

Millage, Chair
Shey
Kreiman

HSB 715

JUDICIARY

needed by
2470

SENATE/HOUSE FILE _____
BY (PROPOSED DEPARTMENT OF
INSPECTIONS AND APPEALS BILL)

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

A BILL FOR

1 An Act relating to the office of the state public defender
2 including indigent defense costs and the appropriation of
3 indigent defense funds.

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

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1 Section 1. Section 13B.8, subsection 2, Code Supplement
2 1999, is amended to read as follows:

3 2. The state public defender may appoint ~~a local public~~
4 ~~defender~~ and may remove the local public defender, assistant
5 local public defenders, clerks, investigators, secretaries, or
6 other employees for cause. Each local public defender, and
7 any assistant local public defender, must be an attorney
8 admitted to the practice of law before the Iowa supreme court.

9 Sec. 2. Section 232.141, subsection 2, Code Supplement
10 1999, is amended to read as follows:

11 2. All of the following expenses are a charge upon the
12 county in which the proceedings are held, to the extent
13 provided in subsection 3:

14 a. The fees and mileage of witnesses and the expenses of
15 officers serving notices and subpoenas which are incurred in
16 ~~connection-with-the-appointment-of~~ by an attorney appointed by
17 the court to serve as counsel to any party or to serve as a
18 guardian ad litem for any child.

19 b. Reasonable compensation for an attorney appointed by
20 the court to serve as counsel to any party or as guardian ad
21 litem for any child. ~~However, the amount of compensation paid~~
22 ~~shall be paid in accordance with section 815.7.~~

23 Sec. 3. Section 232.141, subsection 3, paragraph c, Code
24 Supplement 1999, is amended to read as follows:

25 c. ~~Costs incurred under subsection 2 which are not paid by~~
26 ~~the county under paragraphs "a" and "b" shall be paid by the~~
27 ~~state. However, before any costs are paid, a claim must be~~
28 ~~submitted to and approved by the state public defender who~~
29 ~~shall prescribe rules and forms to implement this subsection~~
30 for compensation of an attorney appointed by the court to
31 serve as counsel to any party or guardian ad litem for any
32 child shall be made in accordance with sections 13B.4 and
33 815.7.

34 Sec. 4. Section 232.141, subsection 3, Code Supplement
35 1999, is amended by adding the following new paragraph:

1 NEW PARAGRAPH. d. Costs incurred under subsection 2 shall
2 be paid by the state. The county shall be required to
3 reimburse the indigent defense fund for costs incurred by the
4 state up to the county's base in subsection 2.

5 Sec. 5. Section 815.7, Code Supplement 1999, is amended to
6 read as follows:

7 815.7 FEES TO ATTORNEYS.

8 An attorney who has not entered into a contract authorized
9 under section 13B.4 and who is appointed by the court to
10 represent any person charged with a crime in this state,
11 seeking postconviction relief, against whom a contempt action
12 is pending, appealing a criminal conviction, appealing a
13 denial of postconviction relief, or subject to a proceeding
14 under chapter 229A, or to serve as counsel for any person or
15 guardian ad litem for any child in juvenile court, shall be
16 entitled to reasonable compensation and expenses. For
17 appointments made on or after July 1, 1999, the reasonable
18 compensation shall be calculated on the basis of sixty dollars
19 per hour for class "A" felonies, fifty-five dollars per hour
20 for class "B" felonies, and fifty dollars per hour for all
21 other offenses cases. The expenses shall include any sums as
22 are necessary for investigations in the interest of justice,
23 and the cost of obtaining the transcript of the trial record
24 and briefs if an appeal is filed. The attorney need not
25 follow the case into another county or into the appellate
26 court unless so directed by the court. If the attorney
27 follows the case into another county or into the appellate
28 court, the attorney shall be entitled to compensation as
29 provided in this section. Only one attorney fee shall be so
30 awarded in any one case except that in class "A" felony cases,
31 two may be authorized.

32 Sec. 6. Section 815.9, subsection 1, Code Supplement 1999,
33 is amended to read as follows:

34 1. For purposes of this chapter, chapter 13B, chapter
35 229A, chapter 232, chapter 665, chapter 814, chapter 822, and

1 the rules of criminal procedure, a person is indigent if the
2 person is entitled to an attorney appointed by the court as
3 follows:

4 a. A person is entitled to an attorney appointed by the
5 court to represent the person if the person has an income
6 level at or below one hundred twenty-five percent of the
7 United States poverty level as defined by the most recently
8 revised poverty income guidelines published by the United
9 States department of health and human services, unless the
10 court determines that the person is able to pay for the cost
11 of an attorney to represent the person on the pending charges
12 case. In making the determination of a person's ability to
13 pay for the cost of an attorney, the court shall consider not
14 only the person's income, but also the availability of any
15 assets subject to execution, including but not limited to
16 cash, stocks, bonds, and any other property which may be
17 applied to the satisfaction of judgments and the seriousness
18 of the charge or nature of the case.

19 b. A person with an income level greater than one hundred
20 twenty-five percent, but at or below two hundred percent, of
21 the most recently revised poverty income guidelines published
22 by the United States department of health and human services
23 shall not be entitled to an attorney appointed by the court,
24 unless the court makes a written finding that not appointing
25 counsel on the pending charges case would cause the person
26 substantial hardship. In determining whether substantial
27 hardship would result, the court shall consider not only the
28 person's income, but also the availability of any assets
29 subject to execution, including but not limited to cash,
30 stocks, bonds, and any other property which may be applied to
31 the satisfaction of judgments and the seriousness of the
32 charge or nature of the case.

33 c. A person with an income level greater than two hundred
34 percent of the most recently revised poverty income guidelines
35 published by the United States department of health and human

1 services shall not be entitled to an attorney appointed by the
2 court, unless the person is charged with a felony and the
3 court makes a written finding that not appointing counsel
4 would cause the person substantial hardship. In determining
5 whether substantial hardship would result, the court shall
6 consider not only the person's income, but also the
7 availability of any assets subject to execution, including but
8 not limited to cash, stocks, bonds, and any other property
9 which may be applied to the satisfaction of judgments and the
10 seriousness of the charge or nature of the case.

11 Sec. 7. Section 815.10, subsection 1, Code Supplement
12 1999, is amended to read as follows:

13 1. The court, for cause and upon its own motion or upon
14 application by an indigent person or a public defender, shall
15 appoint ~~the state public defender~~, the state public defender's
16 designee pursuant to section 13B.4, or an attorney pursuant to
17 section 13B.9 to represent an indigent person at any stage of
18 the criminal, postconviction, contempt, commitment under
19 chapter 229A, or juvenile proceedings or on appeal of any
20 criminal, postconviction, contempt, commitment under chapter
21 229A, or juvenile action in which the indigent person is
22 entitled to legal assistance at public expense. However, in
23 juvenile cases, the court may directly appoint an existing
24 nonprofit corporation established for and engaged in the
25 provision of legal services for juveniles. An appointment
26 shall not be made unless the person is determined to be
27 indigent under section 815.9. Only one attorney shall be
28 appointed in all cases, except that in class "A" felony cases
29 the court may appoint two attorneys.

30 Sec. 8. Section 815.11, Code Supplement 1999, is amended
31 to read as follows:

32 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

33 Costs incurred under chapter 229A, 665, or 822, or section
34 232.141, subsection 3, paragraph "c", or sections 814.9,
35 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10, or the

1 rules of criminal procedure on behalf of an indigent shall be
2 paid from funds appropriated by the general assembly to the
3 office of the state public defender in the department of
4 inspections and appeals for those purposes.

5 Sec. 9. INDIGENT DEFENSE COSTS.

6 1. For an attorney entitled to compensation under section
7 815.7 for an appointment made before July 1, 1999, the
8 reasonable compensation shall be calculated on the basis of
9 fifty-five dollars per hour for class "A" felonies, fifty
10 dollars per hour for class "B" felonies, and forty-five
11 dollars per hour for all other cases.

12 2. For purposes of determining the reasonable basis for
13 compensation in juvenile cases under section 815.7, an
14 attorney is considered appointed on the date of the first
15 dispositional hearing or first review hearing held on or after
16 July 1, 1999, and shall be compensated at a rate of fifty
17 dollars per hour for and after such hearing.

18 EXPLANATION

19 This bill relates to the office of the state public
20 defender and indigent defense costs.

21 The amendment to Code section 13B.8 permits the state
22 public defender to appoint an assistant local public defender
23 and any other employee of a local public defender office.
24 Existing law only permits the removal of an assistant local
25 public defender or employee.

26 The amendments to Code section 232.141 concern the county's
27 base cost for juvenile indigent defense. The bill provides
28 that the state shall pay all juvenile indigent defense costs
29 and then shall seek reimbursement from the county of any costs
30 up to the county's base cost. Under current law, the county
31 paid all juvenile indigent defense costs, and then sought
32 reimbursement from the state up to the base cost.

33 The amendment to Code section 815.7 broadens a reference
34 regarding attorney compensation to include cases that are not
35 criminal offenses.

1 The amendment to Code section 815.9 requires a judge, in
2 determining whether to appoint an attorney to a case, to
3 examine the nature of a case before appointing an attorney.
4 Under existing law, the court, besides reviewing the financial
5 background of a person, reviewed only the seriousness of the
6 charge committed by the person.

7 The amendment to Code section 815.10 removes the state
8 public defender from the possibility of being appointed by the
9 court to represent an indigent person. The court may appoint
10 the state public defender's designee or certain other
11 attorneys to represent an indigent person.

12 The amendment to Code section 815.11 changes the placement
13 of appropriated funds for indigent defense costs from the
14 department of inspections and appeals to the office of the
15 state public defender which is located in the department of
16 inspections and appeals.

17 The bill sets the compensation rates for an attorney
18 appointed to represent an indigent prior to July 1, 1999, at
19 the rate of \$55 per hour for class "A" felonies, \$50 per hour
20 for class "B" felonies, and \$45 per hour for all other cases.
21 For purposes of determining the compensation rate for an
22 attorney representing an indigent juvenile, the bill provides
23 that the attorney is considered appointed on the date of the
24 first dispositional hearing or first review hearing held on or
25 after July 1, 1999, at the rate of \$50 per hour.

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REPRINTED

FEB 25 2000
Place On Calendar

HOUSE FILE 2470
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 715)

Passed House, Date ^(p.619) 3/8/00 Passed Senate, Date ^(p.932) 3-29-00
Vote: Ayes 93 Nays 0 Vote: Ayes 50 Nays 0
Approved 4-19-00

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HF 2470

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14 a. The fees and mileage of witnesses and the expenses of
15 officers serving notices and subpoenas which are incurred in
16 ~~connection with the appointment of~~ by an attorney appointed by
17 the court to serve as counsel to any party or to serve as a
18 guardian ad litem for any child.

19 b. Reasonable compensation for an attorney appointed by
20 the court to serve as counsel to any party or as guardian ad
21 litem for any child. ~~However, the amount of compensation paid~~
22 ~~shall be paid in accordance with section 815.7.~~

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4 state up to the county's base in subsection 2.

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9 under section 13B.4 and who is appointed by the court to
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11 seeking postconviction relief, against whom a contempt action
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1 the rules of criminal procedure, a person is indigent if the
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6 level at or below one hundred twenty-five percent of the
7 United States poverty level as defined by the most recently
8 revised poverty income guidelines published by the United
9 States department of health and human services, unless the
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11 of an attorney to represent the person on the pending **charges**
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13 pay for the cost of an attorney, the court shall consider not
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17 applied to the satisfaction of judgments and the seriousness
18 of the charge or nature of the case.

19 b. A person with an income level greater than one hundred
20 twenty-five percent, but at or below two hundred percent, of
21 the most recently revised poverty income guidelines published
22 by the United States department of health and human services
23 shall not be entitled to an attorney appointed by the court,
24 unless the court makes a written finding that not appointing
25 counsel on the pending **charges case** would cause the person
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10 seriousness of the charge or nature of the case.

11 Sec. 7. Section 815.10, subsection 1, Code Supplement
12 1999, is amended to read as follows:

13 1. The court, for cause and upon its own motion or upon
14 application by an indigent person or a public defender, shall
15 appoint ~~the-state-public-defender~~, the state public defender's
16 designee pursuant to section 13B.4, or an attorney pursuant to
17 section 13B.9 to represent an indigent person at any stage of
18 the criminal, postconviction, contempt, commitment under
19 chapter 229A, or juvenile proceedings or on appeal of any
20 criminal, postconviction, contempt, commitment under chapter
21 229A, or juvenile action in which the indigent person is
22 entitled to legal assistance at public expense. However, in
23 juvenile cases, the court may directly appoint an existing
24 nonprofit corporation established for and engaged in the
25 provision of legal services for juveniles. An appointment
26 shall not be made unless the person is determined to be
27 indigent under section 815.9. Only one attorney shall be
28 appointed in all cases, except that in class "A" felony cases
29 the court may appoint two attorneys.

30 Sec. 8. Section 815.11, Code Supplement 1999, is amended
31 to read as follows:

32 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

33 Costs incurred under chapter 229A, 665, or 822, or section
34 232.141, subsection 3, paragraph "c", or sections 814.9,
35 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10, or the

1 rules of criminal procedure on behalf of an indigent shall be
2 paid from funds appropriated by the general assembly to the
3 office of the state public defender in the department of
4 inspections and appeals for those purposes.

5 Sec. 9. INDIGENT DEFENSE COSTS.

6 1. For an attorney entitled to compensation under section
7 815.7 for an appointment made before July 1, 1999, the
8 reasonable compensation shall be calculated on the basis of
9 fifty-five dollars per hour for class "A" felonies, fifty
10 dollars per hour for class "B" felonies, and forty-five
11 dollars per hour for all other cases.

12 2. For purposes of determining the reasonable basis for
13 compensation in juvenile cases under section 815.7, an
14 attorney is considered appointed on the date of the first
15 dispositional hearing or first review hearing held on or after
16 July 1, 1999, and shall be compensated at a rate of fifty
17 dollars per hour for and after such hearing.

18 EXPLANATION

19 This bill relates to the office of the state public
20 defender and indigent defense costs.

21 The amendment to Code section 13B.8 permits the state
22 public defender to appoint an assistant local public defender
23 and any other employee of a local public defender office.
24 Existing law only permits the removal of an assistant local
25 public defender or employee.

26 The amendments to Code section 232.141 concern the county's
27 base cost for juvenile indigent defense. The bill provides
28 that the state shall pay all juvenile indigent defense costs
29 and then shall seek reimbursement from the county of any costs
30 up to the county's base cost. Under current law, the county
31 paid all juvenile indigent defense costs, and then sought
32 reimbursement from the state up to the base cost.

33 The amendment to Code section 815.7 broadens a reference
34 regarding attorney compensation to include cases that are not
35 criminal offenses.

1 The amendment to Code section 815.9 requires a judge, in
 2 determining whether to appoint an attorney to a case, to
 3 examine the nature of a case before appointing an attorney.
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 5 background of a person, reviewed only the seriousness of the
 6 charge committed by the person.

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 8 public defender from the possibility of being appointed by the
 9 court to represent an indigent person. The court may appoint
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12 The amendment to Code section 815.11 changes the placement
 13 of appropriated funds for indigent defense costs from the
 14 department of inspections and appeals to the office of the
 15 state public defender which is located in the department of
 16 inspections and appeals.

17 The bill sets the compensation rates for an attorney
 18 appointed to represent an indigent prior to July 1, 1999, at
 19 the rate of \$55 per hour for class "A" felonies, \$50 per hour
 20 for class "B" felonies, and \$45 per hour for all other cases.
 21 For purposes of determining the compensation rate for an
 22 attorney representing an indigent juvenile, the bill provides
 23 that the attorney is considered appointed on the date of the
 24 first dispositional hearing or first review hearing held on or
 25 after July 1, 1999, at the rate of \$50 per hour.

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HOUSE FILE 2470

H-8083

- 1 Amend House File 2470 as follows:
- 2 1. Page 4, by inserting after line 10 the
- 3 following:
- 4 "Sec. ____ . Section 815.9, subsection 9, Code
- 5 Supplement 1999, is amended to read as follows:
- 6 9. If any costs and fees are not paid at the times
- 7 specified under subsections 4 and 5, a judgment shall
- 8 be entered under section 910.2 against the person for
- 9 any unpaid amounts."
- 10 2. By renumbering as necessary.

By KREIMAN of Davis

H-8083 FILED FEBRUARY 29, 2000

w/d
3/8/00 (p. 618)

HOUSE FILE 2470

H-8183

- 1 Amend House File 2470 as follows:
- 2 1. Page 5, by inserting after line 4 the
- 3 following:
- 4 "Sec. ____ . Section 910.2, unnumbered paragraph 1,
- 5 Code 1999, is amended to read as follows:
- 6 In all criminal cases in which there is a plea of
- 7 guilty, verdict of guilty, or special verdict upon
- 8 which a judgment of conviction is rendered, the
- 9 sentencing court shall order that restitution be made
- 10 by each offender to the victims of the offender's
- 11 criminal activities, to the clerk of court for fines,
- 12 penalties, surcharges, and, to the extent that the
- 13 offender is reasonably able to pay, for crime victim
- 14 assistance reimbursement, restitution to public
- 15 agencies pursuant to section 321J.2, subsection 9,
- 16 paragraph "b", court costs including correctional fees
- 17 approved pursuant to section 356.7, court-appointed
- 18 attorney's fees, or ordered pursuant to section 815.9
- 19 including the expense of a public defender when
- 20 applicable, or contribution to a local anticrime
- 21 organization. However, victims shall be paid in full
- 22 before fines, penalties, and surcharges, crime victim
- 23 compensation program reimbursement, public agencies,
- 24 court costs including correctional fees approved
- 25 pursuant to section 356.7, court-appointed attorney's
- 26 fees, the expenses of a public defender, or
- 27 contribution to a local anticrime organization are
- 28 paid. In structuring a plan of restitution, the court
- 29 shall provide for payments in the following order of
- 30 priority: victim, fines, penalties, and surcharges,
- 31 crime victim compensation program reimbursement,
- 32 public agencies, court costs including correctional
- 33 fees approved pursuant to section 356.7, court-
- 34 appointed attorney's fees, or the expense of a public
- 35 defender, and contribution to a local anticrime
- 36 organization."

By KREIMAN of Davis

H-8183 FILED MARCH 6, 2000

adopted
3/8/00 (p. 619)

5-3/16/00 De Pass
5-3/23/00 Unfinished Business
Calendar

2470

HOUSE FILE
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 715)

(As Amended and Passed by the House, March 8, 2000)

Passed House, Date _____ Passed Senate, ^(P.932) Date 3-29-00
Vote: Ayes _____ Nays _____ Vote: Ayes 50 Nays 0
Approved _____

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House Amendments _____

HF 2470

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1 NEW PARAGRAPH. d. Costs incurred under subsection 2 shall
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18 compensation shall be calculated on the basis of sixty dollars
19 per hour for class "A" felonies, fifty-five dollars per hour
20 for class "B" felonies, and fifty dollars per hour for all
21 other offenses cases. The expenses shall include any sums as
22 are necessary for investigations in the interest of justice,
23 and the cost of obtaining the transcript of the trial record
24 and briefs if an appeal is filed. The attorney need not
25 follow the case into another county or into the appellate
26 court unless so directed by the court. If the attorney
27 follows the case into another county or into the appellate
28 court, the attorney shall be entitled to compensation as
29 provided in this section. Only one attorney fee shall be so
30 awarded in any one case except that in class "A" felony cases,
31 two may be authorized.

32 Sec. 6. Section 815.9, subsection 1, Code Supplement 1999,
33 is amended to read as follows:

34 1. For purposes of this chapter, chapter 13B, chapter
35 229A, chapter 232, chapter 665, chapter 814, chapter 822, and

1 the rules of criminal procedure, a person is indigent if the
2 person is entitled to an attorney appointed by the court as
3 follows:

4 a. A person is entitled to an attorney appointed by the
5 court to represent the person if the person has an income
6 level at or below one hundred twenty-five percent of the
7 United States poverty level as defined by the most recently
8 revised poverty income guidelines published by the United
9 States department of health and human services, unless the
10 court determines that the person is able to pay for the cost
11 of an attorney to represent the person on the pending **charges**
12 case. In making the determination of a person's ability to
13 pay for the cost of an attorney, the court shall consider not
14 only the person's income, but also the availability of any
15 assets subject to execution, including but not limited to
16 cash, stocks, bonds, and any other property which may be
17 applied to the satisfaction of judgments and the seriousness
18 of the charge or nature of the case.

19 b. A person with an income level greater than one hundred
20 twenty-five percent, but at or below two hundred percent, of
21 the most recently revised poverty income guidelines published
22 by the United States department of health and human services
23 shall not be entitled to an attorney appointed by the court,
24 unless the court makes a written finding that not appointing
25 counsel on the pending **charges** case would cause the person
26 substantial hardship. In determining whether substantial
27 hardship would result, the court shall consider not only the
28 person's income, but also the availability of any assets
29 subject to execution, including but not limited to cash,
30 stocks, bonds, and any other property which may be applied to
31 the satisfaction of judgments and the seriousness of the
32 charge or nature of the case.

33 c. A person with an income level greater than two hundred
34 percent of the most recently revised poverty income guidelines
35 published by the United States department of health and human

1 services shall not be entitled to an attorney appointed by the
2 court, unless the person is charged with a felony and the
3 court makes a written finding that not appointing counsel
4 would cause the person substantial hardship. In determining
5 whether substantial hardship would result, the court shall
6 consider not only the person's income, but also the
7 availability of any assets subject to execution, including but
8 not limited to cash, stocks, bonds, and any other property
9 which may be applied to the satisfaction of judgments and the
10 seriousness of the charge or nature of the case.

11 Sec. 7. Section 815.10, subsection 1, Code Supplement
12 1999, is amended to read as follows:

13 1. The court, for cause and upon its own motion or upon
14 application by an indigent person or a public defender, shall
15 appoint ~~the-state-public-defender~~, the state public defender's
16 designee pursuant to section 13B.4, or an attorney pursuant to
17 section 13B.9 to represent an indigent person at any stage of
18 the criminal, postconviction, contempt, commitment under
19 chapter 229A, or juvenile proceedings or on appeal of any
20 criminal, postconviction, contempt, commitment under chapter
21 229A, or juvenile action in which the indigent person is
22 entitled to legal assistance at public expense. However, in
23 juvenile cases, the court may directly appoint an existing
24 nonprofit corporation established for and engaged in the
25 provision of legal services for juveniles. An appointment
26 shall not be made unless the person is determined to be
27 indigent under section 815.9. Only one attorney shall be
28 appointed in all cases, except that in class "A" felony cases
29 the court may appoint two attorneys.

30 Sec. 8. Section 815.11, Code Supplement 1999, is amended
31 to read as follows:

32 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

33 Costs incurred under chapter 229A, 665, or 822, or section
34 232.141, subsection 3, paragraph "c", or sections 814.9,
35 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10, or the

1 rules of criminal procedure on behalf of an indigent shall be
2 paid from funds appropriated by the general assembly to the
3 office of the state public defender in the department of
4 inspections and appeals for those purposes.

5 Sec. 9. Section 910.2, unnumbered paragraph 1, Code 1999,
6 is amended to read as follows:

7 In all criminal cases in which there is a plea of guilty,
8 verdict of guilty, or special verdict upon which a judgment of
9 conviction is rendered, the sentencing court shall order that
10 restitution be made by each offender to the victims of the
11 offender's criminal activities, to the clerk of court for
12 finest, penalties, surcharges, and, to the extent that the
13 offender is reasonably able to pay, for crime victim
14 assistance reimbursement, restitution to public agencies
15 pursuant to section 321J.2, subsection 9, paragraph "b", court
16 costs including correctional fees approved pursuant to section
17 356.7, court-appointed attorney's fees, or ordered pursuant to
18 section 815.9 including the expense of a public defender when
19 applicable, or contribution to a local anticrime organization.
20 However, victims shall be paid in full before fines,
21 penalties, and surcharges, crime victim compensation program
22 reimbursement, public agencies, court costs including
23 correctional fees approved pursuant to section 356.7, court-
24 appointed attorney's fees, the expenses of a public defender,
25 or contribution to a local anticrime organization are paid.
26 In structuring a plan of restitution, the court shall provide
27 for payments in the following order of priority: victim,
28 finest, penalties, and surcharges, crime victim compensation
29 program reimbursement, public agencies, court costs including
30 correctional fees approved pursuant to section 356.7, court-
31 appointed attorney's fees, or the expense of a public
32 defender, and contribution to a local anticrime organization.

33 Sec. 10. INDIGENT DEFENSE COSTS.

34 1. For an attorney entitled to compensation under section
35 815.7 for an appointment made before July 1, 1999, the

1 reasonable compensation shall be calculated on the basis of
2 fifty-five dollars per hour for class "A" felonies, fifty
3 dollars per hour for class "B" felonies, and forty-five
4 dollars per hour for all other cases.

5 2. For purposes of determining the reasonable basis for
6 compensation in juvenile cases under section 815.7, an
7 attorney is considered appointed on the date of the first
8 dispositional hearing or first review hearing held on or after
9 July 1, 1999, and shall be compensated at a rate of fifty
10 dollars per hour for and after such hearing.

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HOUSE FILE 2470

AN ACT
RELATING TO THE OFFICE OF THE STATE PUBLIC DEFENDER
INCLUDING INDIGENT DEFENSE COSTS AND THE APPROPRIATION
OF INDIGENT DEFENSE FUNDS.

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

Section 1. Section 13B.8, subsection 2, Code Supplement 1999, is amended to read as follows:

2. The state public defender may appoint a local public defender and may remove the local public defender, assistant local public defenders, clerks, investigators, secretaries, or other employees for cause. Each local public defender, and any assistant local public defender, must be an attorney admitted to the practice of law before the Iowa supreme court.

Sec. 2. Section 232.141, subsection 2, Code Supplement 1999, is amended to read as follows:

3. All of the following expenses are a charge upon the county in which the proceedings are held, to the extent provided in subsection 3:

a. The fees and mileage of witnesses and the expenses of officers serving notices and subpoenas which are incurred in connection with the appointment of by an attorney appointed by the court to serve as counsel to any party or to serve as a guardian ad litem for any child.

b. Reasonable compensation for an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child. ~~However, the amount of compensation paid shall be paid in accordance with section 815.7.~~

Sec. 3. Section 232.141, subsection 3, paragraph c, Code Supplement 1999, is amended to read as follows:

c. ~~Costs incurred under subsection 2 which are not paid by the county under paragraphs "a" and "b" shall be paid by the state. However, before any costs are paid, a claim must be submitted to and approved by the state public defender who shall prescribe rules and forms to implement this subsection for compensation of an attorney appointed by the court to serve as counsel to any party or guardian ad litem for any child shall be made in accordance with sections 13B.4 and 815.7.~~

Sec. 4. Section 232.141, subsection 3, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. d. Costs incurred under subsection 2 shall be paid by the state. The county shall be required to reimburse the indigent defense fund for costs incurred by the state up to the county's base in subsection 2.

Sec. 5. Section 815.7, Code Supplement 1999, 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, seeking postconviction relief, against whom a contempt action is pending, appealing a criminal conviction, appealing a denial of postconviction relief, or subject to a proceeding under chapter 229A, or to serve as counsel for any person or guardian ad litem for any child in juvenile court, shall be entitled to reasonable compensation and expenses. For appointments made on or after July 1, 1999, the reasonable compensation shall be calculated on the basis of sixty dollars per hour for class "A" felonies, fifty-five dollars per hour for class "B" felonies, and fifty dollars per hour for all other offenses cases. The expenses shall include any sums as are necessary for investigations in the interest of justice, and the cost of obtaining the transcript of the trial record and briefs if an appeal is filed. The attorney need not follow the case into another county or into the appellate court unless so directed by the court. If the attorney follows the case into another county or into the appellate court, the attorney shall be entitled to compensation as provided in this section. Only one attorney fee shall be so awarded in any one case except that in class "A" felony cases, two may be authorized.

Sec. 6. Section 815.9, subsection 1, Code Supplement 1999, is amended to read as follows:

1. For purposes of this chapter, chapter 13B, chapter 229A, chapter 232, chapter 665, chapter 814, chapter 822, and the rules of criminal procedure, a person is indigent if the person is entitled to an attorney appointed by the court as follows:

a. A person is entitled to an attorney appointed by the court to represent the person if the person has an income level at or below one hundred twenty-five 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, unless the court determines that the person is able to pay for the cost of an attorney to represent the person on the pending charges case. In making the determination of a person's ability to pay for the cost of an attorney, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge or nature of the case.

b. A person with an income level greater than one hundred twenty-five percent, but at or below 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 entitled to an attorney appointed by the court, unless the court makes a written finding that not appointing counsel on the pending charges case would cause the person substantial hardship. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge or nature of the case.

c. 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 entitled to an attorney appointed by the court, unless the person is charged with a felony and the court makes a written finding that not appointing counsel would cause the person substantial hardship. In determining whether substantial hardship would result, the court shall consider not only the person's income, but also the availability of any assets subject to execution, including but

not limited to cash, stocks, bonds, and any other property which may be applied to the satisfaction of judgments and the seriousness of the charge or nature of the case.

Sec. 7. Section 815.10, subsection 1, Code Supplement 1999, is amended to read as follows:

1. The court, for cause and upon its own motion or upon application by an indigent person or a public defender, shall appoint ~~the state public defender~~; the state public defender's designee pursuant to section 13B.4, or an attorney pursuant to section 13B.9 to represent an indigent person at any stage of the criminal, postconviction, contempt, commitment under chapter 229A, or juvenile proceedings or on appeal of any criminal, postconviction, contempt, commitment under chapter 229A, or juvenile action in which the indigent person is entitled to legal assistance at public expense. However, in juvenile cases, the court may directly appoint an existing nonprofit corporation established for and engaged in the provision of legal services for juveniles. An appointment shall not be made unless the person is determined to be indigent under section 815.9. Only one attorney shall be appointed in all cases, except that in class "A" felony cases the court may appoint two attorneys.

Sec. 8. Section 815.11, Code Supplement 1999, is amended to read as follows:

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE.

Costs incurred under chapter 229A, 665, or 822, or section 232.141, subsection 3, paragraph "c", or sections 814.9, 814.10, 814.11, 815.4, 815.5, 815.6, 815.7, and 815.10, or the rules of criminal procedure on behalf of an indigent shall be paid from funds appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals for those purposes.

Sec. 9. Section 910.2, unnumbered paragraph 1, Code 1999, is amended to read as follows:

In all criminal cases in which there is a plea of guilty, verdict of guilty, or special verdict upon which a judgment of conviction is rendered, the sentencing court shall order that restitution be made by each offender to the victims of the offender's criminal activities, to the clerk of court for fines, penalties, surcharges, and, to the extent that the offender is reasonably able to pay, for crime victim assistance reimbursement, restitution to public agencies pursuant to section 321J.2, subsection 9, paragraph "b", court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or ordered pursuant to section 815.9 including the expense of a public defender when applicable, or contribution to a local anticrime organization. However, victims shall be paid in full before fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, the expenses of a public defender, or contribution to a local anticrime organization are paid. In structuring a plan of restitution, the court shall provide for payments in the following order of priority: victim, fines, penalties, and surcharges, crime victim compensation program reimbursement, public agencies, court costs including correctional fees approved pursuant to section 356.7, court-appointed attorney's fees, or the expense of a public defender, and contribution to a local anticrime organization.

Sec. 10. INDIGENT DEFENSE COSTS.

1. For an attorney entitled to compensation under section 815.7 for an appointment made before July 1, 1999, the reasonable compensation shall be calculated on the basis of fifty-five dollars per hour for class "A" felonies, fifty dollars per hour for class "B" felonies, and forty-five dollars per hour for all other cases.

2. For purposes of determining the reasonable basis for compensation in juvenile cases under section 815.7, an

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attorney is considered appointed on the date of the first dispositional hearing or first review hearing held on or after July 1, 1999, and shall be compensated at a rate of fifty dollars per hour for and after such hearing.

BRENT SIEGRIST
Speaker of the House

MARY E. KRAMER
President of the Senate

I hereby certify that this bill originated in the House and is known as House File 2470, Seventy-eighth General Assembly.

ELIZABETH ISAACSON
Chief Clerk of the House

Approved 4/19, 2000

THOMAS J. VILSACK
Governor