

Senate Study Bill 1105

Bill Text

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1 1 Section 1. Section [822.1](#), Code 2001, is amended to read as
1 2 follows:

1 3 822.1 STATUTES NOT APPLICABLE TO CONVICTED PERSONS.

1 4 The provisions of sections 663.1 through 663.44, inclusive,
1 5 shall not apply to persons convicted of, or sentenced for, a
1 6 public offense. Chapter 17A shall not apply to an applicant
1 7 seeking relief under section 822.2, subsection 5, for an
1 8 unlawful revocation of parole or other conditional release.

1 9 Sec. 2. Section [822.5](#), Code 2001, is amended to read as
1 10 follows:

1 11 822.5 PAYMENT OF COSTS.

1 12 1.

~~— If the~~

~~— Except as provided in subsection 2, if an~~

1 13 applicant is unable to pay court costs and stenographic and
1 14 printing expenses, and the costs of legal representation,
1 15 these costs and expenses shall be made available to the
1 16 applicant in the trial court, and on review.

~~— Unless the~~

1 17

~~— applicant is confined in a state institution and is seeking~~

1 18

~~— relief under section 822.2, subsections 5 and 6, the costs and~~

1 19

~~— expenses of legal representation shall also be made available~~

1 20

~~— to the applicant in the preparation of the application, in the~~

1 21

~~— trial court, and on review if the applicant is unable to pay.~~

1 22 2. If an applicant seeking relief from the revocation of a
1 23 conditional release other than probation and parole under
1 24 section 822.2, subsection 5, or from the forfeiture of a
1 25 reduction of sentence under section 822.2, subsection 6, is
1 26 unable to pay court costs, all the costs and expenses shall be
1 27 made available to the applicant as provided in subsection 1,
1 28 except the costs of legal representation which shall not be
1 29 provided at state expense.

1 30 3.

~~— However, nothing in this~~

~~— This section shall not be~~

1 31 interpreted to require payment of expenses of legal
1 32 representation, including stenographic, printing, or other

1 33 legal services or consultation, when the applicant is self-
1 34 represented or is utilizing the services of an inmate.

1 35 EXPLANATION

2 1 This bill relates to a criminal defendant seeking
2 2 postconviction relief.

2 3 The bill provides that a defendant whose parole or
2 4 conditional release has been unlawfully revoked may only file
2 5 an action for postconviction relief notwithstanding the
2 6 requirements of the Iowa administrative procedures Act in Code
2 7 chapter 17A. The bill eliminates the applicability of
2 8 numerous procedural requirements enumerated under chapter 17A
2 9 which may be applicable to a postconviction action filed under
2 10 Code chapter 822, including where to file an action and
2 11 certain mailing requirements for judicial review.

2 12 The bill effectively provides that Code chapter 822 shall
2 13 be the exclusive means for commencing an action for
2 14 postconviction relief if a defendant's parole or conditional
2 15 release has been unlawfully revoked. Current law provides
2 16 that an action for postconviction relief shall be commenced
2 17 within three years of a defendant's parole or conditional
2 18 release being revoked and shall be filed in the county where
2 19 the offender's conviction took place.

2 20 The bill also provides that an indigent defendant seeking
2 21 postconviction relief is not entitled to legal representation
2 22 at state expense, if the defendant is seeking relief from a
2 23 decision to revoke a conditional release from prison other
2 24 than probation or parole. The bill also provides that a
2 25 person is not entitled to legal representation at state
2 26 expense if the person is seeking relief from a forfeiture of a
2 27 reduction in sentence due to prison disciplinary action.
2 28 Current law and the remainder of the bill generally otherwise
2 29 provide that a defendant seeking postconviction relief is
2 30 entitled to have the court costs, stenographic and printing
2 31 costs, and legal representation costs paid at state expense,
2 32 if the defendant is unable to pay for these costs.

2 33 LSB 1122DP 79

2 34 jm/cls/14.1