigation are not capricious or  
9 unreasonable, but if such attorney does so, the attorney's fee  
10 shall be determined accordingly. Only one attorney fee shall  
11 be so awarded in any one case except that in class "A" felony  
12 cases, two may be authorized.

13 Sec. 9. Section 815.9, Code 1997, is amended to read as  
14 follows:

15 815.9 INDIGENCY DETERMINED -- PENALTY.

16 1. For purposes of this chapter, section 68.8, section  
17 222.22, chapter 232, chapter 814, and the rules of criminal  
18 procedure, the following apply:

19 a. A person is indigent if the person has an income level  
20 at or below one hundred **fifty** percent of the United States  
21 poverty level as defined by the most recently revised poverty  
22 income guidelines published by the United States department of  
23 health and human services.

24 b. A person is not indigent if the person has an income  
25 level greater than one hundred **fifty** percent of the United  
26 States poverty level as defined by the most recently revised  
27 poverty income guidelines published by the United States  
28 department of health and human services.

29 c. A person with an income level greater than one hundred  
30 **fifty** percent, but less than two hundred percent, of the most  
31 recently revised poverty income guidelines published by the  
32 United States department of health and human services may be  
33 deemed partially indigent by the court pursuant to a written  
34 finding that, given the person's circumstances, not appointing  
35 counsel would cause the person substantial hardship. In

1 determining whether substantial hardship will result, the  
2 court shall consider the availability of any assets, including  
3 but not limited to cash, stocks, bonds, and any other property  
4 which may readily be converted to cash. However, the court  
5 shall require a person appointed counsel to contribute to the  
6 cost of representation in accordance with rules adopted by the  
7 state public defender.

8 d. A person with an income level greater than two hundred  
9 percent of the most recently revised poverty income guidelines  
10 published by the United States department of health and human  
11 services shall not be deemed indigent or partially indigent by  
12 the court unless the person is charged with a felony and the  
13 court makes a written finding that, given the person's  
14 circumstances, not appointing counsel would cause the person  
15 substantial hardship. In determining whether substantial  
16 hardship will result, the court shall consider the  
17 availability of any assets, including but not limited to cash,  
18 stocks, bonds, and any other property which may readily be  
19 converted to cash. However, the court shall require a person  
20 appointed counsel to contribute to the cost of representation  
21 in accordance with rules adopted by the state public defender.

22 2. A determination of the indigent status of a person  
23 shall be made on the basis of an affidavit of financial status  
24 submitted at or immediately after the person's initial  
25 appearance before a court. Each person seeking legal  
26 assistance under this section shall pay an application fee of  
27 thirty dollars to the clerk at the time of the filing of the  
28 person's affidavit of financial status. Before granting legal  
29 assistance to a person under this section, the court shall  
30 verify that the application fee has been paid to the clerk of  
31 court. Before granting legal assistance, the court shall  
32 inform the person of the obligation regarding payment of the  
33 expenses associated with the grant of legal assistance. If a  
34 person is granted legal assistance as an indigent or partial  
35 indigent, the affidavit of financial statement status shall be

1 filed and permanently retained in the person's court file.  
2 The state public defender shall adopt rules prescribing the  
3 form and content of the affidavit of financial statement  
4 status and the criteria by which a determination of indigency  
5 shall be based. The financial statement shall contain  
6 sufficient information to allow the determination to be made  
7 of whether the person meets the guidelines set out in  
8 subsection 1, taking into consideration all assets, and shall  
9 be accompanied by the person's most recent pay slip and name  
10 and address of employer, if employed.

11 3. A person who submits an affidavit of financial status,  
12 or on whose behalf an affidavit of financial status has been  
13 submitted, for the purpose of obtaining legal assistance shall  
14 inform the court of any additional information concerning the  
15 person's income or assets, as the information becomes  
16 available during the course of the proceedings.

17 3- 4. A person who knowingly ~~submits-a~~ provides false  
18 information for inclusion in an affidavit of financial  
19 statement status which is submitted for the purpose of  
20 obtaining legal assistance by appointed counsel commits a  
21 fraudulent practice. As used in this subsection, "legal  
22 assistance" includes legal counsel, transcripts, witness fees  
23 and expenses, and any other goods or services required by law  
24 to be provided to an indigent person.

25 Sec. 10. Section 815.9A, Code 1997, is amended to read as  
26 follows:

27 815.9A RECOVERY OF INDIGENT DEFENSE COSTS.

28 All costs and fees incurred for indigent defense shall  
29 ~~become-due-and-payable~~ be paid to the clerk of the district  
30 court by the person receiving the services not later than the  
31 date of sentencing, the date or dates established in the  
32 person's restitution plan ordered in chapter 910, or if the  
33 person is acquitted or the charges are dismissed, within  
34 thirty days of the acquittal or dismissal. ~~---To-the-extent-that~~  
35 ~~the-costs-and-fees-remain-unpaid-at-the-time-they-become-due,~~



1 ~~a-judgment-shall-be-entered-against-the-person-for-the-amounts~~  
2 ~~unpaid~~ as follows:

3 1. If the person has an income level as determined  
4 pursuant to section 815.9 greater than one hundred percent but  
5 not more than one hundred fifty percent of the poverty  
6 guidelines, at least one hundred dollars of the indigent  
7 defense costs shall be recovered and paid to the clerk in  
8 accordance with rules adopted by the state public defender.

9 2. If the person has an income level as determined  
10 pursuant to section 815.9 greater than one hundred fifty  
11 percent but not more than one hundred eighty-five percent of  
12 the poverty guidelines, at least two hundred dollars of the  
13 indigent defense costs shall be recovered and paid to the  
14 clerk in accordance with rules adopted by the state public  
15 defender.

16 3. If the person has an income level as determined  
17 pursuant to section 815.9 greater than one hundred eighty-five  
18 percent of the poverty guidelines, at least three hundred  
19 dollars of the indigent defense costs shall be recovered and  
20 paid to the clerk in accordance with rules adopted by the  
21 state public defender.

22 Sec. 11. Section 815.10A, subsection 1, Code 1997, is  
23 amended to read as follows:

24 1. The department of inspections and appeals shall require  
25 all claims for compensation filed by court-appointed attorneys  
26 for indigent defense cases, whether adult or juvenile, to  
27 include specific information as required by rules of the  
28 department. A court-appointed attorney in an indigent case  
29 may make an interim claim for compensation prior to conclusion  
30 of representation. The court may award reasonable and proper  
31 interim compensation to the attorney in accordance with  
32 guidelines established by the supreme court.

33 Sec. 12. Section 903A.5, unnumbered paragraph 2, Code  
34 1997, is amended to read as follows:

35 An inmate ~~shall-not~~ may, if ordered by the court, receive

1 credit upon the inmate's sentence for time spent in custody in  
2 another state resisting return to Iowa following an escape, or  
3 for time served in an institution or jail of another  
4 jurisdiction during any period of time the person is receiving  
5 credit upon a sentence of that other jurisdiction.

6 Sec. 13. Section 910.7A, subsection 2, Code 1997, is  
7 amended to read as follows:

8 2. A judgment of restitution ~~may~~ shall be enforced by the  
9 state, and may be enforced by a victim entitled under the  
10 order to receive restitution, a deceased victim's estate, or  
11 any other beneficiary of the judgment in the same manner as a  
12 civil judgment.

13 Sec. 14. Section 911.1, Code 1997, is amended to read as  
14 follows:

15 911.1 CRIMINAL PENALTY SURCHARGE ESTABLISHED.

16 A criminal penalty surcharge shall be levied against  
17 certain law violators as provided in section 911.2. The  
18 surcharge shall be deposited as provided in section 602.8108,  
19 subsection 3, and shall be used for the maintenance and  
20 improvement of criminal justice programs, law enforcement  
21 efforts, victim compensation, crime prevention, and  
22 improvement of the professional training of personnel, ~~and the~~  
23 planning and support services of the criminal justice system,  
24 and the defense of indigent persons charged with a crime.

25 EXPLANATION

26 This bill makes a variety of changes to provisions which  
27 relate to or effect the provision of court-appointed counsel  
28 in criminal cases.

29 County attorneys or their designees are given access to the  
30 centralized employee registry maintained by the child support  
31 recovery unit of the department of human services for purposes  
32 of recovery of restitution ordered by the court.

33 The penalty for three different types of driving while  
34 license suspended or revoked offenses is changed from a  
35 serious misdemeanor to a serious misdemeanor which is

1 punishable only by a fine of \$250. The penalty applicable to  
2 interference with official acts which does not result in  
3 injury is changed from a serious misdemeanor to a serious  
4 misdemeanor which is punishable only by a fine of \$250.

5 The hourly rate limits on fees to court-appointed  
6 attorneys, which are currently based on the hourly rate  
7 established in the contracts between the state public defender  
8 and the private contract attorneys, are changed to conform to  
9 rates established by the supreme court for the defense of  
10 indigent persons. The income level used to determine  
11 indigency is lowered from 150 percent of poverty level, as  
12 established by the United States department of health and  
13 human services, to poverty level. For persons who may be  
14 partially indigent, the court is to determine substantial  
15 hardship which would result in the appointment of counsel  
16 based on the availability of any assets, including but not  
17 limited to cash, stocks, bonds, and any other property which  
18 may be readily converted to cash.

19 The determination of indigent financial status is amended  
20 to require an affidavit of financial status be submitted. An  
21 affidavit is to include the name and address of the person's  
22 employer if the person is employed. A person who submits or  
23 for whom an affidavit of financial status is submitted, has a  
24 duty to provide the court with any additional information  
25 which becomes available during the course of the proceedings.  
26 A person who submits an affidavit of financial status in order  
27 to obtain legal assistance is required to pay an up-front fee  
28 of \$30 and the court is to verify payment of the fee before  
29 granting legal assistance. A person who submits false  
30 information for an affidavit of financial status commits a  
31 fraudulent practice. The bill clarifies that all indigent  
32 defense costs that are recovered in accordance with rules  
33 adopted by the state public defender are to be paid to the  
34 clerk of the district court. The bill provides for claims for  
35 and payment of fees for services provided prior to actual

1 completion of a criminal or juvenile case. Criminal indigent  
2 defense costs are added to the items which may be paid with  
3 receipts from the criminal penalty surcharge which is added to  
4 criminal fines.

5 Time spent in custody in another state while resisting  
6 extradition back to Iowa following an escape may, if ordered  
7 by the court, be credited against a person's sentence under  
8 the bill. Language requiring the state to enforce restitution  
9 orders is added to the restitution chapter in the Code.

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HOUSE FILE 662  
FISCAL NOTE

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The estimate for HF 662, passed by the Senate, amended by H-1914, is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 662, as passed by the Senate and amended by H-1914, includes changes to Section 321.218, Code of Iowa, driving under suspended license; does not include changes to Section 321A.32, Code of Iowa, or Section 321J.21, Code of Iowa, relating to driving under suspended driving license; includes changes to Section 719.1, Code of Iowa, relating to interfering with official acts; establishes an Indigent Defense Assessment Fee Account in the General Fund; establishes a \$30 affidavit of financial status filing fee; strikes language making changes relating to recovery of indigent defense costs under Section 815.9A, Code of Iowa; eliminates the requirement that the clerk of court review the affidavit of financial status and make an initial determination of indigency; and establishes an hourly pay rate for court appointed attorneys.

**ASSUMPTIONS**

1. **Suspended Drivers License** - The average fine increase for driving with a suspended or revoked license (Section 321.218, Code of Iowa) will be \$50 with a 20.0% (based on the recent Judicial Department review of the first nine months of FY 1997) collection rate. Currently, most fines dealing with this violation range from \$250 to \$300. Approximately 4,600 cases will not receive any jail time, therefore, no legal assistance will be required.
2. **Attorney Fees** - The hourly rate for court appointed attorneys handling indigent defense cases is established at \$55 per hour. The rate for class "A" and "B" felony cases is \$60 per hour. If all contract and non-contract attorneys are paid at least \$55 per hour, the minimum cost to the General Fund will be \$2.2 million annually. If the hourly rate is established at \$60 for all contract and non-contract attorneys, the maximum cost to the General Fund will be \$3.7 million annually. House File 662, as passed by the Senate, establishes a specific hourly rate for only non-contract attorneys who provide legal services to indigent defendants. Because contract attorneys have the ability to provide the State Public Defender's Office with a 30-day termination notice, it is assumed that most will decide to end their contract with the State. This will result in most attorneys receiving either \$55 or \$60 per hour depending on the type of case. If contract attorneys maintain their contracts at \$45 per hour and only non-contract attorneys receive the increased hourly rate, the cost would be between \$1.3 Million and \$2.2 Million annually.
3. **\$30 Affidavit Filing Fee** - Because it is not known to what extent the Court will waive the \$30 affidavit filing fee, an estimate of the fee revenues cannot be determined. The maximum amount that could be collected

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if all fees were set at \$30 with a 100.0% collection rate would be \$2.5 million annually. Based on a recent review of FY 1997 information by the Judicial Department, the collection rate involving indigent defense cases compared to the amount actually assessed was between 15.0% and 20.0%.

4. Community Based Corrections - Admissions to community based corrections probation would be reduced by 1,600 cases. Approximately 90.0% of the 1,600 cases would be managed in banked caseloads at a cost of \$.15 per day for six months. The remaining 10.0% would be on officer caseloads at a cost of \$1.50 per day for six months.
5. County Jails - Admissions to county jails would increase by approximately 30 cases resulting in reduced county jail savings. The average marginal cost for jail is \$12 per day.

#### CORRECTIONAL IMPACT

Admissions to correctional facilities and services will be reduced by the following amounts:

Jails	5,270
Probation	1,589
Prison	4

#### FISCAL IMPACT

House File 662, as passed by the Senate and amended by H-1914, is estimated to have the following fiscal impact on the State General Fund and the counties:

##### State Impact

Community-Based Corrections (reduced cost)	\$ -100,000
Prisons (reduced cost)	-13,000
Fine Revenues - Suspended License (increased revenues)	50,000
Indigent Defense Caseload (reduced cost)	-300,000
Filing Fee (increased revenues)	Unknown
Court Appointed Attorney Fees (increased cost)	2,200,000 to 3,700,000
Indigency at 100.0% of Poverty	No Significant Impact

##### Local Impact

Jails (reduced cost)	\$ -2,353,000
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The net effect of House File 662, as amended and passed by the House, would be a cost to the General Fund ranging from \$1.7 million to \$3.2 million annually. Any affidavit filing fees collected would reduce the cost to the General fund (see #3 under Fiscal Impact).

SOURCES

Judicial Department  
Department of Transportation  
Department of Correction  
Office of the Public Defender  
Criminal and Juvenile Justice Planning Division,  
Department of Human Rights

(LSB 2241HV.7, TCF)

FILED APRIL 28, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

HOUSE FILE 662  
FISCAL NOTE

The estimate for House File 662, as amended and passed by the House, is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 662, as amended and passed by the House, sets the fine for driving with a suspended or revoked license at \$350; establishes the hourly rate paid to court appointed attorneys and contract attorneys at \$55 per hour, unless the offense is a class "A" or class "B" felony, in which case the hourly rate shall not exceed \$60 per hour; establishes a nonrefundable application fee of \$30, which must be paid or waived by the Court prior to receiving legal assistance; redefines indigency by reducing the guidelines from 150.0% of the poverty guidelines to 100.0%; and requires the Judicial Department to submit an annual report showing the number of cases receiving legal assistance and the amount of the application fee actually collected.

ASSUMPTIONS

1. Suspended Drivers License Fine - The average fine increase for driving with a suspended or revoked license will be \$50 with a 60.0% collection rate. Currently, most fines dealing with this violation range from \$250 to \$300.
2. Attorney Fees - Increasing the hourly rate for contract and non-contract attorneys cannot be determined because the number of class "A" and "B" felony cases handled by State public defenders verses contract attorneys and non-contract attorneys is unknown. However, if all contract and non-contract attorneys are paid at least \$55 per hour, the minimum cost to the General Fund will be \$2.2 million annually. If the hourly rate is established at \$60 for all contract and non-contract attorneys, the maximum cost to the General Fund will be \$3.7 million annually. House File 662 did not originally establish a specific hourly rate for contract and non-contract attorneys who provide legal services to indigent defendants.
3. \$30 Affidavit Filing Fee - Because it is not known to what extent the Court will either lower the filing fee to \$10 or waive the \$30 affidavit filing fee, an estimate of the filing fee revenues cannot be determined. The maximum amount that could be collected if all fees were set at \$30 with a 100.0% collection rate would be \$2.5 million annually. The maximum amount that could be collected if all fees were set at \$10 with a 100.0% collection rate would be \$850,000 annually. The overall collection rate by the Court is approximately 60.0%.
4. Community Based Corrections - Admissions to community based corrections probation would be reduced by 1,589 cases. Approximately 90.0% of the 1,600 cases would be managed in banked caseloads at a cost of \$.15 per day for six months. The remaining 10.0% would be on officer caseloads at a cost of \$1.50 per day for six months.



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5. Indigency Determination Process - The Bill redefines indigency by reducing the guidelines from 150.0% of the United States poverty level as published by the United States Department of Health and Human Services to 100.0%. It is anticipated that the Court will continue to identify persons below 150.0% but above 100.0% of the poverty guidelines as partially indigent or as hardship cases. As a result, these cases will continue to be eligible for court appointed legal assistance.
6. Judicial Department Operations - The Bill establishes a procedure for determining indigency involving the clerks of court. The clerks would make the determination of whether a person is indigent and prepare an order appointing counsel for the Court's approval. This procedure could increase the workload of the clerk's office and increase cost.

CORRECTIONAL IMPACT

Admissions to correctional facilities and services will be reduced by the following amounts:

Jails	5,300
Probation	1,589
Prison	4

FISCAL IMPACT

House File 662, as amended and passed by the House, is estimated to have the following fiscal impact on the State General Fund and the counties:

State Impact

Community-Based Corrections (reduced cost)	\$ -100,000
Prisons (reduced cost)	-13,000
Fine Revenues - Suspended License (increased revenues)	500,000
Indigent Defense Caseload (reduced cost)	-960,000
Filing Fee (increased revenues)	Unknown
Court Appointed Attorney Fees (increased cost)	2,200,000 to 3,700,000
Indigency at 100.0% of Poverty Clerk of Court Operations	No Significant Impact
(increased cost)	Unknown

Local Impact

Jails (reduced cost)	\$ -2,353,000
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The net effect of House File 662, as amended and passed by the House, would be a cost to the General Fund ranging from \$600,000 to \$2.1 million annually. Any affidavit filing fees collected would reduce the cost to the General fund (see #3 under Fiscal Impact).

SOURCES

Judicial Department  
Department of Transportation  
Department of Correction  
Office of the Public Defender  
Criminal and Juvenile Justice Planning Division,  
Department of Human Rights

(LSB 2241HV.6, TCF)

FILED APRIL 8, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 662  
FISCAL NOTE**

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The estimate for House File 662 as amended by H-1478 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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Amendment H-1478 amends House File 662 by increasing the fine for driving with a suspended or revoked license from \$250 to \$350, establishing the hourly rate paid to court appointed attorneys and contract attorneys at \$55 per hour, unless the offense is a class "A" or class "B" felony, in which case the hourly rate shall not exceed \$60 per hour, establishing a nonrefundable application fee of \$30, which must be paid or waived by the Court prior to receiving legal assistance, and requiring the Judicial Department to submit an annual report showing the number of cases receiving legal assistance and the amount of the application fee actually collected.

**FISCAL IMPACT**

Amendment H-1478 to House File 662 would have the following fiscal impact:

1. **Suspended Drivers License Fine** - Currently, most fines dealing with violation range from \$250 to \$300. Increasing the fine for driving with a suspended or revoked license from \$250 to \$350 will increase the fine revenues by approximately \$500,000 annually. The estimate is based on an average fine increase of \$50 with a 60.0% collection rate.
2. **Attorney Fees** - Increasing the hourly rate for contract and non-contract attorneys cannot be determined because the number of class "A" and "B" felony cases handled by State public defenders verses contract attorneys and non-contract attorneys is unknown. However, if all contract and non-contract attorneys are paid at least \$55 per hour, the minimum cost to the General Fund will \$2.2 million annually. If the hourly rate is established at \$60 for all contract and non-contract attorneys, the maximum cost to the General Fund will be \$3.7 million annually. House File 662 did not originally establish a specific hourly rate for contract and non-contract attorneys who provide legal services to indigent defendants.
3. **\$30 Affidavit Filing Fee** - Because it is not known to what extent the Court will either lower the filing fee to \$10 or waive the \$30 affidavit filing fee, an estimate of the filing fee revenues cannot be determined. The maximum amount that could be collected if all fees were set at \$30 with a 100.0% collection rate would be \$2.5 million annually. The maximum amount that could be collected if all fees were set at \$10 with a 100.0% collection rate would be \$850,000 annually. The overall collection rate by the Court is approximately 60.0%.
4. **Indigency Determination Process** - The amendment establishes a procedure for determining indigency involving the clerks of court. The clerks would make the determination of whether a person is indigent and prepare an

-3-

Jails (reduced costs)                      \$ -2,353,000

NOTE: The Bill does not require an increase in the hourly rate for contract and non-contract attorneys. After the effective date of the Bill, judges will have the discretion to increase rates to the maximum hourly rate of \$60 (current Supreme Court guidelines). The cost to the General Fund would be \$3.7 million in FY 1998.

The Iowa Bar Association filed a proposal with the Supreme Court on January 29, 1997, to increase the fee guidelines to between \$55 and \$75 per hour. If the Supreme Court adopts the Bar Association's proposal and judges increase the rate to \$55 per hour, the cost increase to the General Fund would be \$2.2 million in FY 1998. If the rates were increased to \$75 per hour, the cost to the General Fund would be \$8.2 million. For every \$5.00 increase in the hourly rate, the estimated cost will be \$1.5 million.

SOURCES

Criminal and Juvenile Justice Planning Division,  
Department of Human Rights  
Department of Corrections  
Judicial Branch  
Department of Transportation  
Office of the Public Defender

(LSB 2241hv.5, TCF)

FILED APRIL 1, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

-2-

This estimate is based on contract and non-contract attorneys billings for 300,752 hours in FY 1998.

7. The Bill does not change the manner in which indigent defense costs are recovered from indigent or partially indigent offenders, therefore there will be no additional revenues or costs associated with changing the poverty level guidelines defining indigent.
8. The Bill establishes a financial affidavit filing fee of \$30. Revenues are expected to be between 60.0%, the current collection rate for all court fines, fees, and other charges, and the maximum of 100.0% collection.
9. The Bill redefines indigency by reducing the guidelines from 150.0% of the United States poverty level as published by the United States Department of Health and Human Services to 100.0%. The Bill requires persons with income over 100.0% of the poverty guidelines to paid at least \$100 of the indigent defense cost. This provision would reduce the number of eligible cases between 100.0% and 150.0% of the poverty guidelines and require anyone above 100.0% of the poverty guidelines to pay \$100, \$200, or \$300, to cover defense cost, based on income level. It is anticipated that the Court will continue to identify persons below 150.0% but above 100.0% of the poverty guidelines as partially indigent or as a hardship case. As a result, these cases will continue to be eligible for court appointed legal assistance. Also, any fees that would be paid by persons above 100.0% of the poverty guidelines are not expected to be significant. The total amount collected in FY 1996, from persons above 100.0% of the poverty guidelines, was approximately \$19,000.

#### CORRECTIONAL IMPACT

Admissions to correctional facilities and services will be reduced by the following amounts:

Jails	5,300
Probation	4,200
CBC Facilities	124
Prison	4

#### FISCAL IMPACT

The Bill is projected to have the following fiscal impact on the State General Fund and counties:

##### State Impact

Community-Based Corrections (reduced costs)	\$ -1,663,000
Prisons (reduced costs)	-13,000
Indigent Defense Caseload (reduced costs)	-1,283,000
Filing fee (\$1.5M to \$2.5M) (increased revenues)	2,000,000
Court Appointed Attorney Fees	Unknown Cost
Indigency at 100.0% of Poverty	No Significant Impact

##### Local Impact

REVISED

HOUSE FILE 662  
FISCAL NOTE

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The estimate for House File 662 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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House File 662 makes several changes to provisions relating to court-appointed counsel for indigent offenders. The penalty for three different types of driving while license suspended or revoked offenses is changed from a serious misdemeanor which may receive jail or prison time to a serious misdemeanor which is punishable only by a fine of \$250. The hourly rate limits on fees to court-appointed counsel and contract attorneys are changed to the rates established by the Supreme Court for the defense of indigent persons. The Bill establishes a \$30 filing fee for the affidavit of financial status to determine indigency.

ASSUMPTIONS

1. The Bill eliminates the necessity for legal counsel by providing that the only penalty for driving with a suspended or revoked license is a \$250 fine. This provision eliminates the possibility of being sentenced to jail or prison time.
2. Current fines for these offenses typically range between \$250 and \$300. The Department of Transportation indicates that capping the fines at \$250 is not expected to have a significant fiscal impact.
3. Admissions to jails will be reduced by 5,300 offenders annually. Admissions to probation will be reduced by 4,200 offenders annually. Admissions to community-based corrections residential facilities will be reduced by 124 offenders annually. Prison admissions will be reduced by four offenders annually.
4. The average daily marginal cost for a jail inmate, community-based corrections facility resident, and prison inmate is \$12. The average time served in jail by an offender committing a nonperson serious misdemeanor is 37 days. The average daily cost for street-supervised probation is \$1.50; 75.0% will serve six months on probation and 25.0% will serve 12 months on probation. Offenders sentenced to a residential facility will serve four months in the facility and eight months on street-supervised probation. Prison inmates will serve nine months.
5. Indigent defense caseloads affected by this Bill will be reduced by 6,300 cases per year. The Public Defender will handle 60.0% of the cases at an average cost of \$170 per case. Contract and court-appointed attorneys will handle 40.0% of the cases at an average cost of \$254 per case.
6. The average hourly fee paid to court-appointed and contract attorneys is currently \$47.80. The Bill does not specifically require the hourly rate for court-appointed attorney fees to be increased. However, if judges increase the hourly fee to the maximum allowable rate under current Supreme Court guidelines (\$60 per hour), the cost would be \$3.7 million.

HOUSE FILE 662  
FISCAL NOTE

The estimate for House File 662 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

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-2-

This estimate is based on contract and non-contract attorneys billings for 300,752 hours in FY 1998.

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### CORRECTIONAL IMPACT

Admissions to correctional facilities and services will be reduced by the following amounts:

Jails	5,300
Probation	4,200
CBC Facilities	124
Prison	4

### FISCAL IMPACT

The Bill is projected to have the following fiscal impact on the State General Fund and counties:

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Indigent Defense Caseload (reduced costs)	-1,283,000
Filing fee (\$1.5M to \$2.5M) (increased revenues)	2,000,000
Court Appointed Attorney Fees	Unknown Cost

#### Local Impact

Jails (reduced costs)	\$ -2,353,000
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NOTE: The Bill does not require an increase in the hourly rate for contract and non-contract attorneys. After the effective date of the Bill, judges will have the discretion to increase rates to the maximum hourly rate of \$60 (current Supreme Court guidelines). The cost to the General Fund would be \$3.7 million in FY 1998.

The Iowa Bar Association filed a proposal with the Supreme Court on January 29, 1997, to increase the fee guidelines to between \$55 and \$75 per hour. If the Supreme Court adopts the Bar Association's proposal and judges increase the rate to \$55 per hour, the cost increase to the General Fund would be \$2.2 million in FY 1998. If the rates were increased to \$75 per hour, the cost to the General Fund would be \$8.2 million. For every \$5.00 increase in the hourly



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rate, the estimated cost will be \$1.5 million.

SOURCES

Criminal and Juvenile Justice Planning Division,  
Department of Human Rights  
Department of Corrections  
Judicial Branch  
Department of Transportation  
Office of the Public Defender

(LSB 2241hv.3, TCF)

FILED MARCH 26, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

**HOUSE FILE 662  
FISCAL NOTE**

The estimate for House File 662 is hereby submitted as a fiscal note pursuant to Joint Rule 17 and as a correctional impact statement pursuant to Section 2.56, Code of Iowa. Data used in developing this fiscal note and correctional impact statement are available from the Legislative Fiscal Bureau to members of the Legislature upon request.

House File 662 makes several changes to provisions relating to court-appointed counsel for indigent offenders. The penalty for three different types of driving while license suspended or revoked offenses is changed from a serious misdemeanor which may receive jail or prison time to a serious misdemeanor which is punishable only by a fine of \$250. The hourly rate limits on fees to court-appointed counsel and contract attorneys are changed to the rates established by the Supreme Court for the defense of indigent persons. The Bill establishes a \$30 filing fee for the affidavit of financial status to determine indigency.

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estimate is based on contract and non-contract attorneys billings for 300,752 hours in FY 1998.

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Court Appointed Attorney Fees	Unknown Cost

##### Local Impact

Jails (reduced costs)	\$ -2,353,000
-----------------------	---------------

NOTE: The Bill does not require the Supreme Court to increase hourly rates for contract and non-contract attorneys. If the Supreme Court increases the rate to the maximum current hourly rate of \$60, the cost to the General Fund would be \$3.7 million in FY 1998.

The Iowa Bar Association filed a proposal with the Supreme Court on January 29, 1997, to increase the fee guidelines to between \$55 and \$75 per hour. If the Supreme Court increases the rate to \$55 per hour, the cost increase to the General Fund would be \$2.2 million in FY 1998. If the rate were increased to \$75 per hour, the cost to the General Fund would be \$8.2 million. For every \$5.00 increase in the hourly rate, the estimated cost will be \$1.5 million.

SOURCES

Criminal and Juvenile Justice Planning Division,  
Department of Human Rights  
Department of Corrections  
Judicial Branch  
Department of Transportation  
Office of the Public Defender

(LSB 2241hv, TCF)

FILED MARCH 24, 1997

BY DENNIS PROUTY, FISCAL DIRECTOR

## HOUSE FILE 662

H-1478

1 Amend House File 662, as follows:  
2 1. Page 1, line 26, by striking the word "two"  
3 and inserting the following: "three".  
4 2. Page 1, line 32, by striking the word "two"  
5 and inserting the following: "three".  
6 3. Page 2, line 13, by striking the word "two"  
7 and inserting the following: "three".  
8 4. Page 2, line 24, by striking the word "two"  
9 and inserting the following: "three".  
10 5. Page 2, line 29, by striking the word "two"  
11 and inserting the following: "three".  
12 6. By striking page 2, line 31, through page 3,  
13 line 11.  
14 7. Page 3, line 24, by striking the word "two"  
15 and inserting the following: "three".  
16 8. Page 4, line 4, by striking the word "two" and  
17 inserting the following: "three".  
18 9. By striking page 4, line 30, through page 5,  
19 line 2, and inserting the following: "and necessary  
20 briefs in behalf of the defendant. However, the  
21 reasonable compensation awarded an attorney shall not  
22 be calculated based upon an hourly rate that exceeds  
23 ~~the rate a contract attorney as provided in section~~  
24 ~~13B.4 would receive in a similar case~~ fifty-five  
25 dollars per hour, unless the offense charged is a  
26 class "A" or class "B" felony, in which case the  
27 hourly rate shall not exceed sixty dollars per hour.  
28 Determination of the expense associated".  
29 10. By striking page 6, line 22, through page 7,  
30 line 10, and inserting the following:  
31 "2. a. A determination of the indigent status of  
32 a person shall be made on the basis of an affidavit of  
33 financial status submitted to the clerk of court at or  
34 immediately after the person's initial appearance  
35 before a court. If a person is granted legal  
36 assistance as an indigent or partial indigent, the  
37 affidavit of financial statement status shall be filed  
38 and permanently retained in the person's court file.  
39 The state public defender shall adopt rules  
40 prescribing the form and content of the affidavit of  
41 financial statement status and the criteria by which a  
42 determination of indigency shall be based. The  
43 affidavit of financial statement status shall contain  
44 sufficient information to allow the determination to  
45 be made of whether the person meets the guidelines set  
46 out in subsection 1 and, taking into consideration all  
47 assets. The affidavit of financial status shall be  
48 accompanied by the person's most recent pay slip and  
49 the name and address of the person's employer, if the  
50 person is employed.

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Page 2

1 b. Each person seeking legal assistance under this  
 2 section shall pay a nonrefundable application fee of  
 3 thirty dollars to the clerk of the district court at  
 4 the time of the filing of the affidavit of financial  
 5 status. If the person is incarcerated, however, the  
 6 application fee may be paid no later than five days  
 7 after the date on which the application is filed. If  
 8 the person remains in custody or if, based upon the  
 9 affidavit of financial status, the court determines  
 10 that the person does not have the financial resources  
 11 to pay the fee, the court may reduce the application  
 12 fee to ten dollars, waive the fee, or assess the fee  
 13 upon disposition of the case.

14 c. Upon receipt of the affidavit of financial  
 15 status, the clerk shall review the information and  
 16 make an initial determination of whether the person  
 17 seeking legal assistance is indigent. If the person  
 18 meets the indigency standards established under  
 19 subsection 1, the clerk shall prepare an order  
 20 appointing counsel for the court's review and  
 21 approval. If the person does not meet the indigency  
 22 standards established in subsection 1, but may be  
 23 deemed partially indigent under the partial indigency  
 24 standards under subsection 1, the clerk shall forward  
 25 the affidavit of financial status to the court, which  
 26 shall make a determination of the person's indigency  
 27 status.

28 d. Before legal assistance is granted, the clerk  
 29 or the court shall inform the person of the obligation  
 30 regarding payment of the expenses associated with the  
 31 granting of legal assistance. Before legal assistance  
 32 is granted, the clerk or the court shall verify that  
 33 the application fee has been paid to the clerk or has  
 34 been waived by the court. If the court determines  
 35 that the application fee should be assessed upon  
 36 disposition of the case, the order appointing counsel  
 37 shall reflect that determination."

38 11. Page 8, by inserting after line 32, the  
 39 following:

40 "Sec.           . NEW SECTION. 815.11A REPORT TO  
 41 GENERAL ASSEMBLY.

42 Each month the clerk of the district court in each  
 43 county shall forward a report to the supreme court  
 44 administrator detailing the amount of moneys and  
 45 numbers of cases for which the legal assistance  
 46 application fee has been collected. By February 1,  
 47 1998, and annually thereafter by the date on which the  
 48 general assembly convenes, the state court  
 49 administrator shall compile and submit a report to the  
 50 general assembly which contains the fee collection

H-1478

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H-1478

Page 3

1 information."

2 12. By numbering and renumbering as necessary.

By MILLAGE of Scott

H-1478 FILED MARCH 31, 1997

Adopted

4/2/97

(p.982)

4/2/97 Judiciary  
4/3/97 Do Pass  
5-4/10/97 Unfinished Business Calendar

HOUSE FILE 662  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 229)

(As Amended and Passed by the House, April 2, 1997)

*(P. 1603)*  
Passed House, Date 4/28/97 Passed Senate, Date 4-16-97 (p. 1216)  
Vote: Ayes 86 Nays 7 Vote: Ayes 47 Nays 0  
~~Approved~~ May 29, 1997 ~~Passed 4-28-97~~  
Vetoed File 50-0 (P. 1508)

A BILL FOR

1 An Act relating to the defense of criminal charges, by making  
2 changes in the penalties applicable to certain offenses for  
3 which appointment of counsel is required, providing county  
4 attorneys or their designees with access to the centralized  
5 employee registry for purposes of collection of restitution,  
6 making changes relating to the determination of a person's  
7 indigency, prohibiting the submission of false information on  
8 an affidavit of financial status, requiring the state to  
9 enforce liens for restitution in criminal cases, and providing  
10 penalties.

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

12  
13  
14  
15  
16  
17  
18  
19  
20

House Amendments \_\_\_\_\_

Deleted Language \*

1 Section 1. Section 13B.9, subsection 6, Code 1997, is  
2 amended by striking the subsection.

3 Sec. 2. Section 252G.5, unnumbered paragraph 1, Code 1997,  
4 is amended to read as follows:

5 The records of the centralized employee registry are  
6 confidential records pursuant to section 22.7, and may be  
7 accessed only by state agencies, county attorneys, or county  
8 attorneys' designees as provided in this section. When a  
9 state agency accesses information in the registry, the agency  
10 may use the information to update the agency's own records.  
11 Access to and use of the information contained in the registry  
12 shall be limited to the following:

13 Sec. 3. Section 252G.5, Code 1997, is amended by adding  
14 the following new subsection:

15 NEW SUBSECTION. 4. County attorneys or designees procured  
16 by a county attorney for purposes of recovery of restitution  
17 ordered by the court pursuant to chapter 910.

18 Sec. 4. Section 321.218, subsections 1 and 4, Code 1997,  
19 are amended to read as follows:

20 1. A person whose motor vehicle license or operating  
21 privilege has been denied, canceled, suspended, or revoked as  
22 provided in this chapter or as provided in section 252J.8, and  
23 who operates a motor vehicle upon the highways of this state  
24 while the license or privilege is denied, canceled, suspended,  
25 or revoked, commits a serious misdemeanor punishable only by  
26 imposition of a fine of three hundred fifty dollars,  
27 notwithstanding section 903.1.

28 4. A person who operates a commercial motor vehicle upon  
29 the highways of this state when disqualified from operating  
30 the commercial motor vehicle under section 321.208 commits a  
31 serious misdemeanor punishable only by imposition of a fine of  
32 three hundred fifty dollars, notwithstanding section 903.1, if  
33 a commercial driver's license is required for the person to  
34 operate the commercial motor vehicle.

35 Sec. 5. Section 321A.32, Code 1997, is amended to read as



1 follows:

2 321A.32 OTHER VIOLATIONS -- PENALTIES.

3 1. Any person whose license or registration or  
4 nonresident's operating privilege has been suspended, denied  
5 or revoked under this chapter or continues to remain suspended  
6 or revoked under this chapter, and who, during such  
7 suspension, denial or revocation, or during such continuing  
8 suspension or continuing revocation, drives any motor vehicle  
9 upon any highway or knowingly permits any motor vehicle owned  
10 by such person to be operated by another upon any highway,  
11 except as permitted under this chapter, shall be guilty of a  
12 serious misdemeanor punishable only by imposition of a fine of  
13 three hundred fifty dollars, notwithstanding section 903.1.

14 2. Any person willfully failing to return license or  
15 registration as required in section 321A.31 shall be guilty of  
16 a simple misdemeanor.

17 3. Any person who shall forge or, without authority, sign  
18 any notice provided for under section 321A.5 that a policy or  
19 bond is in effect, or any evidence of proof of financial  
20 responsibility, or who files or offers for filing any such  
21 notice or evidence of proof knowing or having reason to  
22 believe that it is forged or signed without authority, shall  
23 be guilty of a serious misdemeanor punishable only by  
24 imposition of a fine of three hundred fifty dollars,  
25 notwithstanding section 903.1.

26 4. Any person who shall violate any provision of this  
27 chapter for which no penalty is otherwise provided shall be  
28 guilty of a serious misdemeanor punishable only by imposition  
29 of a fine of three hundred fifty dollars, notwithstanding  
30 section 903.1.

\* 31 Sec. 6. Section 719.1, subsections 1 and 2, Code 1997, are  
32 amended to read as follows:

33 1. A person who knowingly resists or obstructs anyone  
34 known by the person to be a peace officer, emergency medical  
35 care provider under chapter 147A, or fire fighter, whether

1 paid or volunteer, in the performance of any act which is  
2 within the scope of the lawful duty or authority of that  
3 officer, emergency medical care provider under chapter 147A,  
4 or fire fighter, whether paid or volunteer, or who knowingly  
5 resists or obstructs the service or execution by any  
6 authorized person of any civil or criminal process or order of  
7 any court, commits a serious misdemeanor punishable only by  
8 imposition of a fine of three hundred fifty dollars,  
9 notwithstanding section 903.1. However, if a person commits  
10 an interference with official acts, as defined in this  
11 subsection, and in so doing inflicts bodily injury other than  
12 serious injury, that person commits an aggravated misdemeanor.  
13 If a person commits an interference with official acts, as  
14 defined in this subsection, and in so doing inflicts or  
15 attempts to inflict serious injury, or displays a dangerous  
16 weapon, as defined in section 702.7, or is armed with a  
17 firearm, that person commits a class "D" felony.

18 2. A person under the custody, control, or supervision of  
19 the department of corrections who knowingly resists,  
20 obstructs, or interferes with a correctional officer, agent,  
21 employee, or contractor, whether paid or volunteer, in the  
22 performance of the person's official duties, commits a serious  
23 misdemeanor punishable only by imposition of a fine of three  
24 hundred fifty dollars, notwithstanding section 903.1. If a  
25 person violates this subsection and in so doing commits an  
26 assault, as defined in section 708.1, the person commits an  
27 aggravated misdemeanor. If a person violates this subsection  
28 and in so doing inflicts or attempts to inflict bodily injury  
29 other than serious injury to another, displays a dangerous  
30 weapon, as defined in section 702.7, or is armed with a  
31 firearm, the person commits a class "D" felony. If a person  
32 violates this subsection and uses or attempts to use a  
33 dangerous weapon, as defined in section 702.7, or inflicts  
34 serious injury to another, the person commits a class "C"  
35 felony.

1       Sec. 7. Section 815.7, Code 1997, is amended to read as  
2 follows:

3       815.7 FEES TO ATTORNEYS.

4       An attorney who has not entered into a contract authorized  
5 under section 13B.4 and who is appointed by the court to  
6 represent any person charged with a crime in this state shall  
7 be entitled to a reasonable compensation which shall be the  
8 ~~ordinary-and-customary-charges-for-like-services-in-the~~  
9 ~~community-to-be~~ decided in each case by a judge of the  
10 district court, including such sum or sums as the court may  
11 determine are necessary for investigation in the interests of  
12 justice and in the event of appeal the cost of obtaining the  
13 transcript of the trial and the printing of the trial record  
14 and necessary briefs in behalf of the defendant. However, the  
15 reasonable compensation awarded an attorney shall not be  
16 calculated based upon an hourly rate that exceeds the rate a  
17 contract attorney as provided in section 13B.4 would receive  
18 in a similar case fifty-five dollars per hour, unless the  
19 offense charged is a class "A" or class "B" felony, in which  
20 case the hourly rate shall not exceed sixty dollars per hour.  
21 Determination of the expense associated with the services of a  
22 public defender shall be determined based on time records kept  
23 by the public defender for the case. Such A court-appointed  
24 attorney need not follow the case into another county or into  
25 the appellate court unless so directed by the court at the  
26 request of the defendant, where grounds for further litigation  
27 are not capricious or unreasonable, but if such attorney does  
28 so, the attorney's fee shall be determined accordingly. Only  
29 one attorney fee shall be so awarded in any one case except  
30 that in class "A" felony cases, two may be authorized.

31       Sec. 8. Section 815.9, Code 1997, is amended to read as  
32 follows:

33       815.9 INDIGENCY DETERMINED -- PENALTY.

34       1. For purposes of this chapter, section 68.8, section  
35 222.22, chapter 232, chapter 814, and the rules of criminal

1 procedure, the following apply:

2 a. A person is indigent if the person has an income level  
3 at or below one hundred fifty percent of the United States  
4 poverty level as defined by the most recently revised poverty  
5 income guidelines published by the United States department of  
6 health and human services.

7 b. A person is not indigent if the person has an income  
8 level greater than one hundred fifty percent of the United  
9 States poverty level as defined by the most recently revised  
10 poverty income guidelines published by the United States  
11 department of health and human services.

12 c. A person with an income level greater than one hundred  
13 fifty percent, but less than two hundred percent, of the most  
14 recently revised poverty income guidelines published by the  
15 United States department of health and human services may be  
16 deemed partially indigent by the court pursuant to a written  
17 finding that, given the person's circumstances, not appointing  
18 counsel would cause the person substantial hardship. In  
19 determining whether substantial hardship will result, the  
20 court shall consider the availability of any assets, including  
21 but not limited to cash, stocks, bonds, and any other property  
22 which may readily be converted to cash. However, the court  
23 shall require a person appointed counsel to contribute to the  
24 cost of representation in accordance with rules adopted by the  
25 state public defender.

26 d. A person with an income level greater than two hundred  
27 percent of the most recently revised poverty income guidelines  
28 published by the United States department of health and human  
29 services shall not be deemed indigent or partially indigent by  
30 the court unless the person is charged with a felony and the  
31 court makes a written finding that, given the person's  
32 circumstances, not appointing counsel would cause the person  
33 substantial hardship. In determining whether substantial  
34 hardship will result, the court shall consider the  
35 availability of any assets, including but not limited to cash,

1 stocks, bonds, and any other property which may readily be  
2 converted to cash. However, the court shall require a person  
3 appointed counsel to contribute to the cost of representation  
4 in accordance with rules adopted by the state public defender.

5 2. a. A determination of the indigent status of a person  
6 shall be made on the basis of an affidavit of financial status  
7 submitted to the clerk of court at or immediately after the  
8 person's initial appearance before a court. If a person is  
9 granted legal assistance as an indigent or partial indigent,  
10 the affidavit of financial statement status shall be filed and  
11 permanently retained in the person's court file. The state  
12 public defender shall adopt rules prescribing the form and  
13 content of the affidavit of financial statement status and the  
14 criteria by which a determination of indigency shall be based.  
15 The affidavit of financial statement status shall contain  
16 sufficient information to allow the determination to be made  
17 of whether the person meets the guidelines set out in  
18 subsection 1 and, taking into consideration all assets. The  
19 affidavit of financial status shall be accompanied by the  
20 person's most recent pay slip and the name and address of the  
21 person's employer, if the person is employed.

22 b. Each person seeking legal assistance under this section  
23 shall pay a nonrefundable application fee of thirty dollars to  
24 the clerk of the district court at the time of the filing of  
25 the affidavit of financial status. If the person is  
26 incarcerated, however, the application fee may be paid no  
27 later than five days after the date on which the application  
28 is filed. If the person remains in custody or if, based upon  
29 the affidavit of financial status, the court determines that  
30 the person does not have the financial resources to pay the  
31 fee, the court may reduce the application fee to ten dollars,  
32 waive the fee, or assess the fee upon disposition of the case.

33 c. Upon receipt of the affidavit of financial status, the  
34 clerk shall review the information and make an initial  
35 determination of whether the person seeking legal assistance

1 is indigent. If the person meets the indigency standards  
2 established under subsection 1, the clerk shall prepare an  
3 order appointing counsel for the court's review and approval.

4 If the person does not meet the indigency standards  
5 established in subsection 1, but may be deemed partially  
6 indigent under the partial indigency standards under  
7 subsection 1, the clerk shall forward the affidavit of  
8 financial status to the court, which shall make a  
9 determination of the person's indigency status.

10 d. Before legal assistance is granted, the clerk or the  
11 court shall inform the person of the obligation regarding  
12 payment of the expenses associated with the granting of legal  
13 assistance. Before legal assistance is granted, the clerk or  
14 the court shall verify that the application fee has been paid  
15 to the clerk or has been waived by the court. If the court  
16 determines that the application fee should be assessed upon  
17 disposition of the case, the order appointing counsel shall  
18 reflect that determination.

19 3. A person who submits an affidavit of financial status,  
20 or on whose behalf an affidavit of financial status has been  
21 submitted, for the purpose of obtaining legal assistance shall  
22 inform the court of any additional information concerning the  
23 person's income or assets, as the information becomes  
24 available during the course of the proceedings.

25 3- 4. A person who knowingly submits-a provides false  
26 information for inclusion in an affidavit of financial  
27 statement status which is submitted for the purpose of  
28 obtaining legal assistance by appointed counsel commits a  
29 fraudulent practice. As used in this subsection, "legal  
30 assistance" includes legal counsel, transcripts, witness fees  
31 and expenses, and any other goods or services required by law  
32 to be provided to an indigent person.

33 Sec. 9. Section 815.9A, Code 1997, is amended to read as  
34 follows:

35 815.9A RECOVERY OF INDIGENT DEFENSE COSTS.

1 All costs and fees incurred for indigent defense shall  
2 ~~become-due-and-payable~~ be paid to the clerk of the district  
3 court by the person receiving the services not later than the  
4 date of sentencing, the date or dates established in the  
5 person's restitution plan ordered in chapter 910, or if the  
6 person is acquitted or the charges are dismissed, within  
7 thirty days of the acquittal or dismissal. ~~---To-the-extent-that~~  
8 ~~the-costs-and-fees-remain-unpaid-at-the-time-they-become-due,~~  
9 ~~a-judgment-shall-be-entered-against-the-person-for-the-amounts~~  
10 ~~unpaid:~~ as follows:

11 1. If the person has an income level as determined  
12 pursuant to section 815.9 greater than one hundred percent but  
13 not more than one hundred fifty percent of the poverty  
14 guidelines, at least one hundred dollars of the indigent  
15 defense costs shall be recovered and paid to the clerk in  
16 accordance with rules adopted by the state public defender.

17 2. If the person has an income level as determined  
18 pursuant to section 815.9 greater than one hundred fifty  
19 percent but not more than one hundred eighty-five percent of  
20 the poverty guidelines, at least two hundred dollars of the  
21 indigent defense costs shall be recovered and paid to the  
22 clerk in accordance with rules adopted by the state public  
23 defender.

24 3. If the person has an income level as determined  
25 pursuant to section 815.9 greater than one hundred eighty-five  
26 percent of the poverty guidelines, at least three hundred  
27 dollars of the indigent defense costs shall be recovered and  
28 paid to the clerk in accordance with rules adopted by the  
29 state public defender.

30 Sec. 10. Section 815.10A, subsection 1, Code 1997, is  
31 amended to read as follows:

32 1. The department of inspections and appeals shall require  
33 all claims for compensation filed by court-appointed attorneys  
34 for indigent defense cases, whether adult or juvenile, to  
35 include specific information as required by rules of the

1 department. A court-appointed attorney in an indigent case  
2 may make an interim claim for compensation prior to conclusion  
3 of representation. The court may award reasonable and proper  
4 interim compensation to the attorney in accordance with  
5 guidelines established by the supreme court.

6 Sec. 11. NEW SECTION. 815.11A REPORT TO GENERAL  
7 ASSEMBLY.

8 Each month the clerk of the district court in each county  
9 shall forward a report to the supreme court administrator  
10 detailing the amount of moneys and numbers of cases for which  
11 the legal assistance application fee has been collected. By  
12 February 1, 1998, and annually thereafter by the date on which  
13 the general assembly convenes, the state court administrator  
14 shall compile and submit a report to the general assembly  
15 which contains the fee collection information.

16 Sec. 12. Section 903A.5, unnumbered paragraph 2, Code  
17 1997, is amended to read as follows:

18 An inmate ~~shall not~~ may, if ordered by the court, receive  
19 credit upon the inmate's sentence for time spent in custody in  
20 another state resisting return to Iowa following an escape, or  
21 for time served in an institution or jail of another  
22 jurisdiction during any period of time the person is receiving  
23 credit upon a sentence of that other jurisdiction.

24 Sec. 13. Section 910.7A, subsection 2, Code 1997, is  
25 amended to read as follows:

26 2. A judgment of restitution ~~may~~ shall be enforced by the  
27 state, and may be enforced by a victim entitled under the  
28 order to receive restitution, a deceased victim's estate, or  
29 any other beneficiary of the judgment in the same manner as a  
30 civil judgment.

31 Sec. 14. Section 911.1, Code 1997, is amended to read as  
32 follows:

33 911.1 CRIMINAL PENALTY SURCHARGE ESTABLISHED.

34 A criminal penalty surcharge shall be levied against  
35 certain law violators as provided in section 911.2. The



1 surcharge shall be deposited as provided in section 602.8108,  
2 subsection 3, and shall be used for the maintenance and  
3 improvement of criminal justice programs, law enforcement  
4 efforts, victim compensation, crime prevention, and  
5 improvement of the professional training of personnel, ~~and the~~  
6 planning and support services of the criminal justice system,  
7 and the defense of indigent persons charged with a crime.

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HOUSE FILE 662

S-3475

1 Amend House File 662, as amended, passed, and  
2 reprinted by the House, as follows:

3 1. Page 8, by inserting after line 29, the  
4 following:

5 "Sec. \_\_\_\_ . Section 815.10, subsection 1, Code  
6 1997, is amended by adding the following new  
7 unnumbered paragraph:

8 NEW UNNUMBERED PARAGRAPH. For purposes of this  
9 section, a person who is charged with a serious  
10 misdemeanor offense which is only punishable by the  
11 imposition of a fine shall not be entitled to legal  
12 assistance at public expense."

13 2. By numbering and renumbering as necessary.

By O. GENE MADDOX

S-3475 FILED APRIL 10, 1997

*Adopted 4-16-97 (p.1215)*

## HOUSE FILE 662

S-3459

- 1 Amend House File 662, as amended, passed, and  
2 reprinted by the House, as follows:
- 3 1. Page 6, line 7, by striking the words "to the  
4 clerk of court".
- 5 2. Page 6, line 23, by striking the word  
6 "application" and inserting the following:  
7 "assessment".
- 8 3. Page 6, lines 24 and 25, by striking the words  
9 "the filing of the affidavit of financial status" and  
10 inserting the following: "determination of  
11 indigency".
- 12 4. Page 6, line 26, by striking the word  
13 "application" and inserting the following:  
14 "assessment".
- 15 5. Page 6, lines 27 and 28, by striking the words  
16 "application is filed" and inserting the following:  
17 "determination of indigency is made".
- 18 6. Page 6, line 31, by striking the word  
19 "application" and inserting the following:  
20 "assessment".
- 21 7. By striking page 6, line 33, through page 7,  
22 line 10, and inserting the following:  
23 "c. Before legal assistance is granted, the".
- 24 8. Page 7, by striking lines 13 through 17 and  
25 inserting the following: "assistance. If the court  
26 determines that the assessment fee should be assessed  
27 at the time fixed by the court for pronouncement of  
28 judgment and sentence, the order appointing counsel  
29 shall".
- 30 9. Page 7, line 18, by inserting after the word  
31 "determination." the following: "At the time fixed by  
32 the court for pronouncement of judgment and  
33 sentencing, the court shall verify that the assessment  
34 fee has been paid or has been waived by the court. If  
35 the fee has not been paid or waived the court shall  
36 include the amount of the assessment fee in any orders  
37 for payment of restitution and may order that any  
38 posted cash bond be forfeited in an amount sufficient  
39 to pay the assessment fee."
- 40 10. Page 9, by striking lines 8 through 11 and  
41 inserting the following: "By".
- 42 11. By renumbering as necessary.

By O. GENE MADDOX

S-3459 FILED APRIL 10, 1997

*Adopted 4-16-97 (p. 1215)*

HOUSE AMENDMENT TO SENATE AMENDMENT TO  
HOUSE FILE 662

S-3807

1 Amend the Senate amendment, H-1775, to House File  
2 662, as amended, passed, and reprinted by the House,  
3 as follows:

4 1. Page 1, by inserting after line 2 the  
5 following:

6 " \_\_\_\_ . Page 1, by inserting before line 1 the  
7 following:

8 "Section 1. Section 13B.6, subsection 1, Code  
9 1997, is amended to read as follows:

10 1. There is established in the state general fund  
11 of the state an account to be known as the state  
12 public defender operating account. The state public  
13 defender may bill a county for services rendered to  
14 the county by the office of the state public defender.  
15 Receipts shall be deposited in the operating account  
16 established under this section subsection. There is  
17 appropriated from the state general fund of the state  
18 all amounts deposited in the state public defender  
19 operating account for use in maintaining the  
20 operations of the office of state public defender.

21 1A. There is established in the general fund of  
22 the state an account to be known as the indigent  
23 defense assessment fee account. Receipts shall be  
24 deposited in the account established under this  
25 subsection as required by law. There is appropriated  
26 from the general fund of the state all amounts  
27 deposited in the indigent defense fee assessment  
28 account for payment by the state public defender of  
29 any shortfalls which may arise in the state public  
30 defender operating account for payment of court-  
31 appointed attorney fees."

32 \_\_\_\_ . By striking page 1, line 35, through page 2,  
33 line 30, and inserting the following:

34 "Sec. \_\_\_\_ . Section 602.8106, subsection 1, Code  
35 1997, is amended by adding the following new  
36 paragraph:

37 NEW PARAGRAPH. g. For the filing of an affidavit  
38 of financial status for a determination of indigency  
39 and qualification for court-appointed counsel under  
40 section 815.9, thirty dollars.

41 Sec. \_\_\_\_ . Section 602.8107, subsection 2,  
42 paragraph d, Code 1997, is amended to read as follows:

43 d. Court costs, including correctional fees  
44 assessed pursuant to sections 356.7 and 904.108,  
45 court-appointed attorney fees, or public defender  
46 expenses, and assessment fees under section 815.9.

47 Sec. \_\_\_\_ . Section 602.8108, subsection 2, Code  
48 1997, is amended to read as follows:

49 2. Except as otherwise provided, the clerk of the  
50 district court shall report and submit to the state

S-3807

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S-3807

Page 2

1 court administrator, not later than the fifteenth day  
2 of each month, the fines and fees received during the  
3 preceding calendar month. Except as provided in  
4 subsections 4, and 5, and 6, the state court  
5 administrator shall deposit the amounts received with  
6 the treasurer of state for deposit in the general fund  
7 of the state. The state court administrator shall  
8 report to the legislative fiscal bureau within thirty  
9 days of the beginning of each fiscal quarter the  
10 amount received during the previous quarter in the  
11 account established under this section.

12 Sec. \_\_\_\_\_. Section 602.8108, Code 1997, is amended  
13 by adding the following new subsection:

14 NEW SUBSECTION. 6. The state court administrator  
15 shall deposit any amounts received as a result of the  
16 imposition of an assessment fee under section 815.9  
17 with the treasurer of state for deposit of the  
18 receipts in the indigent defense assessment fee  
19 account established in section 13B.6.""

20 2. Page 1, by inserting after line 39 the  
21 following:

22 "\_\_\_\_\_. By striking page 7, line 33, through page  
23 8, line 29, and inserting the following:

24 "Sec. \_\_\_\_\_. Section 815.9A, subsections 1, 2, and  
25 3, Code 1997, are amended by striking the  
26 subsections.""

27 3. By renumbering as necessary.

RECEIVED FROM THE HOUSE

S-3807 FILED APRIL 28, 1997  
CONCURRED

( P. 1508 )

SENATE AMENDMENT TO HOUSE FILE 662

H-1775

- 1 Amend House File 662, as amended, passed, and
- 2 reprinted by the House, as follows:
- 3 1. Page 6, line 7, by striking the words "to the
- 4 clerk of court".
- 5 2. Page 6, line 23, by striking the word
- 6 "application" and inserting the following:
- 7 "assessment".
- 8 3. Page 6, lines 24 and 25, by striking the words
- 9 "the filing of the affidavit of financial status" and
- 10 inserting the following: "determination of
- 11 indigency".
- 12 4. Page 6, line 26, by striking the word
- 13 "application" and inserting the following:
- 14 "assessment".
- 15 5. Page 6, lines 27 and 28, by striking the words
- 16 "application is filed" and inserting the following:
- 17 "determination of indigency is made".
- 18 6. Page 6, line 31, by striking the word
- 19 "application" and inserting the following:
- 20 "assessment".
- 21 7. By striking page 6, line 33, through page 7,
- 22 line 10, and inserting the following:
- 23 "c. Before legal assistance is granted, the".
- 24 8. Page 7, by striking lines 13 through 17 and
- 25 inserting the following: "assistance. If the court
- 26 determines that the assessment fee should be assessed
- 27 at the time fixed by the court for pronouncement of
- 28 judgment and sentence, the order appointing counsel
- 29 shall".
- 30 9. Page 7, line 18, by inserting after the word
- 31 "determination." the following: "At the time fixed by
- 32 the court for pronouncement of judgment and
- 33 sentencing, the court shall verify that the assessment
- 34 fee has been paid or has been waived by the court. If
- 35 the fee has not been paid or waived the court shall
- 36 include the amount of the assessment fee in any orders
- 37 for payment of restitution and may order that any
- 38 posted cash bond be forfeited in an amount sufficient
- 39 to pay the assessment fee."
- 40 10. Page 8, by inserting after line 29, the
- 41 following:
- 42 "Sec. \_\_\_\_ . Section 815.10, subsection 1, Code
- 43 1997, is amended by adding the following new
- 44 unnumbered paragraph:
- 45 NEW UNNUMBERED PARAGRAPH. For purposes of this
- 46 section, a person who is charged with a serious
- 47 misdemeanor offense which is only punishable by the
- 48 imposition of a fine shall not be entitled to legal
- 49 assistance at public expense."
- 50 11. Page 9, by striking lines 8 through 11 and

H-1775

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H-1775

Page 2

- 1 inserting the following: "By".
- 2 12. By renumbering, relettering, or redesignating
- 3 and correcting internal references as necessary.

RECEIVED FROM THE SENATE

H-1775 FILED APRIL 17, 1997

House Concurrent 4-28-97 (P.1602)

## HOUSE FILE 662

H-1914

1 Amend the Senate amendment, H-1775, to House File  
2 662, as amended, passed, and reprinted by the House,  
3 as follows:

4 1. Page 1, by inserting after line 2 the  
5 following:

6 "\_\_\_\_. Page 1, by inserting before line 1 the  
7 following:

8 "Section 1. Section 13B.6, subsection 1, Code  
9 1997, is amended to read as follows:

10 1. There is established in the ~~state~~ general fund  
11 of the state an account to be known as the state  
12 public defender operating account. The state public  
13 defender may bill a county for services rendered to  
14 the county by the office of the state public defender.  
15 Receipts shall be deposited in the operating account  
16 established under this ~~section~~ subsection. There is  
17 appropriated from the ~~state~~ general fund of the state  
18 all amounts deposited in the state public defender  
19 operating account for use in maintaining the  
20 operations of the office of state public defender.

21 1A. There is established in the general fund of  
22 the state an account to be known as the indigent  
23 defense assessment fee account. Receipts shall be  
24 deposited in the account established under this  
25 subsection as required by law. There is appropriated  
26 from the general fund of the state all amounts  
27 deposited in the indigent defense fee assessment  
28 account for payment by the state public defender of  
29 any shortfalls which may arise in the state public  
30 defender operating account for payment of court-  
31 appointed attorney fees."

32 \_\_\_\_\_. By striking page 1, line 35, through page 2,  
33 line 30, and inserting the following:

34 "Sec. \_\_\_\_\_. Section 602.8106, subsection 1, Code  
35 1997, is amended by adding the following new  
36 paragraph:

37 NEW PARAGRAPH. g. For the filing of an affidavit  
38 of financial status for a determination of indigency  
39 and qualification for court-appointed counsel under  
40 section 815.9, thirty dollars.

41 Sec. \_\_\_\_\_. Section 602.8107, subsection 2,  
42 paragraph d, Code 1997, is amended to read as follows:

43 d. Court costs, including correctional fees  
44 assessed pursuant to sections 356.7 and 904.108,  
45 court-appointed attorney fees, or public defender  
46 expenses, and assessment fees under section 815.9.

47 Sec. \_\_\_\_\_. Section 602.8108, subsection 2, Code  
48 1997, is amended to read as follows:

49 2. Except as otherwise provided, the clerk of the  
50 district court shall report and submit to the state

H-1914

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Page 2

1 court administrator, not later than the fifteenth day  
2 of each month, the fines and fees received during the  
3 preceding calendar month. Except as provided in  
4 subsections 4, and 5, and 6, the state court  
5 administrator shall deposit the amounts received with  
6 the treasurer of state for deposit in the general fund  
7 of the state. The state court administrator shall  
8 report to the legislative fiscal bureau within thirty  
9 days of the beginning of each fiscal quarter the  
10 amount received during the previous quarter in the  
11 account established under this section.

12 Sec. \_\_\_\_\_. Section 602.8108, Code 1997, is amended  
13 by adding the following new subsection:

14 NEW SUBSECTION. 6. The state court administrator  
15 shall deposit any amounts received as a result of the  
16 imposition of an assessment fee under section 815.9  
17 with the treasurer of state for deposit of the  
18 receipts in the indigent defense assessment fee  
19 account established in section 13B.6.""

20 2. Page 1, by inserting after line 39 the  
21 following:

22 "\_\_\_\_\_. By striking page 7, line 33, through page  
23 8, line 29, and inserting the following:

24 "Sec. \_\_\_\_\_. Section 815.9A, subsections 1, 2, and  
25 3, Code 1997, are amended by striking the  
26 subsections.""

27 3. By renumbering as necessary.

By MILLAGE of Scott

H-1914 FILED APRIL 24, 1997

*Adopted 4-28-97  
(P. 1602)*



*Mellager Chr.  
Lamberti  
Mareland*

*HSB 229*

JUDICIARY

Succeeded By

HOUSE FILE

SF (HF) 662

BY (PROPOSED COMMITTEE ON

JUDICIARY BILL BY

CHAIRPERSON LAMBERTI)

Passed House, Date \_\_\_\_\_ Passed Senate, Date \_\_\_\_\_  
Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_ Vote: Ayes \_\_\_\_\_ Nays \_\_\_\_\_  
Approved \_\_\_\_\_

A BILL FOR

1 An Act relating to the defense of criminal charges, by making  
2 changes in the provisions and procedures applicable to the  
3 appointment of counsel for indigent persons, providing for the  
4 establishment of an indigent defense commission and indigent  
5 defense fee account, making changes in the penalties  
6 applicable to certain offenses for which appointment of  
7 counsel is required, providing county attorneys or their  
8 designees with access to the centralized employee registry for  
9 purposes of collection of restitution, providing for the  
10 distribution of certain proceeds from forfeited property,  
11 making changes relating to the determination of a person's  
12 indigency, prohibiting the submission of false information on  
13 an affidavit of financial status, requiring the state to  
14 enforce liens for restitution in criminal cases, and providing  
15 penalties.

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

17  
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19  
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22  
23

1 Section 1. Section 13B.2, Code 1997, is amended to read as  
2 follows:

3 13B.2 POSITION ESTABLISHED.

4 1. The position of state public defender is established  
5 within the department of inspections and appeals.

6 2. The governor shall, with the advise and consent of the  
7 indigent defense commission, appoint the state public  
8 ~~defender, who shall-serve-at-the-pleasure-of-the-governor,~~ is  
9 subject to confirmation by the senate, no less frequently than  
10 once every four years, whether or not ~~there-has-been~~ a new  
11 state public defender has been appointed during that time, ~~and~~  
12 ~~shall-establish-the-state-public-defender's-salary.~~

13 3. The governor may, upon notice and hearing before the  
14 indigent defense commission, remove the state public defender  
15 for good cause shown, including but not limited to malfeasance  
16 or nonfeasance in office, or for cause which renders the state  
17 public defender incapable or unfit to discharge the duties of  
18 office.

19 Sec. 2. NEW SECTION. 13B.2A INDIGENT DEFENSE COMMISSION  
20 ESTABLISHED.

21 1. An indigent defense commission is established within  
22 the department to advise and make recommendations to the  
23 governor regarding the appointment and removal of the state  
24 public defender, and to direct the state public defender  
25 regarding the establishment, implementation, and maintenance  
26 of cost-effective legal representation of indigents consistent  
27 with constitutional requirements, professional standards, and  
28 supreme court guidelines.

29 2. The commission shall consist of eleven members. At  
30 least six of the members shall be attorneys with experience in  
31 criminal defense practice. A member shall not be a judge,  
32 prosecutor, or law enforcement official. Four of the members  
33 shall be members of the general assembly appointed by the  
34 legislative council, two from each chamber of the general  
35 assembly. No more than one of the members from each chamber

1 shall be from any one political party. Seven of the members  
2 shall be appointed by the governor as follows:

3 a. Three members from nominations made by the Iowa state  
4 bar association.

5 b. Two members from nominations made by the Iowa  
6 association of criminal defense lawyers.

7 c. Two members of the general public.

8 3. Members shall serve three-year terms with initial terms  
9 to be staggered. Members of the commission shall be entitled  
10 to receive reimbursement for actual expenses incurred while  
11 engaged in the performance of the duties of the commission.  
12 Each member of the commission may also be eligible to receive  
13 compensation under section 7E.6.

14 Sec. 3. NEW SECTION. 13B.2B DUTIES AND POWERS OF THE  
15 INDIGENT DEFENSE COMMISSION.

16 The commission shall establish policy for the state public  
17 defender regarding but not limited to the following matters:

18 1. Providing quality, cost-effective methods for legal  
19 representation of indigents consistent with constitutional  
20 requirements, professional standards, and supreme court  
21 guidelines.

22 2. Developing the budget to be requested by the state  
23 public defender for all indigent defense costs.

24 3. Developing client indigency criteria to be applied on a  
25 uniform statewide basis.

26 4. Establishing mechanisms for enhancing, maximizing, and  
27 monitoring restitution and recoupment efforts related to  
28 indigent defense costs.

29 5. Identifying and establishing other methods to contain  
30 indigent defense costs.

31 6. Adopting rules pursuant to chapter 17A regarding the  
32 operations of the state public defender, including but not  
33 limited to uniform methods of tracking cases handled, time  
34 spent by public defenders and court-appointed counsel, and  
35 determination of payment to court-appointed counsel.

1 7. Developing and recommending fee guidelines for court-  
2 appointed counsel to the supreme court.

3 8. Advising the governor regarding the selection and  
4 appointment of the state public defender.

5 9. Preparing and filing a written report with the office  
6 of the governor and the general assembly by January 1 of each  
7 year regarding the recommendations and activities of the  
8 commission during the preceding fiscal year.

9 Sec. 4. Section 13B.3, Code 1997, is amended to read as  
10 follows:

11 13B.3 QUALIFICATIONS OF STATE PUBLIC DEFENDER.

12 Only persons admitted to practice law in this state, with  
13 experience in defending persons accused of committing criminal  
14 offenses, shall be appointed state public defender or  
15 assistant state public defender.

16 Sec. 5. Section 13B.4, subsection 3, Code 1997, is amended  
17 by striking the subsection.

18 Sec. 6. Section 13B.4, subsections 4, 5, and 6, Code 1997,  
19 are amended to read as follows:

20 4. The state public defender is authorized to review any  
21 claim made for payment of indigent defense costs ~~and to take~~  
22 ~~the following action~~ if the state public defender believes a  
23 claim is excessive:

24 ~~a. If the claim is from a noncontract attorney, the state~~  
25 ~~public defender shall request a review by the court granting~~  
26 ~~the claim as to the reasonableness of the claim within thirty~~  
27 ~~days of receipt of the claim.~~

28 b. ~~If the claim is from a contract attorney~~ state public  
29 defender believes the claim to be excessive, the state public  
30 defender shall request a ~~review by~~ hearing before the  
31 appointing court as to the reasonableness of the claim within  
32 thirty days of receipt of the claim.

33 5. ~~The state public defender is authorized to contract~~  
34 ~~with county~~ County attorneys shall provide or contract with  
35 attorneys in private practice to provide collection services

1 in the manner provided in section 331.756, subsection 5,  
2 related to court-ordered indigent defense restitution of  
3 court-appointed attorney fees or the expense of a public  
4 defender.

5 6. The state public defender shall report in writing to  
6 the general assembly by January 20 of each year regarding any  
7 funds recouped or collected for court-appointed attorney fees  
8 or expenses of a public defender pursuant to section 331.756,  
9 subsection 5, or section 602.8107 during the previous calendar  
10 year. The report shall also include reports made by local  
11 public defenders pursuant to section 13B.9.

12 Sec. 7. Section 13B.6, subsection 1, Code 1997, is amended  
13 to read as follows:

14 1. ~~There is established in the state general fund an~~ An  
15 account to be known as the state public defender operating  
16 account is established in the general fund of the state. The  
17 state public defender may bill a county for services rendered  
18 to the county by the office of the state public defender.  
19 Receipts shall be deposited in the operating account  
20 established under this section subsection. There is  
21 appropriated from the state general fund of the state all  
22 amounts deposited in the state public defender operating  
23 account for use in maintaining the operations of the office of  
24 state public defender.

25 1A. An account to be known as the indigent defense fee  
26 account is established in the general fund of the state.  
27 Court-appointed attorneys, other than the state public  
28 defender, shall submit for payment from the account fee claims  
29 for services rendered on behalf of an indigent criminal  
30 defendant in the manner provided in chapter 815. Receipts  
31 shall be deposited in the account established under this  
32 subsection as required by law. There is appropriated from the  
33 general fund of the state all amounts deposited in the  
34 indigent defense fee account for payment of court-appointed  
35 attorney fees.

1 Sec. 8. Section 13B.9, subsection 1, paragraph d, Code  
2 1997, is amended to read as follows:

3 d. Make an annual report to the state public defender. In  
4 making the report, the local public defender shall use uniform  
5 definitions of what constitutes a case, as well as any other  
6 criteria developed by the indigent defense commission for the  
7 uniform tracking and reporting of the provision of legal  
8 representation to indigents. The report shall include ~~all~~,  
9 but is not limited to, the following information:

10 (1) All cases handled by the local public defender during  
11 the preceding calendar year.

12 (2) All cases referred to another public defender,  
13 juvenile defender, or private counsel due to conflict or  
14 caseload of the public defender during the preceding calendar  
15 year.

16 (3) All cases handled by each individual public defender  
17 within the local public defender's office during the preceding  
18 calendar year.

19 (4) The total amount of restitution ordered to be paid for  
20 all cases handled by the local public defender during the  
21 preceding calendar year.

22 (5) Any other matters required by the indigent defense  
23 commission.

24 Sec. 9. Section 13B.9, subsections 4 and 5, Code 1997, are  
25 amended to read as follows:

26 4. The local public defender shall handle every case to  
27 which the local public defender is appointed if the local  
28 public defender can reasonably handle the case in compliance  
29 with constitutional requirements, the code of professional  
30 responsibility for lawyers, and any other standards for  
31 competence in the legal profession which are adopted by the  
32 supreme court.

33 5. If a conflict of interest arises or if the local public  
34 defender is unable to handle a case because of a temporary  
35 overload of cases, the local public defender shall return the

1 case to the court. The court shall first appoint a contract  
2 an attorney, who has agreed to take the case. Appointments by  
3 the court shall be on a rotational or equalization basis  
4 considering the experience of the attorney and the difficulty  
5 of the case.

6 Sec. 10. Section 13B.9, subsection 6, Code 1997, is  
7 amended by striking the subsection.

8 Sec. 11. Section 252G.5, unnumbered paragraph 1, Code  
9 1997, is amended to read as follows:

10 The records of the centralized employee registry are  
11 confidential records pursuant to section 22.7, and may be  
12 accessed only by state agencies, county attorneys, or county  
13 attorneys' designees as provided in this section. When a  
14 state agency accesses information in the registry, the agency  
15 may use the information to update the agency's own records.  
16 Access to and use of the information contained in the registry  
17 shall be limited to the following:

18 Sec. 12. Section 252G.5, Code 1997, is amended by adding  
19 the following new subsection:

20 NEW SUBSECTION. 4. County attorneys or designees procured  
21 by a county attorney for purposes of recovery of restitution  
22 ordered by the court pursuant to chapter 910.

23 Sec. 13. Section 321.218, subsections 1 and 4, Code 1997,  
24 are amended to read as follows:

25 1. A person whose motor vehicle license or operating  
26 privilege has been denied, canceled, suspended, or revoked as  
27 provided in this chapter or as provided in section 252J.8, and  
28 who operates a motor vehicle upon the highways of this state  
29 while the license or privilege is denied, canceled, suspended,  
30 or revoked, commits a serious misdemeanor punishable only by  
31 imposition of a fine of two hundred fifty dollars,  
32 notwithstanding section 903.1.

33 4. A person who operates a commercial motor vehicle upon  
34 the highways of this state when disqualified from operating  
35 the commercial motor vehicle under section 321.208 commits a

1 serious misdemeanor punishable only by imposition of a fine of  
2 two hundred fifty dollars, notwithstanding section 903.1, if a  
3 commercial driver's license is required for the person to  
4 operate the commercial motor vehicle.

5 Sec. 14. Section 321A.32, Code 1997, is amended to read as  
6 follows:

7 321A.32 OTHER VIOLATIONS -- PENALTIES.

8 1. Any person whose license or registration or  
9 nonresident's operating privilege has been suspended, denied  
10 or revoked under this chapter or continues to remain suspended  
11 or revoked under this chapter, and who, during such  
12 suspension, denial or revocation, or during such continuing  
13 suspension or continuing revocation, drives any motor vehicle  
14 upon any highway or knowingly permits any motor vehicle owned  
15 by such person to be operated by another upon any highway,  
16 except as permitted under this chapter, shall be guilty of a  
17 serious misdemeanor punishable only by imposition of a fine of  
18 two hundred fifty dollars, notwithstanding section 903.1.

19 2. Any person willfully failing to return license or  
20 registration as required in section 321A.31 shall be guilty of  
21 a simple misdemeanor.

22 3. Any person who shall forge or, without authority, sign  
23 any notice provided for under section 321A.5 that a policy or  
24 bond is in effect, or any evidence of proof of financial  
25 responsibility, or who files or offers for filing any such  
26 notice or evidence of proof knowing or having reason to  
27 believe that it is forged or signed without authority, shall  
28 be guilty of a serious misdemeanor punishable only by  
29 imposition of a fine of two hundred fifty dollars,  
30 notwithstanding section 903.1.

31 4. Any person who shall violate any provision of this  
32 chapter for which no penalty is otherwise provided shall be  
33 guilty of a serious misdemeanor punishable only by imposition  
34 of a fine of two hundred fifty dollars, notwithstanding  
35 section 903.1.



1 Sec. 15. Section 321J.21, Code 1997, is amended to read as  
2 follows:

3 321J.21 DRIVING WHILE LICENSE DENIED OR REVOKED.

4 A person whose motor vehicle license or nonresident  
5 operating privilege has been denied or revoked as provided in  
6 this chapter and who drives a motor vehicle upon the highways  
7 of this state while the license or privilege is denied or  
8 revoked commits a serious misdemeanor punishable only by  
9 imposition of a fine of two hundred fifty dollars,  
10 notwithstanding section 903.1. The department, upon receiving  
11 the record of the conviction of a person under this section  
12 upon a charge of driving a motor vehicle while the license of  
13 the person was revoked or denied, shall extend the period of  
14 revocation or denial for an additional like period, and the  
15 department shall not issue a new license during the additional  
16 period.

17 Sec. 16. Section 719.1, subsections 1 and 2, Code 1997,  
18 are amended to read as follows:

19 1. A person who knowingly resists or obstructs anyone  
20 known by the person to be a peace officer, emergency medical  
21 care provider under chapter 147A, or fire fighter, whether  
22 paid or volunteer, in the performance of any act which is  
23 within the scope of the lawful duty or authority of that  
24 officer, emergency medical care provider under chapter 147A,  
25 or fire fighter, whether paid or volunteer, or who knowingly  
26 resists or obstructs the service or execution by any  
27 authorized person of any civil or criminal process or order of  
28 any court, commits a serious misdemeanor punishable only by  
29 imposition of a fine of two hundred fifty dollars,  
30 notwithstanding section 903.1. However, if a person commits  
31 an interference with official acts, as defined in this  
32 subsection, and in so doing inflicts bodily injury other than  
33 serious injury, that person commits an aggravated misdemeanor.  
34 If a person commits an interference with official acts, as  
35 defined in this subsection, and in so doing inflicts or

1 attempts to inflict serious injury, or displays a dangerous  
2 weapon, as defined in section 702.7, or is armed with a  
3 firearm, that person commits a class "D" felony.

4 2. A person under the custody, control, or supervision of  
5 the department of corrections who knowingly resists,  
6 obstructs, or interferes with a correctional officer, agent,  
7 employee, or contractor, whether paid or volunteer, in the  
8 performance of the person's official duties, commits a serious  
9 misdemeanor punishable only by imposition of a fine of two  
10 hundred fifty dollars, notwithstanding section 903.1. If a  
11 person violates this subsection and in so doing commits an  
12 assault, as defined in section 708.1, the person commits an  
13 aggravated misdemeanor. If a person violates this subsection  
14 and in so doing inflicts or attempts to inflict bodily injury  
15 other than serious injury to another, displays a dangerous  
16 weapon, as defined in section 702.7, or is armed with a  
17 firearm, the person commits a class "D" felony. If a person  
18 violates this subsection and uses or attempts to use a  
19 dangerous weapon, as defined in section 702.7, or inflicts  
20 serious injury to another, the person commits a class "C"  
21 felony.

22 Sec. 17. Section 809.17, Code 1997, is amended to read as  
23 follows:

24 809.17 PROCEEDS APPLIED TO VARIOUS PROGRAMS.

25 Except as provided in section 809.21, fifty percent of the  
26 value of the proceeds from the disposal of seized property  
27 pursuant to this chapter shall be deposited with the clerk of  
28 the district court for distribution under section 602.8107,  
29 and the balance may be transferred in whole or in part to the  
30 victim compensation fund created in section 912.14 at the  
31 discretion of the recipient agency, political subdivision, or  
32 department.

33 Sec. 18. Section 809A.17, subsection 3, Code 1997, is  
34 amended to read as follows:

35 3. Forfeited property may be used by the department of

1 justice in the enforcement of the criminal law. The  
2 department may give, sell, or trade property to any other  
3 state agency or to any other law enforcement agency within the  
4 state if, in the opinion of the attorney general, it will  
5 enhance law enforcement within the state. If the person from  
6 whom the property was forfeited has been charged with a  
7 criminal offense, the department shall give, to the clerk of  
8 the district court in which the criminal charges were filed,  
9 fifty percent of the value of the proceeds from any property  
10 forfeited. The clerk shall distribute the proceeds in  
11 accordance with section 602.8107.

12 Sec. 19. Section 815.7, Code 1997, is amended to read as  
13 follows:

14 815.7 FEES TO ATTORNEYS.

15 ~~An attorney who has-not-entered-into-a-contract-authorized~~  
16 ~~under-section-13B-4-and-who~~ is appointed by the court to  
17 represent any person charged with a crime in this state shall  
18 be entitled to a reasonable compensation which shall be the  
19 ordinary and customary charges for like services in the  
20 community to be decided in each case by a judge of the  
21 district court, including such sum or sums as the court may  
22 determine are necessary for investigation in the interests of  
23 justice and in the event of appeal the cost of obtaining the  
24 transcript of the trial and the printing of the trial record  
25 and necessary briefs in behalf of the defendant. ~~However,-the~~  
26 ~~reasonable-compensation-awarded-an-attorney-shall-not-be~~  
27 ~~calculated-based-upon-an-hourly-rate-that-exceeds-the-rate-a~~  
28 ~~contract-attorney-as-provided-in-section-13B-4-would-receive~~  
29 ~~in-a-similar-case.~~ Determination of the expense associated  
30 with the services of a public defender shall be determined  
31 based on time records kept by the public defender for the  
32 case. Such A court-appointed attorney need not follow the  
33 case into another county or into the appellate court unless so  
34 directed by the court at the request of the defendant, where  
35 grounds for further litigation are not capricious or

1 unreasonable, but if such attorney does so, the attorney's fee  
2 shall be determined accordingly. Only one attorney fee shall  
3 be so awarded in any one case except that in class "A" felony  
4 cases, two may be authorized.

5 Sec. 20. Section 815.9, Code 1997, is amended to read as  
6 follows:

7 815.9 INDIGENCY DETERMINED -- PENALTY.

8 1. For purposes of this chapter, section 68.8, section  
9 222.22, chapter 232, chapter 814, and the rules of criminal  
10 procedure, the following apply:

11 a. A person is indigent if the person has an income level  
12 at or below one hundred forty percent of the United States  
13 poverty level as defined by the most recently revised poverty  
14 income guidelines published by the United States department of  
15 health and human services.

16 b. A person is not indigent if the person has an income  
17 level greater than one hundred forty percent of the United  
18 States poverty level as defined by the most recently revised  
19 poverty income guidelines published by the United States  
20 department of health and human services.

21 c. A person with an income level greater than one hundred  
22 forty percent, but less than two hundred percent, of the most  
23 recently revised poverty income guidelines published by the  
24 United States department of health and human services may be  
25 deemed partially indigent by the court pursuant to a written  
26 finding that, given the person's circumstances, not appointing  
27 counsel would cause the person substantial hardship. In  
28 determining whether substantial hardship will result, the  
29 court shall consider the availability of any assets, including  
30 but not limited to cash, stocks, bonds, and any other property  
31 which may readily be converted to cash. However, the court  
32 shall require a person appointed counsel to contribute to the  
33 cost of representation in accordance with rules adopted by the  
34 state public defender.

35 d. A person with an income level greater than two hundred

1 percent of the most recently revised poverty income guidelines  
2 published by the United States department of health and human  
3 services shall not be deemed indigent or partially indigent by  
4 the court unless the person is charged with a felony and the  
5 court makes a written finding that, given the person's  
6 circumstances, not appointing counsel would cause the person  
7 substantial hardship. In determining whether substantial  
8 hardship will result, the court shall consider the  
9 availability of any assets, including but not limited to cash,  
10 stocks, bonds, and any other property which may readily be  
11 converted to cash. However, the court shall require a person  
12 appointed counsel to contribute to the cost of representation  
13 in accordance with rules adopted by the state public defender.

14 2. A determination of the indigent status of a person  
15 shall be made on the basis of an affidavit of financial status  
16 submitted at or immediately after the person's initial  
17 appearance before a court. Before granting legal assistance,  
18 the court shall inform the person of the obligation regarding  
19 payment of the expenses associated with the grant of legal  
20 assistance. If a person is granted legal assistance as an  
21 indigent or partial indigent, the affidavit of financial  
22 statement status shall be filed and permanently retained in  
23 the person's court file. The state-public-defender indigent  
24 defense commission shall adopt rules prescribing the form and  
25 content of the affidavit of financial statement status and the  
26 criteria by which a determination of indigency shall be based.  
27 The financial statement shall contain sufficient information  
28 to allow the determination to be made of whether the person  
29 meets the guidelines set out in subsection 1, taking into  
30 consideration all assets, and shall be accompanied by the  
31 person's most recent pay slip and name and address of  
32 employer, if employed.

33 3. A person who submits an affidavit of financial status,  
34 or on whose behalf an affidavit of financial status has been  
35 submitted, for the purpose of obtaining legal assistance shall

1 inform the court of any additional information concerning the  
2 person's income or assets, as the information becomes  
3 available during the course of the proceedings.

4 3- 4. A person who knowingly ~~submits-a~~ provides false  
5 information for inclusion in an affidavit of financial  
6 statement status which is submitted for the purpose of  
7 obtaining legal assistance by appointed counsel commits a  
8 fraudulent practice. As used in this subsection, "legal  
9 assistance" includes legal counsel, transcripts, witness fees  
10 and expenses, and any other goods or services required by law  
11 to be provided to an indigent person.

12 Sec. 21. Section 815.9A, Code 1997, is amended to read as  
13 follows:

14 815.9A RECOVERY OF INDIGENT DEFENSE COSTS.

15 All costs and fees incurred for indigent defense shall  
16 ~~become-due-and-payable~~ be paid to the clerk of the district  
17 court by the person receiving the services not later than the  
18 date of sentencing, the date or dates established in the  
19 person's restitution plan ordered in chapter 910, or if the  
20 person is acquitted or the charges are dismissed, within  
21 thirty days of the acquittal or dismissal. ~~---To-the-extent-that~~  
22 ~~the-costs-and-fees-remain-unpaid-at-the-time-they-become-due,~~  
23 ~~a-judgment-shall-be-entered-against-the-person-for-the-amounts~~  
24 ~~unpaid;~~ as follows:

25 1. If the person has an income level as determined  
26 pursuant to section 815.9 greater than one hundred percent but  
27 not more than one hundred fifty percent of the poverty  
28 guidelines, at least one hundred dollars of the indigent  
29 defense costs shall be recovered and paid to the clerk in  
30 accordance with rules adopted by the state public defender.

31 2. If the person has an income level as determined  
32 pursuant to section 815.9 greater than one hundred fifty  
33 percent but not more than one hundred eighty-five percent of  
34 the poverty guidelines, at least two hundred dollars of the  
35 indigent defense costs shall be recovered and paid to the

1 clerk in accordance with rules adopted by the state public  
2 defender.

3 3. If the person has an income level as determined  
4 pursuant to section 815.9 greater than one hundred eighty-five  
5 percent of the poverty guidelines, at least three hundred  
6 dollars of the indigent defense costs shall be recovered and  
7 paid to the clerk in accordance with rules adopted by the  
8 state public defender.

9 Sec. 22. Section 815.10, subsections 2 and 3, Code 1997,  
10 are amended to read as follows:

11 2. An attorney other than a public defender ~~or a contract~~  
12 ~~attorney~~ who is appointed by the court under this section  
13 shall apply to the district court for compensation and for  
14 reimbursement of costs incurred. The amount of compensation  
15 due shall be determined in accordance with section 815.7.

16 ~~3.--A contract attorney appointed by the court pursuant to~~  
17 ~~this section and section 13B.4 shall apply to the state public~~  
18 ~~defender for compensation and for reimbursement of costs~~  
19 ~~incurred in accordance with the contract.--The amount of~~  
20 ~~compensation due shall be determined in accordance with the~~  
21 ~~contract.~~

22 Sec. 23. Section 815.10A, subsection 1, Code 1997, is  
23 amended to read as follows:

24 1. The department of inspections and appeals shall require  
25 all claims for compensation filed by court-appointed attorneys  
26 for indigent defense cases, whether adult or juvenile, to  
27 include specific information as required by rules of the  
28 department. A court-appointed attorney in an indigent case  
29 may make an interim claim for compensation prior to conclusion  
30 of representation. The court may award reasonable and proper  
31 interim compensation to the attorney in accordance with  
32 guidelines established by the indigent defense commission.

33 Sec. 24. Section 903A.5, unnumbered paragraph 2, Code  
34 1997, is amended to read as follows:

35 An inmate ~~shall not~~ may, if ordered by the court, receive

1 credit upon the inmate's sentence for time spent in custody in  
2 another state resisting return to Iowa following an escape, or  
3 for time served in an institution or jail of another  
4 jurisdiction during any period of time the person is receiving  
5 credit upon a sentence of that other jurisdiction.

6 Sec. 25. Section 910.7A, subsection 2, Code 1997, is  
7 amended to read as follows:

8 2. A judgment of restitution may shall be enforced by the  
9 state, and may be enforced by a victim entitled under the  
10 order to receive restitution, a deceased victim's estate, or  
11 any other beneficiary of the judgment in the same manner as a  
12 civil judgment.

13 Sec. 26. Section 911.1, Code 1997, is amended to read as  
14 follows:

15 911.1 CRIMINAL PENALTY SURCHARGE ESTABLISHED.

16 A criminal penalty surcharge shall be levied against  
17 certain law violators as provided in section 911.2. The  
18 surcharge shall be deposited as provided in section 602.8108,  
19 subsection 3, and shall be used for the maintenance and  
20 improvement of criminal justice programs, law enforcement  
21 efforts, victim compensation, crime prevention, and  
22 improvement of the professional training of personnel, ~~and the~~  
23 planning and support services of the criminal justice system,  
24 and the defense of indigent persons charged with a crime.

25 EXPLANATION

26 This bill makes a variety of changes to provisions which  
27 relate to or effect the provision of court-appointed counsel  
28 in criminal cases.

29 The provisions relating to the position of state public  
30 defender are changes to require that the appointment be made  
31 by the governor with the advise and consent of the indigent  
32 defense commission, which is established under the bill. The  
33 requirement that the governor set the state public defender's  
34 salary is eliminated. The bill also permits the removal of  
35 the state public defender by the governor, upon notice and



1 hearing before the indigent defense commission, for good  
2 cause. The bill reestablishes the indigent defense  
3 commission, as an 11-member commission, which is to set policy  
4 for the state public defender and matters related to indigent  
5 defense. The policy issues include development of the budget  
6 to be requested by the state public defender, developing  
7 uniform client indigency criteria, identifying and  
8 establishing mechanisms for enhancing recoupment and  
9 containment of indigent defense costs, developing uniform case  
10 tracking mechanisms, developing fee guidelines, and preparing  
11 and filing annual reports on indigent defense.

12 The qualifications of the state public defender are further  
13 articulated to include experience in defending persons accused  
14 of committing criminal offenses. The state public defender's  
15 authorization to contract with persons admitted to practice  
16 for purposes of providing legal services to indigent or  
17 partially indigent persons is removed and replaced by court  
18 appointment of counsel who is willing to accept a given case.  
19 The state public defender's annual report is expanded to  
20 include the reports made by local public defenders, which are  
21 also expanded to give detail on the numbers of cases handled  
22 or referred to other counsel and restitution ordered to be  
23 paid.

24 County attorneys or their designees are given access to the  
25 centralized employee registry maintained by the child support  
26 recovery unit of the department of human services for purposes  
27 of recovery of restitution ordered by the court.

28 The penalty for three different types of driving while  
29 license suspended or revoked offenses is changed from a  
30 serious misdemeanor to a serious misdemeanor which is  
31 punishable only by a fine of \$250. The penalty applicable to  
32 interference with official acts which does not result in  
33 injury is changed from a serious misdemeanor to a serious  
34 misdemeanor which is punishable only by a fine of \$250.

35 Fifty percent of the proceeds from property which is seized

1 or forfeited from a criminal defendant is to be turned over to  
2 the clerk of the district court for distribution along with  
3 and in the same manner as other revenue received in criminal  
4 cases.

5 The hourly rate limits on fees to court-appointed  
6 attorneys, which are currently based on the hourly rate  
7 established in the contracts between the state public defender  
8 and the private contract attorneys, are abolished. The income  
9 level used to determine indigency is lowered from 150 percent  
10 of poverty level, as established by the United States  
11 department of health and human services, to poverty level.  
12 For persons who may be partially indigent, the court is to  
13 determine substantial hardship which would result in the  
14 appointment of counsel based on the availability of any  
15 assets, including but not limited to cash, stocks, bonds, and  
16 any other property which may be readily converted to cash.

17 The determination of indigent financial status is amended  
18 to require an affidavit of financial status be submitted. An  
19 affidavit is to include the name and address of the person's  
20 employer if the person is employed. A person who submits or  
21 for whom an affidavit of financial status is submitted, has a  
22 duty to provide the court with any additional information  
23 which becomes available during the course of the proceedings.  
24 A person who submits false information for an affidavit of  
25 financial status commits a fraudulent practice. The bill  
26 clarifies that all indigent defense costs that are recovered  
27 in accordance with rules adopted by the state public defender  
28 are to be paid to the clerk of the district court. The bill  
29 provides for claims for and payment of fees for services  
30 provided prior to actual completion of a criminal or juvenile  
31 case. Criminal indigent defense costs are added to the items  
32 which may be paid with receipts from the criminal penalty  
33 surcharge which is added to criminal fines.

34 Time spent in custody in another state while resisting  
35 extradition back to Iowa following an escape may, if ordered

1 by the court, be credited against a person's sentence under  
2 the bill. Language requiring the state to enforce restitution  
3 orders is added to the restitution chapter in the Code.

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OFFICE OF THE GOVERNOR

STATE CAPITOL  
DES MOINES, IOWA 50319  
515 281-5211

TERRY E BRANSTAD  
GOVERNOR

May 29, 1997

MAY 29 1997

The Honorable Paul Pate  
Secretary of State  
State Capitol Building  
LOCAL

Dear Mr. Secretary:

House File 662, an act relating to the defense of criminal charges, by making changes in the penalties applicable to certain offenses for which appointment of counsel is required, providing county attorneys or their designees with access to the centralized employee registry for purposes of collection of restitution, making changes relating to the determination of a person's indigency, prohibiting the submission of false information on an affidavit of financial status, requiring the state to enforce liens for restitution in criminal cases, and providing penalties, is hereby disapproved and transmitted to you in accordance with Article III, Section 16, of the Constitution of the State of Iowa.

Fiscal year 1997 is an extraordinary year for the indigent defense budget. For the first time in recent history neither a supplemental nor an appropriation transfer is necessary to fund the costs of indigent defense. After several years of nearly 20% increases in the funding needed to support the program, the reforms implemented in the past few years appear to be bringing the costs under control.

House File 662 contains several provisions I support, like those requiring greater scrutiny of a person's ability to hire his or her own attorney and those that would enhance the state's efforts to collect from defendants when legal counsel is provided. These measures would improve upon the recent reforms and would further our efforts to bring indigent defense costs under control. The bill contains other provisions I oppose, for example, the elimination of jail time as a penalty for driving under suspension. Not only would this change be inconsistent with action taken this year to crack down on persons who drive without licenses, it could also severely limit the ability of the Department of Transportation to sanction those who habitually violate the state's motor vehicle laws.

The Honorable Paul Pate  
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I am also opposed to provisions in the bill that would increase payments to noncontract attorneys at a considerable cost to Iowa taxpayers. The net effect of House File 662, including the increased payments to attorneys, would cost Iowa taxpayers an additional \$1.7 million to \$3.2 million a year. The additional funding this bill would require is not included in any appropriation passed by the legislature this year. I can not approve House File 662 knowing it will almost certainly result in overspending the dollars appropriated. To do so would be a reversion back to the bad spending practices of the past.

House File 662 would increase the hourly rates of payment for *noncontract* attorneys from \$55 to \$60 an hour for class A felonies, from \$50 to \$60 an hour for class B felonies, and from \$45 to \$55 an hour for other lesser offenses. These rate increases would apply to time spent on a case both in and out of court. The proposed increases according to the Fiscal Bureau's estimates will result in an additional cost of at least \$1.3 million a year. The cost is likely to be more as the lower estimate assumes the increase will be paid only to attorneys who are currently *noncontract* attorneys. The estimate does not take into account the fact that many *contract* attorneys will terminate their contracts in order to become eligible for the higher rates of payment. And as a matter of fairness, contract and noncontract attorneys should be paid at the same rate. If all attorneys providing indigent defense are paid at the higher rates, the Fiscal Bureau estimates the additional cost will be \$2.2 million to \$3.7 million a year.

Proponents of the House File 662 suggest that the cost of raising the hourly rate will be offset by lower costs associated with fewer criminal cases filings, fewer defendants receiving court appointed counsel and new revenues from the proposed assessment fee. The argument that there will be fewer criminal case filings and therefore lower costs is not supported by recent experience or credible projections about future filings. Criminal case filings in the past three years have increased from 12% to 15% each year. The Criminal Juvenile Justice Planning Commission is projecting double-digit increases in criminal filings for this calendar year and the next. The proposed changes in the indigency standards will reduce the number of defendants eligible to receive appointed counsel only if the courts are aggressive in screening out defendants who have the ability to pay. The potential revenue from an assessment fee is so unpredictable that the Fiscal Bureau is reluctant to attach any dollar amount to it.

It is also argued that the current rates paid to court-appointed counsel are inadequate and do not fairly compensate attorneys for the time and effort spent on indigent defense cases. However, in reviewing the rates paid to attorneys in other states, Iowa attorneys fare quite well in comparison. A recent survey conducted by the

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Spangenberg Group ranks Iowa fourteenth among the fifty states in compensation to court appointed attorneys. The proposed rate increases would move Iowa to fourth. Additionally nearly all other states provide a differential in the rate of payment depending on whether the hours claimed are for tasks performed in court versus out of court. Iowa currently does not differentiate between in court and out of court time.

Past reforms in the indigent defense system have been based on two simple, underlying principles. First, only defendants who are truly indigent should receive court-appointed legal counsel. Second, in all cases where an attorney is provided, regardless of the defendant's present inability to pay, the costs of representation become an obligation that follows the defendant and must be repaid by the defendant at some future date. As past reforms are applied more aggressively and new reforms are adopted based on these principles, savings in the system will be realized. Funding that becomes available as a result of these savings could be used to increase the payments to all attorneys appointed to represent indigent defendants. I am committed to working with representatives of the Iowa Bar Association and the judicial and legislative branches over the interim to develop changes toward that end.

For the above reasons, I hereby respectfully disapprove House File 662.

Sincerely,



Terry E. Branstad  
Governor

TEB/ps

cc: Secretary of the Senate  
Chief Clerk of the House

Vetoed

HOUSE FILE 662

AN ACT

RELATING TO THE DEFENSE OF CRIMINAL CHARGES, BY MAKING CHANGES IN THE PENALTIES APPLICABLE TO CERTAIN OFFENSES FOR WHICH APPOINTMENT OF COUNSEL IS REQUIRED, PROVIDING COUNTY ATTORNEYS OR THEIR DESIGNEES WITH ACCESS TO THE CENTRALIZED EMPLOYEE REGISTRY FOR PURPOSES OF COLLECTION OF RESTITUTION, MAKING CHANGES RELATING TO THE DETERMINATION OF A PERSON'S INDIGENCY, PROHIBITING THE SUBMISSION OF FALSE INFORMATION ON AN AFFIDAVIT OF FINANCIAL STATUS, REQUIRING THE STATE TO ENFORCE LIENS FOR RESTITUTION IN CRIMINAL CASES, AND PROVIDING PENALTIES.

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

Section 1. Section 13B.6, subsection 1, Code 1997, is amended to read as follows:

1. There is established in the state general fund of the state an account to be known as the state public defender operating account. The state public defender may bill a county for services rendered to the county by the office of the state public defender. Receipts shall be deposited in the operating account established under this section subsection. There is appropriated from the state general fund of the state all amounts deposited in the state public defender operating account for use in maintaining the operations of the office of state public defender.

1A. There is established in the general fund of the state an account to be known as the indigent defense assessment fee account. Receipts shall be deposited in the account established under this subsection as required by law. There is appropriated from the general fund of the state all amounts deposited in the indigent defense fee assessment account for payment by the state public defender of any shortfalls which

may arise in the state public defender operating account for payment of court-appointed attorney fees.

Sec. 2. Section 13B.9, subsection 6, Code 1997, is amended by striking the subsection.

Sec. 3. Section 252G.5, unnumbered paragraph 1, Code 1997, is amended to read as follows:

The records of the centralized employee registry are confidential records pursuant to section 22.7, and may be accessed only by state agencies, county attorneys, or county attorneys' designees as provided in this section. When a state agency accesses information in the registry, the agency may use the information to update the agency's own records. Access to and use of the information contained in the registry shall be limited to the following:

Sec. 4. Section 252G.5, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 4. County attorneys or designees procured by a county attorney for purposes of recovery of restitution ordered by the court pursuant to chapter 910.

Sec. 5. Section 321.218, subsections 1 and 4, Code 1997, are amended to read as follows:

1. A person whose motor vehicle license or operating privilege has been denied, canceled, suspended, or revoked as provided in this chapter or as provided in section 252J.8, and who operates a motor vehicle upon the highways of this state while the license or privilege is denied, canceled, suspended, or revoked, commits a serious misdemeanor punishable only by imposition of a fine of three hundred fifty dollars, notwithstanding section 903.1.

4. A person who operates a commercial motor vehicle upon the highways of this state when disqualified from operating the commercial motor vehicle under section 321.208 commits a serious misdemeanor punishable only by imposition of a fine of three hundred fifty dollars, notwithstanding section 903.1, if a commercial driver's license is required for the person to operate the commercial motor vehicle.

Sec. 6. Section 602.8106, subsection 1, Code 1997, is amended by adding the following new paragraph:

NEW PARAGRAPH. g. For the filing of an affidavit of financial status for a determination of indigency and qualification for court-appointed counsel under section 815.9, thirty dollars.

Sec. 7. Section 602.8107, subsection 2, paragraph d, Code 1997, is amended to read as follows:

d. Court costs, including correctional fees assessed pursuant to sections 356.7 and 904.108, court-appointed attorney fees, or public defender expenses, and assessment fees under section 815.9.

Sec. 8. Section 602.8108, subsection 2, Code 1997, is amended to read as follows:

2. Except as otherwise provided, the clerk of the district court shall report and submit to the state court administrator, not later than the fifteenth day of each month, the fines and fees received during the preceding calendar month. Except as provided in subsections 4, and 5, and 6, the state court administrator shall deposit the amounts received with the treasurer of state for deposit in the general fund of the state. The state court administrator shall report to the legislative fiscal bureau within thirty days of the beginning of each fiscal quarter the amount received during the previous quarter in the account established under this section.

Sec. 9. Section 602.8108, Code 1997, is amended by adding the following new subsection:

NEW SUBSECTION. 6. The state court administrator shall deposit any amounts received as a result of the imposition of an assessment fee under section 815.9 with the treasurer of state for deposit of the receipts in the indigent defense assessment fee account established in section 13B.6.

Sec. 10. Section 719.1, subsections 1 and 2, Code 1997, are amended to read as follows:

1. A person who knowingly resists or obstructs anyone known by the person to be a peace officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, in the performance of any act which is within the scope of the lawful duty or authority of that officer, emergency medical care provider under chapter 147A, or fire fighter, whether paid or volunteer, or who knowingly resists or obstructs the service or execution by any authorized person of any civil or criminal process or order of any court, commits a serious misdemeanor punishable only by imposition of a fine of three hundred fifty dollars, notwithstanding section 903.1. However, if a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts bodily injury other than serious injury, that person commits an aggravated misdemeanor. If a person commits an interference with official acts, as defined in this subsection, and in so doing inflicts or attempts to inflict serious injury, or displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, that person commits a class "D" felony.

2. A person under the custody, control, or supervision of the department of corrections who knowingly resists, obstructs, or interferes with a correctional officer, agent, employee, or contractor, whether paid or volunteer, in the performance of the person's official duties, commits a serious misdemeanor punishable only by imposition of a fine of three hundred fifty dollars, notwithstanding section 903.1. If a person violates this subsection and in so doing commits an assault, as defined in section 708.1, the person commits an aggravated misdemeanor. If a person violates this subsection and in so doing inflicts or attempts to inflict bodily injury other than serious injury to another, displays a dangerous weapon, as defined in section 702.7, or is armed with a firearm, the person commits a class "D" felony. If a person violates this subsection and uses or attempts to use a



dangerous weapon, as defined in section 702.7, or inflicts serious injury to another, the person commits a class "C" felony.

Sec. 11. Section 815.7, Code 1997, is amended to read as follows:

815.7 FEES TO ATTORNEYS.

An attorney who has not entered into a contract authorized under section 13B.4 and who is appointed by the court to represent any person charged with a crime in this state shall be entitled to a reasonable compensation which shall be ~~the ordinary and customary charges for like services in the community to be~~ decided in each case by a judge of the district court, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. However, the reasonable compensation awarded an attorney shall not be calculated based upon an hourly rate that exceeds ~~the rate a contract attorney as provided in section 13B.4 would receive in a similar case~~ fifty-five dollars per hour, unless the offense charged is a class "A" or class "B" felony, in which case the hourly rate shall not exceed sixty dollars per hour. Determination of the expense associated with the services of a public defender shall be determined based on time records kept by the public defender for the case. Such A court-appointed attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, where grounds for further litigation are not capricious or unreasonable, but if such attorney does so, the attorney's fee shall be determined accordingly. Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 12. Section 815.9, Code 1997, is amended to read as follows:

815.9 INDIGENCY DETERMINED -- PENALTY.

1. For purposes of this chapter, section 68.8, section 222.22, chapter 232, chapter 814, and the rules of criminal procedure, the following apply:

a. A person is indigent if the person has an income level at or below one hundred ~~fifty~~ percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

b. A person is not indigent if the person has an income level greater than one hundred ~~fifty~~ percent of the United States poverty level as defined by the most recently revised poverty income guidelines published by the United States department of health and human services.

c. A person with an income level greater than one hundred ~~fifty~~ percent, but less than two hundred percent, of the most recently revised poverty income guidelines published by the United States department of health and human services may be deemed partially indigent by the court pursuant to a written finding that, given the person's circumstances, not appointing counsel would cause the person substantial hardship. In determining whether substantial hardship will result, the court shall consider the availability of any assets, including but not limited to cash, stocks, bonds, and any other property which may readily be converted to cash. However, the court shall require a person appointed counsel to contribute to the cost of representation in accordance with rules adopted by the state public defender.

d. A person with an income level greater than two hundred percent of the most recently revised poverty income guidelines published by the United States department of health and human services shall not be deemed indigent or partially indigent by the court unless the person is charged with a felony and the court makes a written finding that, given the person's circumstances, not appointing counsel would cause the person substantial hardship. In determining whether substantial

hardship will result, the court shall consider the availability of any assets, including but not limited to cash, stocks, bonds, and any other property which may readily be converted to cash. However, the court shall require a person appointed counsel to contribute to the cost of representation in accordance with rules adopted by the state public defender.

2. a. A determination of the indigent status of a person shall be made on the basis of an affidavit of financial status submitted at or immediately after the person's initial appearance before a court. If a person is granted legal assistance as an indigent or partial indigent, the affidavit of financial statement status shall be filed and permanently retained in the person's court file. The state public defender shall adopt rules prescribing the form and content of the affidavit of financial statement status and the criteria by which a determination of indigency shall be based. The affidavit of financial statement status shall contain sufficient information to allow the determination to be made of whether the person meets the guidelines set out in subsection 1 and, taking into consideration all assets. The affidavit of financial status shall be accompanied by the person's most recent pay slip and the name and address of the person's employer, if the person is employed.

b. Each person seeking legal assistance under this section shall pay a nonrefundable assessment fee of thirty dollars to the clerk of the district court at the time of determination of indigency. If the person is incarcerated, however, the assessment fee may be paid no later than five days after the date on which the determination of indigency is made. If the person remains in custody or if, based upon the affidavit of financial status, the court determines that the person does not have the financial resources to pay the fee, the court may reduce the assessment fee to ten dollars, waive the fee, or assess the fee upon disposition of the case.

c. Before legal assistance is granted, the court shall inform the person of the obligation regarding payment of the expenses associated with the granting of legal assistance. If the court determines that the assessment fee should be assessed at the time fixed by the court for pronouncement of judgment and sentence, the order appointing counsel shall reflect that determination. At the time fixed by the court for pronouncement of judgment and sentencing, the court shall verify that the assessment fee has been paid or has been waived by the court. If the fee has not been paid or waived the court shall include the amount of the assessment fee in any orders for payment of restitution and may order that any posted cash bond be forfeited in an amount sufficient to pay the assessment fee.

3. A person who submits an affidavit of financial status, or on whose behalf an affidavit of financial status has been submitted, for the purpose of obtaining legal assistance shall inform the court of any additional information concerning the person's income or assets, as the information becomes available during the course of the proceedings.

~~3-~~ 4. A person who knowingly submits-a provides false information for inclusion in an affidavit of financial statement status which is submitted for the purpose of obtaining legal assistance by appointed counsel commits a fraudulent practice. As used in this subsection, "legal assistance" includes legal counsel, transcripts, witness fees and expenses, and any other goods or services required by law to be provided to an indigent person.

Sec. 13. Section 815.9A, subsections 1, 2, and 3, Code 1997, are amended by striking the subsections.

Sec. 14. Section 815.10, subsection 1, Code 1997, is amended by adding the following new unnumbered paragraph:

NEW UNNUMBERED PARAGRAPH. For purposes of this section, a person who is charged with a serious misdemeanor offense which is only punishable by the imposition of a fine shall not be entitled to legal assistance at public expense.

Sec. 15. Section 815.10A, subsection 1, Code 1997, is amended to read as follows:

1. The department of inspections and appeals shall require all claims for compensation filed by court-appointed attorneys for indigent defense cases, whether adult or juvenile, to include specific information as required by rules of the department. A court-appointed attorney in an indigent case may make an interim claim for compensation prior to conclusion of representation. The court may award reasonable and proper interim compensation to the attorney in accordance with guidelines established by the supreme court.

Sec. 16. NEW SECTION. 815.11A REPORT TO GENERAL ASSEMBLY. By February 1, 1998, and annually thereafter by the date on which the general assembly convenes, the state court administrator shall compile and submit a report to the general assembly which contains the fee collection information.

Sec. 17. Section 903A.5, unnumbered paragraph 2, Code 1997, is amended to read as follows:

An inmate ~~shall not~~ may, if ordered by the court, receive credit upon the inmate's sentence for time spent in custody in another state resisting return to Iowa following an escape, or for time served in an institution or jail of another jurisdiction during any period of time the person is receiving credit upon a sentence of that other jurisdiction.

Sec. 18. Section 910.7A, subsection 2, Code 1997, is amended to read as follows:

2. A judgment of restitution may shall be enforced by the state, and may be enforced by a victim entitled under the order to receive restitution, a deceased victim's estate, or any other beneficiary of the judgment in the same manner as a civil judgment.

Sec. 19. Section 911.1, Code 1997, is amended to read as follows:

911.1 CRIMINAL PENALTY SURCHARGE ESTABLISHED.

A criminal penalty surcharge shall be levied against certain law violators as provided in section 911.2. The surcharge shall be deposited as provided in section 602.8108, subsection 3, and shall be used for the maintenance and improvement of criminal justice programs, law enforcement efforts, victim compensation, crime prevention, ~~and~~ improvement of the professional training of personnel, ~~and the~~ planning and support services of the criminal justice system, and the defense of indigent persons charged with a crime.

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RON J. CORBETT  
Speaker of the House

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MARY E. KRAMER  
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 662, Seventy-seventh General Assembly.

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ELIZABETH ISAACSON  
Chief Clerk of the House

Approved May 29, 1997

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TERRY E. BRANSTAD  
Governor