

FILED MAR 02 2006

SENATE FILE 2304
BY COMMITTEE ON JUDICIARY

(SUCCESSOR TO SSB 3033)

Passed Senate, Date 3-7-06 Passed House, Date 3-30-06
Vote: Ayes 50 Nays 0 Vote: Ayes 97 Nays 0
Approved April 11, 2006

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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SF 2304

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 by the juvenile court for
20 foreign language interpreters for 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 for-those-purposes and deposited in an account to be
23 known as the indigent defense fund. Costs incurred
24 representing an indigent defendant in a contempt action, or
25 representing an indigent juvenile in a juvenile court
26 proceeding under chapter 600, are also payable from these
27 funds the fund. However, costs incurred in any administrative
28 proceeding or in any other proceeding under chapter 598, 600,
29 600A, 633, 814, 815, or 915 or other provisions of the Code or
30 administrative rules are not payable from these-funds the
31 fund.

32 EXPLANATION

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

35 The bill defines the term "claimant" to mean an attorney or

1 other person seeking reimbursement of costs or fees payable
2 from the appropriations made to the indigent defense fund
3 under Code section 815.11.

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

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

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

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

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Ward co-chair
Horn co-chair
Zawn
Fraise

Succeeded By
O/HF 2304
SSB# 3033
Judiciary

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.

SENATE FILE 2304

AN ACT
RELATING TO INDIGENT DEFENSE CLAIMS AND THE REIMBURSEMENT
OF COSTS IN JUVENILE CASES PAID BY A COUNTY.

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

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

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

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

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

(4) If any portion of the claim is excessive, notify the attorney claimant 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.

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

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

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

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

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

(3) The state public defender or the attorney claimant may participate by telephone. If the state public defender participates by telephone, the state public defender shall be responsible for initiating and paying for all telephone charges.

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

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

(6) If the claim is reduced for being excessive, the attorney claimant 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.

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

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

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

6. The state public defender is authorized to contract with county attorneys to provide collection services related

to court-ordered indigent defense restitution ~~of court-~~
~~appointed attorney fees or the expense of a public defender.~~

7. The state public defender shall not revise the allocations to the office of the state public defender and the allocations ~~for fees of court-appointed attorneys~~ for indigent defense of adults and juveniles, unless prior notice of the revisions is given ~~prior to their effective date~~ to the legislative services agency, the cochairpersons and ranking members of the joint appropriations subcommittee on the justice system, and the cochairpersons and ranking members of the house and senate committees on appropriations.

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

2. All of the following juvenile court 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~~ Juvenile court expenses incurred by an attorney appointed by the court to serve as counsel to any party or to serve as a guardian ad litem for any child, including fees and expenses for foreign language interpreters, costs of depositions and transcripts, fees and mileage of witnesses, and the expenses of officers serving notices and subpoenas.

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 in juvenile court.

c. Fees and expenses incurred by the juvenile court for foreign language interpreters for court proceedings.

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

c. ~~Costs incurred for compensation of an attorney appointed by the court to serve as counsel to any party or as guardian ad litem for any child shall be paid in accordance with sections 13B-4 and 815.7~~ The county, on an annual basis,

shall pay to the indigent defense fund created under section 815.11 the amount of the county's base cost as determined in accordance with this subsection.

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

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

622A.1 DEFINITION.

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

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

815.11 APPROPRIATIONS FOR INDIGENT DEFENSE -- FUND CREATED.

Costs incurred under chapter 229A, 665, 822, or 908, or section 232.141, subsection 3, paragraph ~~"c"~~ "d", or section 598.23A, 600A.6B, 814.9, 814.10, 814.11, 815.4, 815.7, or 815.10 on behalf of an indigent shall be paid from funds moneys appropriated by the general assembly to the office of the state public defender in the department of inspections and appeals ~~for those purposes and deposited in an account to be known as the indigent defense fund.~~ 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 the fund. However, costs incurred in any administrative proceeding or in any other proceeding under chapter 598, 600, 600A, 633, 814, 815, or 915 or other provisions of the Code or administrative rules are not payable from ~~these-funds~~ the fund.

JEFFREY M. LAMBERTI
President of the Senate

CHRISTOPHER C. RANTS
Speaker of the House

I hereby certify that this bill originated in the Senate and is known as Senate File 2304, Eighty-first General Assembly.

MICHAEL E. MARSHALL
Secretary of the Senate

Approved _____, 2006

THOMAS J. VILSACK
Governor