

FEB 22 2006  
Place On Calendar

HOUSE FILE 2457  
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO HSB 575)

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

**A BILL FOR**

1 An Act relating to indigent defense claims and the reimbursement  
2 of costs in juvenile cases paid by a county.

3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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HF 2457

**HOUSE FILE 2457**

**H-8125**

1 Amend House File 2457 as follows:  
2 1. Page 3, by striking lines 19 and 20 and  
3 inserting the following:  
4 "c. Fees and expenses incurred by the juvenile  
5 court for foreign language interpreters for court  
6 proceedings."  
7 2. Page 4, line 22, by inserting after the word  
8 "appeals" the following: "~~for those purposes~~".

By ANDERSON of Page

**H-8125 FILED MARCH 6, 2006**

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1 Section 1. Section 13B.1, Code 2005, is amended by adding  
2 the following new subsection:

3 NEW SUBSECTION. 1A. "Claimant" means an attorney or other  
4 person seeking reimbursement of costs or fees payable from the  
5 appropriations under section 815.11.

6 Sec. 2. Section 13B.4, subsection 4, paragraph c,  
7 subparagraphs (3), (4), and (5), Code Supplement 2005, are  
8 amended to read as follows:

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

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

15 (5) If any portion of the claim is not payable within the  
16 scope of appointment of the attorney claimant, notify the  
17 attorney claimant that a portion of the claim is not within  
18 the scope of appointment and is not payable, deny those  
19 portions of the claim that are not payable, and approve the  
20 balance of the claim.

21 Sec. 3. Section 13B.4, subsection 4, paragraph d, Code  
22 Supplement 2005, is amended to read as follows:

23 d. Notwithstanding chapter 17A, the attorney claimant may  
24 seek review of any action or intended action denying or  
25 reducing any claim by filing a motion with the court with  
26 jurisdiction over the original appointment for review.

27 (1) The motion must be filed within twenty days of any  
28 action taken by the state public defender.

29 (2) The motion shall be set for hearing by the court and  
30 the state public defender shall be provided with at least ten  
31 days' notice of the hearing. The state public defender shall  
32 not be required to file a resistance to the motion filed under  
33 this paragraph "d".

34 (3) The state public defender or the attorney claimant may  
35 participate by telephone. If the state public defender

1 participates by telephone, the state public defender shall be  
2 responsible for initiating and paying for all telephone  
3 charges.

4 (4) The filing of a motion shall not delay the payment of  
5 the amount approved by the state public defender.

6 (5) If a claim or portion of the claim is denied, the  
7 action of the state public defender shall be affirmed unless  
8 the action conflicts with a statute or an administrative rule  
9 ~~or-the-law~~.

10 (6) If the claim is reduced for being excessive, the  
11 attorney claimant shall have the burden to establish by a  
12 preponderance of the evidence that the amount of compensation  
13 and expenses is reasonable and necessary ~~to-competently~~  
14 ~~represent-the-client~~.

15 (7) The decision of the court following a hearing on the  
16 motion is a final judgment appealable by the state public  
17 defender or the claimant.

18 ~~(7)~~ (8) Any court order entered after the state public  
19 defender has taken action on a claim, which affects that  
20 claim, without first notifying the state public defender and  
21 permitting the state public defender an opportunity to be  
22 heard, is void.

23 Sec. 4. Section 13B.4, subsections 6 and 7, Code  
24 Supplement 2005, are amended to read as follows:

25 6. The state public defender is authorized to contract  
26 with county attorneys to provide collection services related  
27 to court-ordered indigent defense restitution ~~of-court-~~  
28 ~~appointed-attorney-fees-or-the-expense-of-a-public-defender~~.

29 7. The state public defender shall not revise the  
30 allocations to the office of the state public defender and the  
31 allocations ~~for-fees-of-court-appointed-attorneys~~ for indigent  
32 defense of adults and juveniles, unless prior notice of the  
33 revisions is given ~~prior-to-their-effective-date~~ to the  
34 legislative services agency, the cochairpersons and ranking  
35 members of the joint appropriations subcommittee on the

1 justice system, and the cochairpersons and ranking members of  
2 the house and senate committees on appropriations.

3 Sec. 5. Section 232.141, subsection 2, Code 2005, is  
4 amended to read as follows:

5 2. All of the following juvenile court expenses are a  
6 charge upon the county in which the proceedings are held, to  
7 the extent provided in subsection 3:

8 a. ~~The-fees-and-mileage-of-witnesses-and-the-expenses-of~~  
9 ~~officers-serving-notices-and-subpoenas-which-are~~ Juvenile  
10 court expenses incurred by an attorney appointed by the court  
11 to serve as counsel to any party or to serve as a guardian ad  
12 litem for any child, including fees and expenses for foreign  
13 language interpreters, costs of depositions and transcripts,  
14 fees and mileage of witnesses, and the expenses of officers  
15 serving notices and subpoenas.

16 b. Reasonable compensation for an attorney appointed by  
17 the court to serve as counsel to any party or as guardian ad  
18 litem for any child in juvenile court.

19 c. Fees and expenses incurred when using foreign language  
20 interpreters in juvenile court proceedings.

21 Sec. 6. Section 232.141, subsection 3, paragraphs c and d,  
22 Code 2005, are amended to read as follows:

23 c. ~~Costs-incurred-for-compensation-of-an-attorney~~  
24 ~~appointed-by-the-court-to-serve-as-counsel-to-any-party-or-as~~  
25 ~~guardian-ad-litem-for-any-child-shall-be-paid-in-accordance~~  
26 ~~with-sections-13B-4-and-815-7~~ The county, on an annual basis,  
27 shall pay to the indigent defense fund created under section  
28 815.11 the amount of the county's base cost as determined in  
29 accordance with this subsection.

30 d. Costs incurred under subsection 2 shall be paid by the  
31 state from the appropriations to the indigent defense fund  
32 under section 815.11 in accordance with this chapter, chapter  
33 815, and the rules adopted by the state public defender. The  
34 county shall be required to reimburse the indigent defense  
35 fund for costs incurred by the state up to the county's base

1 in this subsection.

2 Sec. 7. Section 622A.1, Code 2005, is amended to read as  
3 follows:

4 622A.1 DEFINITION.

5 As used in this chapter, "legal proceeding" means any  
6 action before any court, or any legal action preparatory to  
7 appearing before any court, whether civil, or criminal, or  
8 juvenile in nature; and any administrative proceeding before  
9 any state agency or governmental subdivision which is quasi-  
10 judicial in nature and which has direct legal implications to  
11 any person.

12 Sec. 8. Section 815.11, Code Supplement 2005, is amended  
13 to read as follows:

14 815.11 APPROPRIATIONS FOR INDIGENT DEFENSE -- FUND  
15 CREATED.

16 Costs incurred under chapter 229A, 665, 822, or 908, or  
17 section 232.141, subsection 3, paragraph "e" "d", or section  
18 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or  
19 815.10 on behalf of an indigent shall be paid from funds  
20 moneys appropriated by the general assembly to the office of  
21 the state public defender in the department of inspections and  
22 appeals and deposited in an account to be known as the  
23 indigent defense fund. Costs incurred representing an  
24 indigent defendant in a contempt action, or representing an  
25 indigent juvenile in a juvenile court proceeding under chapter  
26 600, are also payable from ~~these-funds~~ the fund. However,  
27 costs incurred in any administrative proceeding or in any  
28 other proceeding under chapter 598, 600, 600A, 633, 814, 815,  
29 or 915 or other provisions of the Code or administrative rules  
30 are not payable from ~~these-funds~~ the fund.

31 EXPLANATION

32 This bill relates to indigent defense claims and  
33 reimbursement of costs in juvenile cases paid by a county.

34 The bill defines the term "claimant" to mean an attorney or  
35 other person seeking reimbursement of costs or fees payable

1 from the appropriations made to the indigent defense fund  
2 under Code section 815.11.

3 In a claim dispute between a claimant and the state public  
4 defender, the bill makes the decision of the court appealable  
5 by either the claimant or state public defender.

6 The bill provides that the state public defender shall not  
7 revise the allocations to the office of the state public  
8 defender and the allocations for the defense of indigent  
9 adults or juveniles unless prior notice is properly given.  
10 Current law provides that the state public defender shall not  
11 revise any allocation prior to the effective date of any  
12 revision and only if proper notice of the revision is given.

13 Under current law the county, in juvenile cases, directly  
14 pays the interpreters and the costs of depositions and  
15 transcripts, and then seeks reimbursement from the state  
16 indigent defense fund. In adult criminal cases, the state  
17 directly pays for interpreters and the costs of depositions  
18 and transcripts out of the indigent defense fund. The bill  
19 provides that the state, in juvenile cases, will directly pay  
20 the interpreters and the costs of depositions and transcripts  
21 out of the indigent defense fund.

22 Under current law and the bill, the county, in juvenile  
23 cases, is still responsible for reimbursing the state up to  
24 the county's base as provided in Code section 232.141,  
25 subsection 3.

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HSB 575

JUDICIARY  
SU  
SF 02457

Anderson-cg  
Hutter

Wessel-Kroeschell

SENATE/HOUSE FILE  
BY (PROPOSED JUDICIAL  
BRANCH BILL)

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

**A BILL FOR**

1 An Act relating to compensation for interpreters in juvenile  
2 court proceedings.  
3 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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1 Section 1. Section 232.141, subsection 2, Code 2005, is  
2 amended by adding the following new paragraph:

3 NEW PARAGRAPH. c. Reasonable compensation for an  
4 interpreter appointed by the court pursuant to chapter 622A to  
5 interpret for any party, witness, or other participant in any  
6 court proceeding under this chapter.

7 Sec. 2. Section 622A.1, Code 2005, is amended to read as  
8 follows:

9 622A.1 DEFINITION.

10 As used in this chapter, "legal proceeding" means any  
11 action before any court, or any legal action preparatory to  
12 appearing before any court, whether civil, or criminal, or  
13 juvenile in nature; and any administrative proceeding before  
14 any state agency or governmental subdivision which is quasi-  
15 judicial in nature and which has direct legal implications to  
16 any person.

17 EXPLANATION

18 This bill relates to interpreter fees for interpreters  
19 appointed by the court for any party, witness, or other  
20 participant in any juvenile court proceeding who cannot speak  
21 or understand the English language. The bill provides that  
22 the county shall pay reasonable compensation for such an  
23 interpreter up to the county's base funding formula as  
24 specified in Code section 232.141, subsection 3. Under that  
25 formula, the state reimburses a county for any expenses that  
26 exceed the county base.

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MEMORANDUM

TO: MEMBERS OF THE GENERAL ASSEMBLY

FROM: IOWA JUDICIAL BRANCH

DATE: January 17, 2006

RE: TLSB 5299DP

Currently, the Code is unclear as to who is responsible for the costs associated with securing language interpreter services for parties, witnesses, and other participants in juvenile court proceedings. To clarify the situation, this proposed legislation adds these costs to the list of expenses that counties are responsible to pay for under Iowa Code section 232.141. By adding this provision to section 232.141, the county's liability is limited to their annual base established under this code section. Additionally, the proposed statute would make the payment of language interpreters consistent with the current provisions for the expenses of interpreters for the deaf and hard-of-hearing persons in juvenile court proceedings.