

MAR 9 2005  
JUDICIARY

HOUSE FILE 678  
BY HUTTER

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

**A BILL FOR**

1 An Act relating to the approval of attorney fees when  
2 representing an indigent person.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 678

1 Section 1. Section 13B.4, subsection 4, Code 2005, is  
2 amended by striking the subsection and inserting in lieu  
3 thereof the following:

4 4. The state public defender is authorized to establish  
5 fee limitations for particular categories of cases and shall  
6 review any claim made for payment of indigent defense costs.  
7 The state public defender may take the following action if the  
8 state public defender determines the claim is excessive:

9 a. If the claim is from a noncontract attorney, the state  
10 public defender shall request a review by the court granting  
11 the claim as to the reasonableness of the claim within thirty  
12 days of receipt of the claim.

13 b. If the claim is from a contract attorney, the state  
14 public defender shall request a review by the appointing court  
15 as to the reasonableness of the claim within thirty days of  
16 receipt of the claim.

17 Sec. 2. Section 13B.4, subsection 5, Code 2005, is amended  
18 by striking the subsection.

19 Sec. 3. Section 22.7, subsection 45, Code 2005, is amended  
20 to read as follows:

21 45. Information provided to the court and state public  
22 defender pursuant to ~~section-13B.4, subsection-5~~ section  
23 814.11, subsection 6~~7~~1, or section 815.10, subsection 5.

24 Sec. 4. Section 815.7, Code 2005, is amended to read as  
25 follows:

26 815.7 FEES TO ATTORNEYS.

27 An attorney who has not entered into a contract authorized  
28 under section 13B.4 and who is appointed by the court to  
29 represent any person charged with a crime in this state,  
30 seeking postconviction relief, against whom a contempt action  
31 is pending, appealing a criminal conviction, appealing a  
32 denial of postconviction relief, or subject to a proceeding  
33 under section 811.1A or chapter 229A or 812, or to serve as  
34 counsel for any person or guardian ad litem for any child in  
35 juvenile court, shall be entitled to reasonable compensation

1 and expenses. The compensation and expenses shall be the  
2 ordinary and customary charges for like services in the  
3 community to be decided in each case by a judge of the  
4 district court or juvenile court, as applicable, including a  
5 sum the court determines is necessary for an investigation.  
6 In the event of an appeal, the court shall approve any claim  
7 for the cost of obtaining the transcript of the trial and the  
8 printing of the trial record and for the preparation of any  
9 briefs. For appointments made on or after July 1, 1999, the  
10 reasonable compensation shall be calculated on the basis of  
11 sixty dollars per hour for class "A" felonies, fifty-five  
12 dollars per hour for class "B" felonies, and fifty dollars per  
13 hour for all other cases. ~~The expenses shall include any sums~~  
14 ~~as are necessary for investigations in the interest of~~  
15 ~~justice, and the cost of obtaining the transcript of the trial~~  
16 ~~record and briefs if an appeal is filed.~~ The attorney need  
17 not follow the case into another county or into the appellate  
18 court unless so directed by the court. If the attorney  
19 follows the case into another county or into the appellate  
20 court, the attorney shall be entitled to compensation as  
21 provided in this section. Only one attorney fee shall be so  
22 awarded in any one case except that in class "A" felony cases,  
23 two may be authorized.

24 Sec. 5. Section 815.10A, Code 2005, is amended to read as  
25 follows:

26 815.10A CLAIMS FOR COMPENSATION AND EXPENSE REIMBURSEMENT.

27 1. An attorney other than a public defender who has been  
28 appointed by the court under this chapter must submit a claim  
29 to the ~~state public defender~~ court for compensation and  
30 reimbursement of expenses incurred in the representation of an  
31 indigent person. After obtaining approval from the court, the  
32 attorney must submit the claim to the state public defender in  
33 order to receive compensation and reimbursement of expenses.

34 2. Claims for compensation and reimbursement submitted by  
35 an attorney ~~appointed after June 30, 2004,~~ after approval by

1 the court are not considered timely unless the claim is  
2 submitted to the state public defender within forty-five days  
3 of the sentencing, acquittal, or dismissal of a criminal case  
4 or the final ruling or dismissal of any other type of case.

5 3. An attorney shall obtain court approval prior to  
6 exceeding the fee limitations established by the state public  
7 defender pursuant to section 13B.4. An attorney may exceed  
8 the fee limitations if good cause for exceeding the fee  
9 limitations is shown. An attorney may obtain court approval  
10 after exceeding the fee limitations if good cause excusing the  
11 attorney's failure to seek approval prior to exceeding the fee  
12 limitations is shown. However, failure to file an application  
13 to exceed a fee limitation prior to exceeding the fee  
14 limitation does not constitute good cause. The order  
15 approving an application to exceed the fee limitations shall  
16 be effective from the date of filing the application unless  
17 the court order provides an alternative effective date. The  
18 application and the court order approving the application to  
19 exceed fee limitations and any other order affecting the  
20 amount of compensation or reimbursement shall be submitted  
21 with any claim for compensation.

22 ~~4. If the information is not submitted as required under~~  
23 ~~this section and under the rules of the state public defender,~~  
24 ~~the claim for compensation may be denied until the information~~  
25 ~~is provided.~~ Upon receipt of ~~the required information,~~ a  
26 valid claim, the state public defender ~~may~~ shall approve  
27 reasonable and necessary compensation, ~~as provided for in the~~  
28 ~~administrative rules and the law.~~

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EXPLANATION

30 This bill relates to the approval of attorney fees when  
31 representing an indigent person.

32 The bill provides that the court shall approve any court-  
33 appointed attorney fees rather than the state public defender.  
34 Under the bill, if the state public defender disputes a claim  
35 submitted by an attorney, the state public defender shall

1 request a review by the court granting the claim as to the  
2 reasonableness of the claim within 30 days of receipt of the  
3 claim. Current law permits the state public defender to deny  
4 a claim pursuant to Code section 13B.4, subsection 4,  
5 paragraph "b".

6 The bill retains a provision requiring the state public  
7 defender to establish fee limitations for particular  
8 categories of cases and the hourly rate a court-appointed  
9 attorney can charge in a particular case remains in effect  
10 under Code section 815.7.

11 The bill provides that upon the receipt of a valid claim by  
12 an attorney, the state public defender shall approve  
13 reasonable compensation for that attorney.

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