

Senate File 374 - Introduced

SENATE FILE 374
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 1023)

A BILL FOR

1 An Act relating to providing legal assistance to indigent
2 persons in criminal proceedings.
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

1 Section 1. Section 13B.4, subsection 1, Code 2017, is
2 amended to read as follows:

3 1. a. The state public defender shall coordinate the
4 provision of legal representation ~~of~~ to all indigents under
5 arrest or charged with a crime, who face the possibility
6 of imprisonment under the applicable criminal statute or
7 ordinance.

8 b. The state public defender shall also coordinate the
9 provision of legal representation to all indigents seeking
10 postconviction relief, against whom a contempt action is
11 pending, in proceedings under section 811.1A or chapter 229A or
12 812, in juvenile proceedings, on appeal in criminal cases, and
13 on appeal in proceedings to obtain postconviction relief when
14 ordered to do so by the district court in which the judgment
15 or order was issued, and may provide for the representation of
16 indigents in proceedings instituted pursuant to chapter 908.

17 c. The state public defender shall not engage in the private
18 practice of law.

19 Sec. 2. Section 13B.4, subsection 3, Code 2017, is amended
20 to read as follows:

21 3. The state public defender may contract with persons
22 admitted to practice law in this state and nonprofit legal
23 organizations ~~employing persons admitted to practice law in~~
24 ~~this state~~ for the provision of legal services to indigent
25 persons. The contract may incorporate administrative rules
26 into the terms of the contract or expressly provide that
27 payments may be paid that are other than on an hourly rate
28 basis for legal services provided, including but not limited to
29 a fixed rate per case or per month.

30 Sec. 3. Section 13B.8, subsection 4, Code 2017, is amended
31 to read as follows:

32 4. a. The state public defender shall provide separate
33 and suitable office space, furniture, equipment, computers,
34 ~~computer networks,~~ support staff, and supplies for each office
35 of the local public defender out of funds appropriated to the

1 state public defender for this purpose.

2 b. The state public defender may enter into agreements with
 3 the office of the chief information officer created in chapter
 4 8B to provide or procure suitable computer networks and other
 5 information technology services to or for each office of the
 6 state public defender, including the central administrative
 7 office and the office of the state appellate defender, and to
 8 each office of the local public defender.

9 Sec. 4. Section 815.9, subsection 4, paragraph a, Code 2017,
 10 is amended to read as follows:

11 a. If the appointed attorney is a public defender, the
 12 attorney shall submit a report to the court specifying the
 13 total hours of service plus expenses incurred in providing
 14 legal assistance to the person, unless the court has ordered
 15 that the cost of legal assistance is not required to be
 16 reimbursed to the state. In a criminal case, the report shall
 17 be submitted within ~~ten days of a reasonable period of time~~
 18 after the date of sentencing, acquittal, or dismissal. In a
 19 case other than a criminal case, the report shall be submitted
 20 within ~~ten days of a reasonable period of time after the date~~
 21 of any court ruling or the conclusion of a trial held in the
 22 case, or if the case is dismissed within ~~ten days of the a~~
 23 reasonable period of time after the date of dismissal.

24 Sec. 5. Section 815.10, subsection 1, Code 2017, is amended
 25 by adding the following new paragraph:

26 NEW PARAGRAPH. c. For purposes of this subsection, a
 27 criminal proceeding in which an indigent person is entitled
 28 to legal assistance at public expense is a proceeding where
 29 the person faces the possibility of imprisonment under the
 30 applicable criminal statute or ordinance. This section does
 31 not require the appointment of an attorney if the indigent
 32 person does not request the appointment of an attorney or
 33 waives the right to an appointed attorney.

34 EXPLANATION

35 The inclusion of this explanation does not constitute agreement with

1 the explanation's substance by the members of the general assembly.

2 This bill relates to providing legal assistance to indigent
3 persons in criminal proceedings.

4 The bill specifies that the state public defender shall
5 coordinate the representation of indigent persons under
6 arrest or charged with a crime who face the possibility
7 of imprisonment under the applicable criminal statute or
8 ordinance.

9 The bill modifies a provision allowing the state public
10 defender to contract with a nonprofit organization employing
11 persons admitted to law in this state, by allowing the state
12 public defender to contract with a nonprofit legal organization
13 and striking the requirement the nonprofit employ persons
14 admitted to practice law in this state.

15 The bill strikes a provision requiring the state public
16 defender to provide a computer network to each local public
17 defender office, but allows for the state public defender to
18 enter into agreements with the office of the chief information
19 officer created in Code chapter 8B to provide or procure
20 suitable computer networks and other information technology
21 services to or for each office of the state public defender,
22 including the central administrative office and the office of
23 the state appellate defender, and to each office of the local
24 public defender.

25 The bill specifies that if an appointed attorney is a
26 public defender, the public defender shall submit a report
27 specifying the total hours of service plus expenses incurred in
28 providing legal assistance to the indigent unless the court has
29 ordered that the cost of legal assistance is not required to be
30 reimbursed. The bill also allows the public defender to submit
31 such an expense report in a reasonable amount of time after the
32 end of the case.

33 The bill specifies that an indigent person is entitled to
34 legal representation at public expense in a proceeding where
35 the person faces the possibility of imprisonment under the

1 applicable criminal statute or ordinance. This provision does
2 not require the appointment of an attorney if the indigent
3 person does not request the appointment of an attorney or
4 waives the right to an appointed attorney. This provision is
5 in response to State v. Young, 863 N.W.2d 249 (Iowa 2015).