

Senate Study Bill 2006

Bill Text

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

1 3 2. If an applicant confined in a state institution seeks
1 4 relief under section 822.2, subsection 6, and the court finds
1 5 in favor of the applicant, or when relief is denied and costs
1 6 and expenses referred to in subsection 1 cannot be collected
1 7 from the applicant, these costs and expenses

~~initially~~

~~shall~~

1 8 be paid by the

~~county in which the application was filed~~

1 9 state. The facts of payment and the proceedings on which it
1 10 is based, with a statement of the amount of costs and expenses
1 11 incurred, shall be submitted to the

~~county~~

~~district court in a~~

1 12 timely manner

~~with~~

~~for approval in writing by the presiding or~~

1 13 district judge. The written approval of the judge shall be

1 14 appended to the statement or endorsed on it, and shall be

1 15 certified by the clerk of the district court under seal to the

1 16 state

~~executive council~~

~~public defender~~. The

~~executive~~

1 17

~~council~~

~~state public defender~~ shall review the proceedings and

1 18 authorize reimbursement for the costs and expenses or for that

1 19 part which the

~~executive council~~

~~state public defender~~ finds

1 20 justified, and shall notify the director of revenue and

1 21 finance

~~to~~

~~Upon receipt of notification from the state~~

1 22 public defender, the department of revenue and finance shall

1 23 draw a warrant to the county treasurer on the state general

1 24 fund for the amount authorized.

1 25 Sec. 2. EFFECTIVE DATE AND RETROACTIVE APPLICABILITY.

1 26 This Act, being deemed of immediate importance, takes effect

1 27 upon enactment and applies retroactively to any claims for

1 28 costs and expenses which are or were approved by a presiding

1 29 or district judge on or after June 1, 1997. For claims paid

1 30 by counties on or after June 1, 1997, but on or before the
1 31 effective date of this Act, the counties shall submit an
1 32 accounting to the state public defender of any amounts paid
1 33 for which the county has not received reimbursement from the
1 34 executive council. The accounting shall include such
1 35 information as was submitted to the executive council in the
2 1 original claim for reimbursement.

2 2 EXPLANATION

2 3 This bill makes changes in the procedures applicable to
2 4 payment of costs and expenses in postconviction actions
2 5 relating to forfeiture of reductions in sentence based on good
2 6 conduct time which had been earned by an inmate against the
2 7 sentence.

2 8 Under current law, claims for cost and expenses incurred
2 9 are submitted to the court for approval and forwarded to the
2 10 county for payment. Once the county has paid, the claim is
2 11 forwarded to the executive council for reimbursement from the
2 12 state general fund.

2 13 Under the bill, those claims would be forwarded directly to
2 14 the state public defender from the court for payment from the
2 15 general fund. The state public defender retains the
2 16 discretion to pay only those claims that the state public
2 17 defender finds are justified.

2 18 The bill takes effect upon enactment and is made
2 19 retroactively applicable to June 1, 1997, covering claims
2 20 which were approved by the court on or after that date. For
2 21 claims paid by counties on or after June 1, 1997, but on or
2 22 before the effective date of the bill, the counties are to
2 23 submit an accounting to the state public defender of any
2 24 amounts paid for which the county has not received
2 25 reimbursement from the executive council. The accounting is
2 26 to include such information as was submitted to the executive
2 27 council in the original claim for reimbursement.

2 28 LSB 3018SC 77

2 29 lh/sc/14