

c. This subsection shall not be construed to restrict an insurer from obtaining a claims history report or a motor vehicle report of a consumer.

9. SEVERABILITY. If any subsection, paragraph, sentence, clause, phrase, or any other part of this section is declared invalid due to an interpretation of or a future change in the federal Fair Credit Reporting Act, the remaining subsections, paragraphs, sentences, clauses, phrases, or parts thereof shall be in no manner affected thereby but shall remain in full force and effect.

10. APPLICABILITY DATE. This section applies to personal insurance contracts or policies delivered, issued for delivery, continued, or renewed in this state on or after April 1, 2005.¹

Approved April 7, 2004

CHAPTER 1040

INDIGENT DEFENSE — APPOINTMENT AND PAYMENT OF LEGAL COUNSEL

H.F. 2138

AN ACT relating to payment of legal expenses for indigent persons by the state public defender.

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

Section 1. Section 13B.4, subsection 2, Code Supplement 2003, is amended to read as follows:

2. The state public defender shall file a notice with the clerk of the district court in each county served by a public defender ~~a designation of which local~~ designating which public defender office shall receive notice of appointment of cases. The state public defender may also designate a nonprofit organization which contracts with the state public defender to provide legal services to eligible indigent persons.¹ Except as otherwise provided, in each county in which the state public defender files ~~such a~~ a designation, the state public defender ~~or its defend-~~ er's designee shall be appointed by the court to represent all eligible indigents, in all of the cases and proceedings specified ~~under subsection 1 in the designation.~~ in the designation. The appointment shall not be made if the state public defender notifies the court that the ~~local~~ public defender ~~desig-~~ nee will not provide legal representation in certain cases as identified in the designation by the state public defender.

Sec. 2. Section 13B.4, subsection 3, Code Supplement 2003, is amended to read as follows:

3. The state public defender may contract with persons admitted to practice law in this state and nonprofit organizations employing persons admitted to practice law in this state for the provision of legal services to indigent persons.

Sec. 3. Section 13B.4, subsection 4, paragraph c, subparagraph (2), subparagraph subdivision (d), Code Supplement 2003, is amended to read as follows:

(d) ~~If the appointment of the claimant was obtained without complying~~ appointed contrary to section 814.11, or the claimant failed to comply with section 814.11, subsection 6, or section 815.10, subsection 5.

¹ See chapter 1175, §341 herein

¹ See chapter 1175, §195 herein

Sec. 4. Section 13B.9, subsection 4, Code Supplement 2003, is amended to read as follows:

4. If a conflict of interest arises or if the local public defender is unable to handle a case because of a temporary overload of cases, the local public defender shall return the case to the court. If the case is returned and the state public defender has filed a successor designation, the court shall appoint the successor designee. If there is no successor designee on file, the court shall make the appointment pursuant to section 815.10. As used in this subsection, "successor designee" may include another local public defender office or a nonprofit organization that has a contract with the office of the state public defender for the provision of legal services to indigent persons contracted with the state public defender under section 13B.4, subsection 3.

Sec. 5. Section 815.10A, Code 2003, is amended to read as follows:

815.10A CLAIMS FOR COMPENSATION.

1. An attorney other than a public defender who has been appointed by the court under this chapter must ~~apply~~ submit a claim to the state public defender for compensation and reimbursement of expenses incurred in the representation of an indigent person.

2. Claims for compensation and reimbursement submitted by an attorney appointed after June 30, 2004, are not considered timely unless the claim is submitted to the state public defender within forty-five days of the sentencing, acquittal, or dismissal of a criminal case or the final ruling or dismissal of any other type of case.

~~2-3.~~ An attorney shall obtain court approval prior to exceeding the fee limitations established by the state public defender pursuant to section 13B.4. An attorney may exceed the fee limitations, if good cause for exceeding the fee limitations is shown. An attorney may obtain court approval after exceeding the fee limitations, if good cause excusing the attorney's failure to seek approval prior to exceeding the fee limitations is shown. However, failure to file an application to exceed a fee limitation prior to exceeding the fee limitation does not constitute good cause. The order approving an application to exceed the fee limitations shall be effective from the date of filing the application unless the court order provides an alternative effective date. Failure to timely file an application to exceed a fee limitation after exceeding the fees shall not constitute good cause. The application and the court order approving the application to exceed fee limitations and any other order affecting the amount of compensation or reimbursement shall be submitted with any claim for compensation.

~~3-4.~~ If the information is not submitted as required under this section and under the rules of the state public defender, the claim for compensation may be denied until the information is provided. Upon submitting receipt of the required information, the state public defender may approve reasonable and necessary compensation, as provided for in the administrative rules and the law.

Sec. 6. Section 815.11, Code Supplement 2003, 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 section 598.23A, 814.9, 814.10, 814.11, 815.4, 815.7, 815.10, or 908.11 on behalf of an indigent shall be paid from funds appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals for those purposes. Costs incurred representing an indigent defendant in a contempt action, or representing an indigent juvenile in a juvenile court proceeding under chapter 600, are also payable from these funds. However, costs incurred in any administrative proceeding or in any other proceeding under chapter 598, 600, 600A, 633, or 915 or other provisions of the Code or administrative rules are not payable from these funds.

Approved April 7, 2004