

2/9/98 Referred to Judiciary

FILED FEB 3 1998  
3/19/98 Do Pass

SENATE FILE 2090  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 2006)

Passed Senate, <sup>(p.212)</sup> Date 2-5-98 Passed House, <sup>(p.874)</sup> Date 3/24/98  
Vote: Ayes 47 Nays 0 Vote: Ayes 95 Nays 0  
Approved March 31, 1998

A BILL FOR

1 An Act relating to compensation for the legal defense of indigent  
2 persons in prison disciplinary postconviction cases and  
3 providing an effective date and for retroactive applicability.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

S.F. 2090

1 Section 1. Section 822.5, subsection 2, Code 1997, is  
2 amended to read as follows:

3 2. If an applicant confined in a state institution seeks  
4 relief under section 822.2, subsection 6, and the court finds  
5 in favor of the applicant, or when relief is denied and costs  
6 and expenses referred to in subsection 1 cannot be collected  
7 from the applicant, these costs and expenses initially shall  
8 be paid by the ~~county in which the application was filed~~ state  
9 public defender from the indigent defense fund in accordance  
10 with the procedures applicable in section 815.7. ~~The facts of~~  
11 ~~payment and the proceedings on which it is based, with a~~  
12 ~~statement of the amount of costs and expenses incurred, shall~~  
13 ~~be submitted to the county in a timely manner with approval in~~  
14 ~~writing by the presiding or district judge appended to the~~  
15 ~~statement or endorsed on it, and shall be certified by the~~  
16 ~~clerk of the district court under seal to the state executive~~  
17 ~~council. The executive council shall review the proceedings~~  
18 ~~and authorize reimbursement for the costs and expenses or for~~  
19 ~~that part which the executive council finds justified, and~~  
20 ~~shall notify the director of revenue and finance to draw a~~  
21 ~~warrant to the county treasurer on the state general fund for~~  
22 ~~the amount authorized.~~

23 Sec. 2. REIMBURSEMENT TO COUNTIES. Counties which paid  
24 claims to attorneys pursuant to court order under section  
25 822.5, subsection 2, prior to the effective date of this Act,  
26 but which were not fully reimbursed by the executive council,  
27 may file claims with the state appeal board pursuant to  
28 chapter 25 for any difference between the amount paid pursuant  
29 to court order and the amount reimbursed by the executive  
30 council. The state appeal board shall reimburse the counties  
31 for any amount paid pursuant to court order and not fully  
32 reimbursed by the executive council.

33 Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.  
34 This Act, being deemed of immediate importance, takes effect  
35 upon enactment and applies retroactively to any claims for

1 costs and expenses which are or were approved by a presiding  
2 or district judge on or before the effective date of this Act.

3 EXPLANATION

4 This bill makes changes in the procedures applicable to  
5 payment of costs and expenses in postconviction actions  
6 relating to forfeiture of reductions in sentence based on good  
7 conduct time which had been earned by an inmate against the  
8 sentence.

9 Under current law, claims for cost and expenses incurred  
10 are submitted to the court for approval and forwarded to the  
11 county for payment. Once the county has paid, the claim is  
12 forwarded to the executive council for reimbursement from the  
13 state general fund.

14 Under the bill, those claims would be forwarded directly to  
15 the state public defender from the court for payment from the  
16 indigent defense fund established in Code chapter 815. The  
17 state public defender is to pay the claims in accordance with  
18 the procedures established in Code section 815.7 for payment  
19 of attorney fees in other cases.

20 The bill takes effect upon enactment and is made  
21 retroactively applicable to claims which were approved by the  
22 court on or before the effective date of the bill. For claims  
23 paid by counties on or before the effective date of the bill,  
24 the counties are to file claims with the state appeal board  
25 for any amounts paid by the county for which the county has  
26 not received reimbursement from the executive council. The  
27 state appeal board is required to reimburse the counties for  
28 that difference.

29  
30  
31  
32  
33  
34  
35

Maddox  
Neuhauser  
Tinsman

SSB 2006  
Judiciary  
Succeeded By  
(SF) HF 2090

SENATE FILE \_\_\_\_\_  
BY (PROPOSED COMMITTEE ON  
JUDICIARY BILL BY CHAIR-  
PERSON MCKEAN)

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

A BILL FOR

1 An Act relating to compensation for the legal defense of indigent  
2 persons in prison disciplinary postconviction cases and  
3 providing an effective date and for retroactive applicability.

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

- 5
- 6
- 7
- 8
- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23

1 Section 1. Section 822.5, subsection 2, Code 1997, is  
2 amended to read as follows:

3 2. If an applicant confined in a state institution seeks  
4 relief under section 822.2, subsection 6, and the court finds  
5 in favor of the applicant, or when relief is denied and costs  
6 and expenses referred to in subsection 1 cannot be collected  
7 from the applicant, these costs and expenses ~~initially~~ shall  
8 be paid by the ~~county-in-which-the-application-was-filed~~  
9 state. The facts of payment and the proceedings on which it  
10 is based, with a statement of the amount of costs and expenses  
11 incurred, shall be submitted to the county district court in a  
12 timely manner ~~with~~ for approval in writing by the presiding or  
13 district judge. The written approval of the judge shall be  
14 appended to the statement or endorsed on it, and shall be  
15 certified by the clerk of the district court under seal to the  
16 state executive-council public defender. The ~~executive~~  
17 ~~council~~ state public defender shall review the proceedings and  
18 authorize reimbursement for the costs and expenses or for that  
19 part which the ~~executive-council~~ state public defender finds  
20 justified, and shall notify the director of revenue and  
21 finance ~~to~~. Upon receipt of notification from the state  
22 public defender, the department of revenue and finance shall  
23 draw a warrant to the county treasurer on the state general  
24 fund for the amount authorized.

25 Sec. 2. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.  
26 This Act, being deemed of immediate importance, takes effect  
27 upon enactment and applies retroactively to any claims for  
28 costs and expenses which are or were approved by a presiding  
29 or district judge on or after June 1, 1997. For claims paid  
30 by counties on or after June 1, 1997, but on or before the  
31 effective date of this Act, the counties shall submit an  
32 accounting to the state public defender of any amounts paid  
33 for which the county has not received reimbursement from the  
34 executive council. The accounting shall include such  
35 information as was submitted to the executive council in the

1 original claim for reimbursement.

2 EXPLANATION

3 This bill makes changes in the procedures applicable to  
4 payment of costs and expenses in postconviction actions  
5 relating to forfeiture of reductions in sentence based on good  
6 conduct time which had been earned by an inmate against the  
7 sentence.

8 Under current law, claims for cost and expenses incurred  
9 are submitted to the court for approval and forwarded to the  
10 county for payment. Once the county has paid, the claim is  
11 forwarded to the executive council for reimbursement from the  
12 state general fund.

13 Under the bill, those claims would be forwarded directly to  
14 the state public defender from the court for payment from the  
15 general fund. The state public defender retains the  
16 discretion to pay only those claims that the state public  
17 defender finds are justified.

18 The bill takes effect upon enactment and is made  
19 retroactively applicable to June 1, 1997, covering claims  
20 which were approved by the court on or after that date. For  
21 claims paid by counties on or after June 1, 1997, but on or  
22 before the effective date of the bill, the counties are to  
23 submit an accounting to the state public defender of any  
24 amounts paid for which the county has not received  
25 reimbursement from the executive council. The accounting is  
26 to include such information as was submitted to the executive  
27 council in the original claim for reimbursement.

28  
29  
30  
31  
32  
33  
34  
35

SENATE FILE 2090

AN ACT

RELATING TO COMPENSATION FOR THE LEGAL DEFENSE OF INDIGENT PERSONS IN PRISON DISCIPLINARY POSTCONVICTION CASES AND PROVIDING AN EFFECTIVE DATE AND FOR RETROACTIVE APPLICABILITY.

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

Section 1. Section 822.5, subsection 2, Code 1997, is amended to read as follows:

2. If an applicant confined in a state institution seeks relief under section 822.2, subsection 6, and the court finds in favor of the applicant, or when relief is denied and costs and expenses referred to in subsection 1 cannot be collected from the applicant, these costs and expenses initially shall be paid by the county in which the application was filed state public defender from the indigent defense fund in accordance with the procedures applicable in section 815.7. ~~The facts of payment and the proceedings on which it is based, with a statement of the amount of costs and expenses incurred, shall be submitted to the county in a timely manner with approval in writing by the presiding or district judge appended to the statement or endorsed on it, and shall be certified by the clerk of the district court under seal to the state executive council. The executive council shall review the proceedings and authorize reimbursement for the costs and expenses or for that part which the executive council finds justified, and shall notify the director of revenue and finance to draw a warrant to the county treasurer on the state general fund for the amount authorized.~~

Sec. 2. REIMBURSEMENT TO COUNTIES. Counties which paid claims to attorneys pursuant to court order under section 822.5, subsection 2, prior to the effective date of this Act, but which were not fully reimbursed by the executive council, may file claims with the state appeal board pursuant to

chapter 25 for any difference between the amount paid pursuant to court order and the amount reimbursed by the executive council. The state appeal board shall reimburse the counties for any amount paid pursuant to court order and not fully reimbursed by the executive council.

Sec. 3. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY. This Act, being deemed of immediate importance, takes effect upon enactment and applies retroactively to any claims for costs and expenses which are or were approved by a presiding or district judge on or before the effective date of this Act.

\_\_\_\_\_  
MARY E. KRAMER  
President of the Senate

\_\_\_\_\_  
RON J. CORBETT  
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2090, Seventy-seventh General Assembly.

\_\_\_\_\_  
MARY PAT GUNDERSON  
Secretary of the Senate  
Approved March 31, 1998

\_\_\_\_\_  
TERRY E. BRANSTAD  
Governor