

House Study Bill 703

Bill Text

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1 1 Section 1. Section [13B.4](#), subsection 1, Code 2001, is
1 2 amended to read as follows:
1 3 1. The state public defender shall coordinate the
1 4 provision of legal representation of all indigents under
1 5 arrest or charged with a crime, seeking postconviction relief,
1 6 against whom a contempt action is pending, in proceedings
1 7 under chapter 229A, on appeal in criminal cases, on appeal in
1 8 proceedings to obtain postconviction relief when ordered to do
1 9 so by the district court in which the judgment or order was
1 10 issued, and on a reopening of a sentence proceeding, and may
1 11 provide for the representation of indigents in proceedings
1 12 instituted pursuant to chapter 908. The state public defender
1 13 shall not provide legal representation to a person in a parole
1 14 proceeding. The state public defender shall not engage in the
1 15 private practice of law.
1 16 Sec. 2. Section [815.1](#), Code 2001, is amended to read as
1 17 follows:
1 18 815.1 COSTS PAYABLE BY STATE IN SPECIAL CASES.
1 19 All costs and fees incurred

~~in a parole revocation~~

1 20

~~proceeding or~~

~~in a criminal case brought against an inmate of~~
1 21 a state institution for a crime committed while confined in
1 22 the institution, or for a crime committed by the inmate while
1 23 placed outside the walls or confines of the institution under
1 24 the control and direction of a warden, supervisor, officer, or
1 25 employee of the institution, or for a crime committed by the
1 26 inmate during an escape or other unauthorized departure from
1 27 the institution or from the control of a warden, supervisor,
1 28 officer, or employee of the institution, or from wherever the
1 29 inmate may have been placed by authorized personnel of the
1 30 institution, are waived if the prosecution fails, or if the
1 31 person liable to pay the costs and fees cannot pay the costs
1 32 and fees. An award of attorney fees to a court-appointed
1 33 attorney incurred in these cases shall be paid out of the
1 34 state treasury from the general fund if the prosecution fails
1 35 or if the person liable to pay the attorney fees cannot pay
2 1 them. The facts shall be certified by the clerk of the
2 2 district court under the clerk's seal of office to the
2 3 director of the department of corrections, including a
2 4 statement of the amount of fees or costs incurred, approved by
2 5 the presiding judge in writing. When a conviction is rendered
2 6 and the court orders restitution for costs of the prosecution,
2 7 the inmate, work releasee, or parolee shall make restitution
2 8 to the general fund pursuant to section 910.2.
2 9 Sec. 3. Section [815.10](#), subsection 1, Code 2001, is
2 10 amended to read as follows:
2 11 1. The court, for cause and upon its own motion or upon
2 12 application by an indigent person or a public defender, shall
2 13 appoint the state public defender's designee pursuant to
2 14 section 13B.4, or an attorney pursuant to section 13B.9, to
2 15 represent an indigent person at any stage of the criminal,

2 16 postconviction, contempt, commitment under chapter 229A, or
2 17 juvenile proceedings or on appeal of any criminal,
2 18 postconviction, contempt, commitment under chapter 229A, or
2 19 juvenile action in which the indigent person is entitled to
2 20 legal assistance at public expense. However,

~~in~~
~~the state~~

2 21 public defender's designee or an attorney subject to
2 22 appointment under section 13B.9 shall not be appointed to
2 23 represent a person in a parole proceeding. In juvenile cases,
2 24 the court may directly appoint an existing nonprofit
2 25 corporation established for and engaged in the provision of
2 26 legal services for juveniles. An appointment shall not be
2 27 made unless the person is determined to be indigent under
2 28 section 815.9. Only one attorney shall be appointed in all
2 29 cases, except that in class "A" felony cases the court may
2 30 appoint two attorneys.

2 31 Sec. 4. Section 908.2, unnumbered paragraph 1, Code 2001,
2 32 is amended to read as follows:

2 33 An officer making an arrest of an alleged parole violator
2 34 shall take the arrested person before a magistrate without
2 35 unnecessary delay for an initial appearance. At that time the
3 1 alleged parole violator shall be furnished with a written
3 2 notice of the claimed violation,

~~shall be advised of the right~~

~~3 3~~

~~to appointed counsel under rule 26 of the rules of criminal~~

~~3 4~~

~~procedure,~~

~~and shall be given notice that a parole revocation~~
3 5 hearing will take place and that its purpose is to determine
3 6 whether the alleged parole violation occurred and whether the
3 7 alleged violator's parole should be revoked.

3 8 EXPLANATION

3 9 This bill relates to legal representation of an indigent
3 10 person in a parole proceeding.

3 11 The bill provides that the state public defender, the state
3 12 public defender's designee, or any other attorney appointed by
3 13 the court to represent an indigent person shall not be
3 14 appointed or provide legal representation for an indigent
3 15 person in a parole proceeding.

3 16 LSB 6874HC 79

3 17 jm/cf/24