

CHAPTER 135
INDIGENT DEFENSE
S.F. 451

AN ACT relating to the payment of the legal defense costs of indigent persons, expanding the duties of the state public defender, and providing for the appointment and removal of certain state public defender personnel.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 8.59, Code 1999, is amended to read as follows:

8.59 APPROPRIATIONS FREEZE.

Notwithstanding contrary provisions of the Code, the amounts appropriated under the applicable sections of the Code for fiscal years commencing on or after July 1, 1993, are limited to those amounts expended under those sections for the fiscal year commencing July 1, 1992. If an applicable section appropriates moneys to be distributed to different recipients and the operation of this section reduces the total amount to be distributed under the applicable section, the moneys shall be prorated among the recipients. As used in this section, "applicable sections" means the following sections: 53.50, 229.35, 230.8, 230.11, 405A.8, 411.20, and 663.44, and 822.5.

Sec. 2. NEW SECTION. 13B.2A INDIGENT DEFENSE ADVISORY COMMISSION.

An indigent defense advisory commission is established within the department to advise and make recommendations to the legislature and the state public defender regarding the hourly rates paid to court-appointed counsel and per case fee limitations. These recommendations shall be consistent with the constitutional requirement to provide effective assistance of counsel to those indigent persons for whom the state is required to provide counsel.

The advisory commission shall consist of five members. The governor shall appoint three members, including one member from nominations by the Iowa state bar association and one member from nominations by the supreme court. Two members, one from each chamber of the general assembly, shall be appointed, with no more than one appointed from the same political party. Each member shall serve a three-year term, with initial terms to be staggered. No more than three members shall be licensed to practice law in Iowa. The state public defender shall serve as an ex officio member of the commission and shall serve as the nonvoting chair of the commission.

The members of the commission are entitled to receive reimbursement for actual expenses incurred as provided for in section 7E.6, subsection 2, while engaged in the performance of the duties of the commission.

The advisory commission shall file a written report every three years with the governor and the general assembly by January 1 of a year in which a report is due regarding the recommendations and activities of the commission. The first such report shall be due on January 1, 2003.

Sec. 3. Section 13B.4, subsections 1 through 3, Code 1999, are amended to read as follows:

1. The state public defender shall coordinate the provision of legal representation of all indigents under arrest or charged with a crime, seeking postconviction relief, against whom a contempt action is pending, in proceedings under chapter 229A, on appeal in criminal cases, and on appeal in proceedings to obtain postconviction relief when ordered to do so by the district court in which the judgment or order was issued, and may provide for the representation of indigents in proceedings instituted pursuant to chapter 908. The state public defender shall not engage in the private practice of law.

2. The state public defender shall file with the clerk of the district court in each county served by a public defender a designation of which local public defender office shall receive

notice of appointment of cases. Except as otherwise provided, in each county in which the state public defender files such designation, the state public defender or its designee shall be appointed by the court to represent all eligible indigents, ~~whether the case is criminal or juvenile in nature~~ in all of the cases and proceedings specified under subsection 1. The appointment shall not be made if the state public defender notifies the court that the local public defender will not provide legal representation in cases ~~involving offenses~~ as identified in the designation by the state public defender.

3. The state public defender may contract with persons admitted to practice law in this state for the provision of legal services to indigent ~~or partially indigent~~ persons.

Sec. 4. Section 13B.4, subsection 4, Code 1999, is amended by striking the subsection and inserting in lieu thereof the following:

4. a. The state public defender shall establish fee limitations for particular categories of cases. The fee limitations shall be reviewed at least every three years. In establishing and reviewing the fee limitations, the state public defender shall consider public input during the establishment and review process, and any available information regarding ordinary and customary charges for like services; the number of cases in which legal services to indigents are anticipated; the seriousness of the charge; an appropriate allocation of resources among the types of cases; experience with existing hourly rates, claims, and fee limitations; and any other factors determined to be relevant.

b. The state public defender shall establish a procedure for the submission of all claims for payment of indigent defense costs, including the submission of interim claims in appropriate cases.

c. The state public defender may review any claim for payment of indigent defense costs and may take any of the following actions:

(1) If the charges are appropriate and reasonable, approve the claim for payment.

(2) Deny the claim, if the claim is not timely filed.

(3) Request additional information or return the claim to the attorney, if the claim is incomplete.

(4) If any portion of the claim is excessive, notify the attorney that the claim is excessive and will be reduced to an amount which is not excessive, and reduce and approve the balance of the claim.

Notwithstanding chapter 17A, the attorney may seek review of any action or intended action taken pursuant to paragraph "d"* by filing a motion with the court with jurisdiction over the original appointment for review. The motion must be filed within twenty days of any action taken by the state public defender. The attorney shall have the burden to establish by a preponderance of the evidence that the amount of compensation and expenses is reasonable and necessary to competently represent the client. The filing of a motion shall not delay the payment of the amount specified by the state public defender pursuant to this subsection.

Sec. 5. Section 13B.4, Code 1999, is amended by adding the following new subsection: NEW SUBSECTION. 4A. If any portion of the claim is not payable under the attorney's appointment, the state public defender shall deny those portions of the claim that are not payable and approve the remainder of the claim.

Notwithstanding chapter 17A, an attorney whose claim for compensation is denied may seek review of the action of the state public defender by filing a motion with the court with jurisdiction over the original appointment. The motion must be filed within thirty days of the action of the state public defender. The type of review and relief the court may provide shall be limited to the review and relief specified in chapter 17A. The filing of a motion shall not delay the payment of the amount approved by the state public defender.

Sec. 6. Section 13B.4, subsection 7, Code 1999, is amended to read as follows:

7. The state public defender shall adopt rules, as necessary, pursuant to chapter 17A to administer this chapter and ~~section 815.9~~ chapter 815.

* According to enrolled Act

Sec. 7. Section 13B.8, subsection 2, Code 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. ~~The 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. 8. Section 13B.9, subsection 1, paragraph b, Code 1999, is amended to read as follows:

b. Represent an indigent party, without fee and upon an order of the court, in child in need of assistance, family in need of assistance, delinquency, and termination of parental rights proceedings pursuant to chapter 232 in a county served by a public defender. The local public defender shall counsel and represent an indigent party in all proceedings pursuant to chapter 232 in a county served by a public defender and prosecute before or after judgment any appeals or other remedies which the local public defender considers to be in the interest of justice unless other counsel is appointed to the case. ~~The state public defender shall be reimbursed by the counties for services rendered by employees of the local public defenders' offices under this subsection, pursuant to section 232.141.~~

Sec. 9. Section 13B.9, subsection 1, paragraph c, Code 1999, is amended by striking the paragraph.

Sec. 10. Section 13B.9, subsection 3, Code 1999, is amended by striking the subsection.

Sec. 11. Section 13B.10, subsections 2 through 4, Code 1999, are amended by striking the subsections.

Sec. 12. Section 28E.19, Code 1999, is amended to read as follows:

28E.19 JOINT COUNTY INDIGENT DEFENSE FUND.

Two or more counties may execute an agreement under this chapter to create a joint county indigent defense fund to be used to compensate attorneys appointed to represent indigents ~~under section 815.10 when funds budgeted for that purpose are exhausted~~. In addition to other requirements of an agreement under this chapter, the agreement shall provide for the amount to be paid by each county based on its population to establish and maintain an appropriate balance in the joint fund, and for a method of repayment if a county withdraws more funds than it has contributed.

Sec. 13. Section 124.407, unnumbered paragraphs 2 and 7, Code 1999, are amended by striking the unnumbered paragraphs.

Sec. 14. Section 125.78, subsections 1 and 2, Code 1999, are amended to read as follows:

1. Determine whether the respondent has an attorney who is able and willing to represent the respondent in the commitment proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting an attorney. In accordance with those determinations, the court shall allow the respondent to select an attorney or shall assign an attorney to the respondent. If the respondent is financially unable to pay an attorney, ~~the attorney shall be compensated in substantially the same manner as provided by section 815.7, except that if the county has a public defender, the court may assign the public defender or an attorney on the public defender's staff as the respondent's attorney~~ the county shall compensate the attorney at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

2. If the application includes a request for a court-appointed attorney for the applicant and the court is satisfied that a court-appointed attorney is necessary to assist the applicant in a meaningful presentation of the evidence, and that the applicant is financially unable to employ an attorney, the court shall appoint an attorney to represent the applicant.—~~The~~

~~attorney shall be compensated in substantially the same manner as provided by section 815.7 and the county shall compensate the attorney at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.~~

Sec. 15. Section 222.13A, subsection 4, Code 1999, is amended to read as follows:

4. As soon as practicable after the filing of a petition for approval of the voluntary admission, the court shall determine whether the minor has an attorney to represent the minor in the proceeding. If the minor does not have an attorney, the court shall assign to the minor an attorney. If the minor is unable to pay for an attorney, the attorney shall be compensated ~~in substantially the same manner as provided in section 815.7~~ by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 16. Section 222.22, Code 1999, is amended to read as follows:

222.22 TIME OF APPEARANCE.

The time of appearance shall not be less than five days after completed service unless the court orders otherwise. Appearance on behalf of the person who is alleged to have mental retardation may be made by any citizen of the county or by any relative. The district court shall assign counsel for the person who is alleged to have mental retardation. Counsel shall prior to proceedings personally consult with the person who is alleged to have mental retardation unless the judge appointing counsel certifies that in the judge's opinion, consultation shall serve no useful purpose. The certification shall be made a part of the record. An attorney assigned by the court shall ~~receive compensation as the district court shall fix to be paid in the first instance by the county~~ be compensated by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 17. Section 229.2, subsection 1, paragraph c, Code 1999, is amended to read as follows:

c. As soon as is practicable after the filing of a petition for juvenile court approval of the admission of the minor, the juvenile court shall determine whether the minor has an attorney to represent the minor in the hospitalization proceeding, and if not, the court shall assign to the minor an attorney. If the minor is financially unable to pay for an attorney, the attorney shall be compensated ~~in substantially the manner provided by section 815.7~~ by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 18. Section 229.8, subsection 1, Code 1999, is amended to read as follows:

1. Determine whether the respondent has an attorney who is able and willing to represent the respondent in the hospitalization proceeding, and if not, whether the respondent is financially able to employ an attorney and capable of meaningfully assisting in selecting one. In accordance with those determinations, the court shall if necessary allow the respondent to select, or shall assign to the respondent, an attorney. If the respondent is financially unable to pay an attorney, the attorney shall be compensated ~~in substantially the manner provided by section 815.7, except that if the county has a public defender the court may designate the public defender or an attorney on the public defender's staff to act as the respondent's attorney~~ by the county at an hourly rate to be established by the county board of supervisors in substantially the same manner as provided in section 815.7.

Sec. 19. Section 229.19, unnumbered paragraph 3, Code 1999, is amended to read as follows:

The court or, if the advocate is appointed by the county board of supervisors, the board shall prescribe reasonable compensation for the services of the advocate. The compensation shall be based upon the reports filed by the advocate with the court. The advocate's compensation shall be paid by the county in which the court is located, either on order of the

court or, if the advocate is appointed by the county board of supervisors, on the direction of the board. If the advocate is appointed by the court, the advocate is an employee of the state for purposes of chapter 669. If the advocate is appointed by the county board of supervisors, the advocate is an employee of the county for purposes of chapter 670. If the patient or the person who is legally liable for the patient's support is not indigent, the board shall recover the costs of compensating the advocate from that person. If that person has an income level as determined pursuant to section 815.9 greater than one hundred percent but not more than one hundred fifty percent of the poverty guidelines, at least one hundred dollars of the advocate's compensation shall be recovered ~~in accordance with rules adopted by the state public defender in the manner prescribed by the county board of supervisors.~~ If that person has an income level as determined pursuant to section 815.9 greater than one hundred fifty percent of the poverty guidelines, at least two hundred dollars of the advocate's compensation shall be recovered ~~in accordance with rules adopted by the state public defender in substantially the same manner prescribed by the county board of supervisors as provided in section 815.7.~~

Sec. 20. Section 232.141, subsection 2, Code 1999, is amended to read as follows:

2. ~~Upon certification of the court, all~~ 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 an attorney 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. 21. Section 232.141, subsection 3, paragraph c, Code 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 ~~reimbursed~~ paid by the state. ~~Reimbursement for the costs of compensation of an attorney appointed by the court to serve as counsel or guardian ad litem shall be made as provided in section 815.7. A county shall apply for reimbursement to the department of inspections and appeals which~~ 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.

Sec. 22. Section 237.20, subsection 4, paragraph e, Code 1999, is amended to read as follows:

e. The guardian ad litem of the foster child. ~~The~~ An attorney appointed as guardian ad litem shall be eligible for compensation ~~through~~ under section 232.141, subsection 1, ~~paragraph "b" 2.~~

Sec. 23. Section 814.11, Code 1999, is amended to read as follows:

814.11 INDIGENT'S RIGHT TO COUNSEL.

An indigent defendant is entitled to appointed counsel on the appeal of all indictable offenses. ~~Such~~ The appointment is ~~subject to rules of the supreme court shall be made to the state appellate defender unless the state appellate defender is unable to handle the case due to a conflict of interest or because of a temporary overload of cases. If the state appellate defender is unable to handle the case, the court shall appoint an attorney who has a contract with the state public defender to handle such an appeal. If the court determines that no contract attorney is available to handle the appeal, the court may appoint a noncontract attorney who has agreed to handle the case, but the order of appointment shall include a specific finding that no contract attorney was available. The appointment of noncontract attorneys shall be on a rotational or equalization basis, considering the experience of the attorney and the difficulty of the case.~~

Sec. 24. Section 815.4, Code 1999, is amended to read as follows:

815.4 SPECIAL WITNESSES FOR INDIGENTS.

Witnesses secured for indigent ~~or partially indigent~~ defendants under R.Cr.P. 19 must file a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant.

Sec. 25. Section 815.5, Code 1999, is amended to read as follows:

815.5 EXPERT WITNESSES FOR STATE AND DEFENSE.

Notwithstanding the provisions of section 622.72, reasonable compensation as determined by the court shall be awarded expert witnesses, expert witnesses for an indigent ~~or partially indigent~~ person referred to in section 815.4, or called by the state in criminal cases.

Sec. 26. Section 815.7, Code 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 ~~to a person for any child in juvenile court, in this state~~ shall be entitled to a reasonable compensation and expenses which shall be the ordinary and customary charges for like services in the community to be decided in each case by a judge of the district court or of the juvenile court, as applicable, including such sum or sums as the court may determine are necessary for investigation in the interests of justice and in the event of appeal the cost of obtaining the transcript of the trial and the printing of the trial record and necessary briefs in behalf of the defendant. However, the reasonable compensation awarded an attorney shall not be calculated based upon an hourly rate that exceeds the rate a contract attorney as provided in section 13B.4 would receive in a similar case. 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. 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. ~~Such~~ The attorney need not follow the case into another county or into the appellate court unless so directed by the court at the request of the defendant, ~~where grounds for further litigation are not capricious or unreasonable, but if such attorney does so, the attorney's fee shall be determined accordingly. 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. 27. Section 815.9, Code 1999, is amended to read as follows:

815.9 INDIGENCY DETERMINED — PENALTY.

1. For purposes of this chapter, ~~section 68.8, section 222.22 chapter 13B, chapter 229A, chapter 232, chapter 665, chapter 814, chapter 822,~~ and the rules of criminal procedure, ~~the following apply a person is indigent if the person is entitled to an attorney appointed by the court as follows:~~

a. A person is ~~indigent~~ entitled to an attorney appointed by the court to represent the person if the person has an income level at or below one hundred ~~fifty~~ 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. 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.

~~b. A person is not indigent if the person has an income level greater than one hundred fifty 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.~~

~~e b. A person with an income level greater than one hundred fifty ~~twenty-five~~ percent, but less than 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 ~~may be deemed partially indigent by~~ shall not be entitled to an attorney appointed by the court, unless the court pursuant to makes a written finding that, given the person's circumstances, not appointing counsel on the pending charges would cause the person substantial hardship. However, the court shall require a person appointed counsel to contribute to the cost of representation in accordance with rules adopted by the state public defender. 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.~~

~~d 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 deemed indigent or partially indigent entitled to an attorney appointed by the court, unless the person is charged with a felony and the court makes a written finding that, given the person's circumstances, not appointing counsel would cause the person substantial hardship. However, the court shall require a person appointed counsel to contribute to the cost of representation in accordance with rules adopted by the state public defender. 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.~~

2. A determination of the indigent status of ~~whether~~ a person is entitled to an appointed attorney shall be made on the basis of an affidavit of financial status submitted at the time of the person's initial appearance before a court or at such later time as a request for court appointment of counsel is made. If a person is granted legal assistance as an indigent or partial indigent, the financial statement shall be filed and permanently retained in the person's court file. The state public defender shall adopt rules prescribing the form and content of the affidavit of financial statement and the criteria by which a determination of indigency shall be based status. The affidavit of financial statement status shall be signed under penalty of perjury and shall contain sufficient information to allow the determination to be made of whether the person meets the guidelines set out in subsection 1 and shall be accompanied by the person's most recent pay slip, if employed is entitled to an appointed attorney under this section. If the person is granted an appointed attorney, the affidavit of financial status shall be filed and permanently retained in the person's court file.

3. ~~A person who knowingly submits a false financial statement for the purpose of obtaining legal assistance by appointed counsel commits a fraudulent practice. If a person is granted an appointed attorney, the person shall be required to reimburse the state for the total cost of legal assistance provided to the person. As used in this subsection, "legal assistance" includes legal counsel "Legal assistance" as used in this section shall include not only an appointed attorney, but also transcripts, witness fees and, expenses, and any other goods or services required by law to be provided to an indigent person entitled to an appointed attorney.~~

4. If the case is a criminal case, all costs and fees incurred for legal assistance shall become due and payable to the clerk of the district court by the person receiving the legal assistance not later than the date of sentencing, or if the person is acquitted or the charges are dismissed, within thirty days of the acquittal or dismissal.

5. If the case is other than a criminal case, all costs and fees incurred for legal assistance shall become due and payable to the clerk of the district court by the person receiving the legal assistance not later than ten days from the date of any court ruling or trial held in the case, or if the case is dismissed, within ten days of the dismissal.

6. An appointed attorney shall submit a report pertaining to the costs and fees for legal assistance to the court at the times specified in subsections 4 and 5. If the appointed attorney is a public defender, the report shall specify the total hours of service plus other expenses. If the appointed attorney is a private attorney, the total amount of legal assistance shall be the total amount of the fees claimed by the appointed attorney together with other expenses.

7. If all costs and fees incurred for legal assistance are not paid at the times specified in subsections 4 and 5, the court shall order payment of the costs and fees in reasonable installments.

8. If a person is granted an appointed attorney or is receiving legal assistance in accordance with this section and the person is employed, the person shall execute an assignment of wages. An order for assignment of income, in a reasonable amount to be determined by the court, shall also be entered by the court. The state public defender shall prescribe forms for use in wage assignments and court orders entered under this section.

9. If any costs and fees are not paid at the times specified under subsections 4 and 5, a judgment shall be entered against the person for any unpaid amounts.

Sec. 28. Section 815.10, Code 1999, is amended to read as follows:

815.10 APPOINTMENT OF COUNSEL BY COURT.

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.

2. An attorney other than a public defender ~~or a contract attorney~~ who is appointed by the court under this section shall apply to the ~~district court~~ state public defender for compensation and for reimbursement of costs incurred. The amount of compensation due shall be determined in accordance with any indigent defense contract or pursuant to section 815.7.

3. ~~A contract attorney appointed by the court pursuant to this section and section 13B.4 shall apply to the state public defender for compensation and for reimbursement of costs incurred in accordance with the contract. The amount of compensation due shall be determined in accordance with the contract. The state public defender shall adopt rules which specify the information which shall be included with all claims for compensation submitted by court-appointed attorneys under this section. The rules shall require that a court-appointed attorney shall obtain court approval of a claim prior to exceeding the fee limitations established pursuant to section 13B.4. However, a court-appointed attorney may request court approval after exceeding a fee limitation if good cause is shown. The order approving a claim that exceeds the fee limitation shall be included in the information submitted under this section. If the information required under this section and the rules of the state public defender is not submitted, the claim may be denied until the information is provided. If the information required under this section and the rules of the state public defender is submitted with the claim, the state public defender may approve reasonable and proper compensation to the court-appointed attorney in the manner provided in the rules.~~

Sec. 29. Section 815.11, Code 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 department of inspections and appeals for those purposes.

Sec. 30. EMERGENCY RULES. The office of the state public defender of the department of inspections and appeals may adopt administrative rules under section 17A.4, subsection 2, and section 17A.5, subsection 2, paragraph “b”, to implement the provisions of this Act. The rules shall become effective immediately upon filing, unless a later effective date is specified in the rules. Any rules adopted in accordance with this section shall not take effect before the rules are reviewed by the administrative rules review committee. Any rules adopted in accordance with the provisions of this section shall also be published as notice of intended action as provided in section 17A.4.

Sec. 31. Sections 815.9A and 815.10A, Code 1999, are repealed.

Approved May 18, 1999

CHAPTER 136

CAMPAIGN FINANCE

S.F. 470

AN ACT relating to campaign finance disclosure, including the study of campaign finance disclosure and related laws, by regulating express advocacy of candidates and ballot issues, establishing a commission to study campaign finance disclosure and related laws, providing and applying penalties, providing an effective date and for severability.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. Section 56.2, Code 1999, is amended by adding the following new subsections:
NEW SUBSECTION. 5A. “Clearly identified” means that a communication contains an unambiguous reference to a particular candidate or ballot issue, including but not limited to one or more of the following:

- a. Use of the name of the candidate or ballot issue.
- b. Use of a photograph or drawing of the candidate, or the use of a particular symbol associated with a specific ballot issue.
- c. Use of a candidate’s initials, nickname, office, or status as a candidate, or use of acronym, popular name, or characterization of a ballot issue.

NEW SUBSECTION. 12A. “Express advocacy” or to “expressly advocate” means communication that can be characterized according to at least one of the following descriptions:

- a. The communication is political speech made in the form of a contribution.
- b. In advocating the election or defeat of one or more clearly identified candidates or the passage or defeat of one or more clearly identified ballot issues, the communication includes explicit words that unambiguously indicate that the communication is recommending or supporting a particular outcome in the election with regard to any clearly identified candidate or ballot issue.