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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETY-THIRD SESSION

H. F. No. 3607

02/13/2024 Authored by Finke and Becker-Finn
The bill was read for the first time and referred to the Committee on Judiciary Finance and Civil Law

1.1 A bill for an act
1.2 relating to judiciary; modifying public defender law; removing payment by
1.3 defendant for public defender services; removing ad hoc Board of Public Defense;
1.4 amending conditions of the positions of certain public defenders; appropriating
1.5 money; amending Minnesota Statutes 2022, sections 611.17; 611.215, subdivision
1.6 2; 611.24; 611.26, subdivisions 2, 3, 3a, 4; 611.263, subdivision 1; 611.265; 611.27,
1.7 subdivisions 1, 8, 10, 11, 13, 16; Minnesota Statutes 2023 Supplement, sections
1.8 611.215, subdivision 1; 611.23; repealing Minnesota Statutes 2022, sections 611.20,
1.9 subdivisions 3, 4, 7; 611.25, subdivision 3; 611.27, subdivisions 6, 9, 12.

1.10 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.11 Section 1. Minnesota Statutes 2022, section 611.17, is amended to read:

1.12 611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT; STANDARDS
1.13 FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.

1.14 (a) Each judicial district must screen requests for representation by the district public
1.15 defender. A defendant is financially unable to obtain counsel if:

1.16 (1) the defendant, or any dependent of the defendant who resides in the same household
1.17 as the defendant, receives means-tested governmental benefits; or

1.18 (2) the court determines that the defendant, through any combination of liquid assets
1.19 and current income, would be unable to pay the reasonable costs charged by private counsel
1.20 in that judicial district for a defense of the same matter.

1.21 (b) Upon a request for the appointment of counsel, the court shall make an appropriate
1.22 determination of financial eligibility under paragraph (a) of the applicant, who shall submit
1.23 a financial statement under oath or affirmation setting forth the applicant's assets and
1.24 liabilities, including the value of any real property owned by the applicant, whether

2.1 homestead or otherwise, less the amount of any encumbrances on the real property, the
2.2 source or sources of income, and any other information required by the court. The applicant
2.3 shall be under a continuing duty while represented by a public defender to disclose any
2.4 changes in the applicant's financial circumstances. The state public defender shall furnish
2.5 appropriate forms for the financial statements, which must be used by the district courts
2.6 throughout the state. The forms must contain conspicuous notice of the applicant's continuing
2.7 duty to disclose to the court changes in the applicant's financial circumstances. ~~The forms~~
2.8 ~~must also contain conspicuous notice of the applicant's obligation to make a co-payment~~
2.9 ~~for the services of the district public defender, as specified under paragraph (e).~~ The
2.10 information contained in the statement shall be confidential and for the exclusive use of the
2.11 court and the public defender except for any prosecution under section 609.48. A refusal
2.12 to execute the financial statement or produce financial records constitutes a waiver of the
2.13 right to the appointment of a public defender. The court shall not appoint a public defender
2.14 to a defendant who is financially able to retain private counsel but refuses to do so, refuses
2.15 to execute the financial statement or refuses to provide information necessary to determine
2.16 financial eligibility under this section, or waives the appointment of a public defender under
2.17 section 611.19.

2.18 An inquiry to determine financial eligibility of a defendant for the appointment of the
2.19 district public defender shall be made whenever possible prior to the court appearance and
2.20 by such persons as the court may direct. This inquiry may be combined with the prerelease
2.21 investigation provided for in Minnesota Rule of Criminal Procedure 6.02, subdivision 3. In
2.22 no case shall the district public defender be required to perform this inquiry or investigate
2.23 the defendant's assets or eligibility. The court has the sole duty to conduct a financial inquiry.
2.24 The inquiry must include the following:

2.25 (1) the liquidity of real estate assets, including the defendant's homestead;

2.26 (2) any assets that can be readily converted to cash or used to secure a debt;

2.27 (3) the determination of whether the transfer of an asset is voidable as a fraudulent
2.28 conveyance; and

2.29 (4) the value of all property transfers occurring on or after the date of the alleged offense
2.30 or notice of the action. The burden is on the accused to show that the accused is financially
2.31 unable to afford counsel. Defendants who fail to provide information necessary to determine
2.32 eligibility shall be deemed ineligible. The court must not appoint the district public defender
2.33 as advisory counsel or standby counsel. If the court appoints advisory or standby counsel,
2.34 the cost of counsel shall be paid for by the Office of the State Court Administrator or, if the

3.1 prosecutor requests the appointment, by the governmental unit conducting the prosecution.
3.2 In no event may the court order the Board of Public Defense to pay the cost of advisory or
3.3 standby counsel.

3.4 ~~(c) Upon disposition of the case, an individual who has received public defender services~~
3.5 ~~shall pay to the court a \$75 co-payment for representation provided by a public defender,~~
3.6 ~~unless the co-payment is, or has been, reduced in part or waived by the court.~~

3.7 ~~The co-payment must be credited to the general fund. If a term of probation is imposed~~
3.8 ~~as a part of an offender's sentence, the co-payment required by this section must not be~~
3.9 ~~made a condition of probation. The co-payment required by this section is a civil obligation~~
3.10 ~~and must not be made a condition of a criminal sentence.~~

3.11 Sec. 2. Minnesota Statutes 2023 Supplement, section 611.215, subdivision 1, is amended
3.12 to read:

3.13 Subdivision 1. **Structure; membership.** (a) The State Board of Public Defense is a part
3.14 of, but is not subject to the administrative control of, the judicial branch of government.
3.15 The State Board of Public Defense shall consist of nine members including:

3.16 (1) five attorneys admitted to the practice of law, well acquainted with the defense of
3.17 persons accused of crime, but not employed as prosecutors, appointed by the supreme court,
3.18 of which one must be a retired or former public defender within the past five years; and

3.19 (2) four public members appointed by the governor.

3.20 The appointing authorities may not appoint a person who is a judge to be a member of
3.21 the State Board of Public Defense, ~~other than as a member of the ad hoc Board of Public~~
3.22 ~~Defense.~~

3.23 (b) All members shall demonstrate an interest in maintaining a high quality, independent
3.24 defense system for those who are unable to obtain adequate representation. Appointments
3.25 to the board shall include qualified women and members of minority groups. At least ~~three~~
3.26 four members of the board shall be from judicial districts other than the First, Second,
3.27 Fourth, and Tenth Judicial Districts. The terms, compensation, and removal of members
3.28 shall be as provided in section 15.0575. The chair shall be elected by the members from
3.29 among the membership for a term of two years.

3.30 ~~(c) In addition, the State Board of Public Defense shall consist of a nine-member ad hoc~~
3.31 ~~board when considering the appointment of district public defenders under section 611.26,~~
3.32 ~~subdivision 2. The terms of chief district public defenders currently serving shall terminate~~
3.33 ~~in accordance with the staggered term schedule set forth in section 611.26, subdivision 2.~~

4.1 ~~(d)~~ (c) Meetings of the board are subject to chapter 13D.

4.2 Sec. 3. Minnesota Statutes 2022, section 611.215, subdivision 2, is amended to read:

4.3 Subd. 2. **Duties and responsibilities.** (a) The board shall approve and recommend to
4.4 the legislature a budget for the board, the office of state public defender, the judicial district
4.5 public defenders, and the public defense corporations.

4.6 (b) The board shall establish procedures for distribution of state funding under this
4.7 chapter to the state and district public defenders and to the public defense corporations.

4.8 (c) The state public defender with the approval of the board shall establish standards for
4.9 the offices of the state and district public defenders ~~and for the conduct of all appointed~~
4.10 ~~counsel systems.~~ The standards must include, but are not limited to:

4.11 (1) standards needed to maintain and operate an office of public defender including
4.12 requirements regarding the qualifications, training, and size of the legal and supporting staff
4.13 ~~for a public defender or appointed counsel system;~~

4.14 (2) standards for public defender caseloads;

4.15 ~~(3) standards and procedures for the eligibility for appointment, assessment, and collection~~
4.16 ~~of the costs for legal representation provided by public defenders or appointed counsel;~~

4.17 ~~(4) standards for contracts between a board of county commissioners and a county public~~
4.18 ~~defender system for the legal representation of indigent persons;~~

4.19 ~~(5)~~ (3) standards prescribing minimum qualifications of counsel appointed under the
4.20 board's authority ~~or by the courts;~~ and

4.21 ~~(6)~~ (4) standards ensuring the independent, competent, and efficient representation of
4.22 clients whose cases present conflicts of interest, in both the trial and appellate courts.

4.23 ~~(d) The board may require the reporting of statistical data, budget information, and other~~
4.24 ~~cost factors by the state and district public defenders and appointed counsel systems.~~

4.25 Sec. 4. Minnesota Statutes 2023 Supplement, section 611.23, is amended to read:

4.26 **611.23 OFFICE OF STATE PUBLIC DEFENDER; APPOINTMENT; SALARY.**

4.27 (a) The state public defender is responsible to the State Board of Public Defense. The
4.28 state public defender shall supervise the operation, activities, policies, and procedures of
4.29 the statewide public defender system. When requested by a district public defender or
4.30 appointed counsel, the state public defender may assist the district public defender, appointed

5.1 counsel, or an organization designated in section 611.216 in the performance of duties,
 5.2 including trial representation in matters involving legal conflicts of interest or other special
 5.3 circumstances, and assistance with legal research and brief preparation. The state public
 5.4 defender shall be appointed by the State Board of Public Defense ~~for a term of four years,~~
 5.5 ~~except as otherwise provided in this section, and until a successor is appointed and qualified.~~
 5.6 The state public defender shall be a full-time qualified attorney, licensed to practice law in
 5.7 this state, serve in the unclassified service of the state, and may be removed ~~only for cause~~
 5.8 ~~by the appointing authority. Vacancies in the office shall be filled by the appointing authority~~
 5.9 ~~for the unexpired term.~~ by a two-thirds vote of board members present at a board meeting.
 5.10 The salary of the state public defender shall be fixed by the State Board of Public Defense.
 5.11 ~~Terms of the state public defender shall commence on July 1.~~ The state public defender
 5.12 shall devote full time to the performance of duties and shall not engage in the general practice
 5.13 of law.

5.14 (b) The state public defender shall design and conduct programs for the training of all
 5.15 state and district public defenders, appointed counsel, and attorneys for public defense
 5.16 corporations funded under section 611.26. The state public defender shall establish policies
 5.17 and procedures to administer the district public defender system, consistent with standards
 5.18 adopted by the State Board of Public Defense.

5.19 Sec. 5. Minnesota Statutes 2022, section 611.24, is amended to read:

5.20 **611.24 CHIEF APPELLATE PUBLIC DEFENDER; ~~ORGANIZATION OF~~**
 5.21 **OFFICE; ASSISTANTS.**

5.22 Subdivision 1. **Organization.** (a) ~~Beginning January 1, 2007, and for every four years~~
 5.23 ~~after that date,~~ The State Board of Public Defense shall appoint a chief appellate public
 5.24 defender in charge of appellate services, who shall employ or retain assistant state public
 5.25 defenders and other personnel as may be necessary to discharge the functions of the office.
 5.26 ~~The chief appellate public defender shall serve a four-year term and may be removed only~~
 5.27 ~~for cause upon the order~~ may be removed upon the recommendation of the state public
 5.28 defender to the State Board of Public Defense and a two-thirds vote of members present
 5.29 of the State Board of Public Defense. The chief appellate public defender shall be a full-time
 5.30 qualified attorney, licensed to practice law in this state, and serve in the unclassified service
 5.31 of the state. ~~Vacancies in the office shall be filled by the appointing authority for the~~
 5.32 ~~unexpired term.~~

5.33 (b) An assistant state appellate public defender shall be a qualified attorney, and licensed
 5.34 to practice law in this state, ~~serve in the unclassified service of the state if employed, and~~

6.1 ~~serve at the pleasure of the appointing authority at a salary or retainer fee not to exceed~~
6.2 ~~reasonable compensation for comparable services performed for other governmental agencies~~
6.3 ~~or departments.~~ Retained or part-time employed assistant state public defenders may engage
6.4 in the general practice of law. The compensation of the chief appellate public defender ~~and~~
6.5 ~~the compensation of each assistant state public defender~~ shall be set by the State Board of
6.6 Public Defense. The chief appellate public defender shall devote full time to the performance
6.7 of duties and shall not engage in the general practice of law.

6.8 (e) ~~The incumbent deputy state public defender as of December 31, 2006, shall be~~
6.9 ~~appointed as the chief appellate public defender for the four-year term beginning on January~~
6.10 ~~1, 2007.~~

6.11 Sec. 6. Minnesota Statutes 2022, section 611.26, subdivision 2, is amended to read:

6.12 Subd. 2. **Appointment; terms.** The State Board of Public Defense shall appoint a chief
6.13 district public defender for each judicial district. ~~When appointing a chief district public~~
6.14 ~~defender, the state Board of Public Defense membership shall be increased to include two~~
6.15 ~~residents of the district appointed by the chief judge of the district to reflect the characteristics~~
6.16 ~~of the population served by the public defender in that district. The additional members~~
6.17 ~~shall serve only in the capacity of selecting the district public defender. The ad hoc state~~
6.18 ~~Board of Public Defense shall appoint a chief district public defender only after requesting~~
6.19 ~~and giving reasonable time to receive any recommendations from the public, the local bar~~
6.20 ~~association, and the judges of the district. Each chief district public defender shall be a~~
6.21 ~~qualified attorney licensed to practice law in this state. The chief district public defender~~
6.22 ~~shall be appointed for a term of four years, beginning January 1, pursuant to the following~~
6.23 ~~staggered term schedule: (1) in 2008, the second and eighth districts; (2) in 2009, the first,~~
6.24 ~~third, fourth, and tenth districts; (3) in 2010, the fifth and ninth districts; and (4) in 2011,~~
6.25 ~~the sixth and seventh districts. The chief district public defenders shall serve for four-year~~
6.26 ~~terms and may be removed for cause upon the order of the state Board of Public Defense.~~
6.27 ~~Vacancies in the office shall be filled by the appointing authority for the unexpired term.~~
6.28 may be removed upon the recommendation of the state public defender to the State Board
6.29 of Public Defense and a two-thirds vote of members present of the State Board of Public
6.30 Defense. The chief district public defenders shall devote full time to the performance of
6.31 duties and shall not engage in the general practice of law.

7.1 Sec. 7. Minnesota Statutes 2022, section 611.26, subdivision 3, is amended to read:

7.2 Subd. 3. **Compensation.** (a) The compensation of the chief district public defender ~~and~~
7.3 ~~the compensation of each assistant district public defender~~ shall be set by the Board of
7.4 Public Defense. ~~To assist the Board of Public Defense in determining compensation under~~
7.5 ~~this subdivision, counties shall provide to the board information on the compensation of~~
7.6 ~~county attorneys, including salaries and benefits, rent, secretarial staff, and other pertinent~~
7.7 ~~budget data. For purposes of this subdivision, compensation means salaries, cash payments,~~
7.8 ~~and employee benefits including paid time off and group insurance benefits, and other direct~~
7.9 ~~and indirect items of compensation including the value of office space provided by the~~
7.10 ~~employer.~~

7.11 (b) This subdivision does not limit the rights of public defenders to collectively bargain
7.12 with their employers.

7.13 Sec. 8. Minnesota Statutes 2022, section 611.26, subdivision 3a, is amended to read:

7.14 Subd. 3a. **Budget; compensation.** (a) Notwithstanding subdivision 3 or any other law
7.15 to the contrary, compensation and economic benefit increases for chief district public
7.16 defenders and assistant district public defenders, who are full-time county employees, shall
7.17 be paid out of the budget for that judicial district public defender's office.

7.18 (b) In the Second Judicial District, the district public defender's office shall be funded
7.19 by the Board of Public Defense. The budget for the Second Judicial District Public Defender's
7.20 Office shall not include Ramsey County property taxes.

7.21 (c) In the Fourth Judicial District, the district public defender's office shall be funded
7.22 by the Board of Public Defense and by the Hennepin County Board. Personnel expenses of
7.23 state employees hired on or after January 1, 1999, in the Fourth Judicial District Public
7.24 Defender's Office shall be funded by the Board of Public Defense.

7.25 ~~(d) Those budgets for district public defender services in the Second and Fourth Judicial~~
7.26 ~~Districts under the jurisdiction of the state Board of Public Defense shall be eligible for~~
7.27 ~~adjustments to their base budgets in the same manner as other state agencies. In making~~
7.28 ~~biennial budget base adjustments, the commissioner of management and budget shall consider~~
7.29 ~~the budgets for district public defender services in all judicial districts, as allocated by the~~
7.30 ~~state Board of Public Defense, in the same manner as other state agencies.~~

8.1 Sec. 9. Minnesota Statutes 2022, section 611.26, subdivision 4, is amended to read:

8.2 Subd. 4. **Assistant public defenders.** A chief district public defender shall appoint
8.3 assistants who are qualified attorneys licensed to practice law in this state and other staff
8.4 as the chief district public defender finds prudent and necessary subject to the standards
8.5 adopted by the state public defender. ~~Assistant district public defenders must be appointed~~
8.6 ~~to ensure broad geographic representation and caseload distribution within the district. Each~~
8.7 ~~assistant district public defender serves at the pleasure of the chief district public defender.~~
8.8 A chief district public defender is authorized, subject to approval by the state Board of
8.9 ~~Public Defense~~ public defender or their designee, to hire an independent contractor to
8.10 perform the duties of an assistant public defender.

8.11 Sec. 10. Minnesota Statutes 2022, section 611.263, subdivision 1, is amended to read:

8.12 Subdivision 1. **Employees.** (a) Except as provided in subdivision 3, ~~the district public~~
8.13 ~~defender and~~ assistant public defenders of the Second Judicial District are employees of
8.14 Ramsey County in the unclassified service under section 383A.286.

8.15 (b) Except as provided in subdivision 3, ~~the district public defender and~~ assistant public
8.16 defenders of the Fourth Judicial District are employees of Hennepin County under section
8.17 383B.63, subdivision 6.

8.18 Sec. 11. Minnesota Statutes 2022, section 611.265, is amended to read:

8.19 **611.265 TRANSITION.**

8.20 (a) District public defenders and their employees, other than in the Second and Fourth
8.21 Judicial Districts, are state employees in the judicial branch, and are governed by the
8.22 personnel rules adopted by the State Board of Public Defense.

8.23 ~~(b) A district public defender or district public defender employee who becomes a state~~
8.24 ~~employee under this section, and who participated in a county insurance program on June~~
8.25 ~~30, 1993, may elect to continue to participate in the county program according to procedures~~
8.26 ~~established by the Board of Public Defense. An affected county shall bill the Board of Public~~
8.27 ~~Defense for employer contributions, in a manner prescribed by the board. The county shall~~
8.28 ~~not charge the board any administrative fee. Notwithstanding any law to the contrary, a~~
8.29 ~~person who is first employed as a district public defender after July 1, 1993, shall participate~~
8.30 ~~in the state employee insurance program, as determined by the state Board of Public Defense,~~
8.31 ~~in consultation with the commissioner of management and budget.~~

9.1 ~~(e)~~ (b) A district public defender or district public defender employee who becomes a
 9.2 state employee under this section, and who participated in the Public Employee Retirement
 9.3 Association on June 30, 1993, may elect to continue to participate in the Public Employees
 9.4 Retirement Association according to procedures established by the Board of Public Defense
 9.5 and the association. Notwithstanding any law to the contrary, a person who is first employed
 9.6 as a state employee or by a district public defender after July 1, 1993, must participate in
 9.7 the Minnesota State Retirement System.

9.8 ~~(d)~~ (c) A person performing district public defender work as an independent contractor
 9.9 is not eligible to be covered under the state group insurance plan or the Public Employee
 9.10 Retirement Association.

9.11 Sec. 12. Minnesota Statutes 2022, section 611.27, subdivision 1, is amended to read:

9.12 Subdivision 1. **Budget.** ~~(a) A chief district public defender shall annually submit a~~
 9.13 ~~comprehensive budget to the state Board of Public Defense. The budget shall be in~~
 9.14 ~~compliance with standards and forms required by the board. The chief district public defender~~
 9.15 ~~shall, at times and in the form required by the board, submit reports to the board concerning~~
 9.16 ~~its operations, including the number of cases handled and funds expended for these services.~~

9.17 ~~(b)~~ Money appropriated to the State Board of Public Defense for the board's
 9.18 administration, for the state public defender, for the judicial district public defenders, and
 9.19 for the public defense corporations shall be expended as determined by the board. In
 9.20 distributing funds to district public defenders, the board shall consider ~~the geographic~~
 9.21 ~~distribution of public defenders, the equity of compensation among the judicial districts,~~
 9.22 public defender case loads; and the results of the weighted case load study.

9.23 Sec. 13. Minnesota Statutes 2022, section 611.27, subdivision 8, is amended to read:

9.24 Subd. 8. **Adequate representation; review.** In a case where the chief district public
 9.25 defender does not believe that the office can provide adequate representation, the chief
 9.26 public defender of the district shall immediately notify the state public defender. The chief
 9.27 district public defender may request that the state public defender authorize appointment
 9.28 of counsel other than the district public defender in the case.

9.29 Sec. 14. Minnesota Statutes 2022, section 611.27, subdivision 10, is amended to read:

9.30 Subd. 10. **Addition of permanent staff.** The chief public defender may not request nor
 9.31 may the state public defender approve the addition of permanent staff under ~~subdivision 7~~
 9.32 this section.

10.1 Sec. 15. Minnesota Statutes 2022, section 611.27, subdivision 11, is amended to read:

10.2 Subd. 11. **Appointment of counsel.** (a) If the state public defender finds that the provision
 10.3 of adequate legal representation, including associated services, is beyond the ability of the
 10.4 district public defender to provide, the state public defender may approve counsel to be
 10.5 appointed, with compensation and expenses to be paid under the provisions of this
 10.6 subdivision and subdivision 7. Counsel in such these cases shall be appointed by the chief
 10.7 district public defender.

10.8 (b) All billings for services rendered and ordered under this subdivision shall require
 10.9 the approval of the chief district public defender before being forwarded to the state public
 10.10 defender for payment. Counsel appointed under this subdivision shall document the time
 10.11 worked and expenses incurred in a manner prescribed by the chief district public defender.
 10.12 In cases where adequate representation cannot be provided by the district public defender
 10.13 and where counsel has been approved by the state public defender, the Board of Public
 10.14 Defense shall pay all services from county program aid transferred by the commissioner of
 10.15 revenue for that purpose under section 477A.03, subdivision 2b, paragraph (a).

10.16 Sec. 16. Minnesota Statutes 2022, section 611.27, subdivision 13, is amended to read:

10.17 Subd. 13. **Correctional facility inmates.** ~~All billings for services rendered and ordered~~
 10.18 ~~under subdivision 7 shall require the approval of the chief district public defender before~~
 10.19 ~~being forwarded to the state public defender. In cases where adequate representation cannot~~
 10.20 ~~be provided by the district public defender and where counsel has been approved by the~~
 10.21 ~~state public defender, the Board of Public Defense shall pay all services from county program~~
 10.22 ~~aid transferred by the commissioner of revenue for that purpose under section 477A.03,~~
 10.23 ~~subdivision 2b, paragraph (a).~~

10.24 The costs of appointed counsel and associated services in cases arising from new criminal
 10.25 charges brought against indigent inmates who are incarcerated in a Minnesota state
 10.26 correctional facility are the responsibility of the State Board of Public Defense. In ~~such~~
 10.27 these cases the state public defender may follow the procedures outlined in this section for
 10.28 obtaining court-ordered counsel.

10.29 Sec. 17. Minnesota Statutes 2022, section 611.27, subdivision 16, is amended to read:

10.30 Subd. 16. **Appeal by prosecuting attorney; attorney fees.** ~~(a) When a prosecuting~~
 10.31 ~~attorney appeals to the court of appeals, in any criminal case, from any pretrial order of the~~
 10.32 ~~district court, reasonable attorney fees and costs incurred shall be allowed to the defendant~~

11.1 ~~on the appeal which shall be paid by the governmental unit responsible for the prosecution~~
11.2 ~~involved in accordance with paragraph (b).~~

11.3 ~~(b) By~~ On or before January 15, 2013, and every year thereafter of each year, the chief
11.4 judge of the judicial district, after consultation with city and county attorneys, the chief
11.5 public defender, and members of the private bar in the district, shall establish a reimbursement
11.6 rate for attorney fees and costs associated with representation ~~under paragraph (a) of a~~
11.7 defendant on appeal. The compensation to be paid to an attorney for such service rendered
11.8 to a defendant under this subdivision may not exceed ~~\$5,000~~ \$10,000, exclusive of
11.9 reimbursement for expenses reasonably incurred, unless payment in excess of that limit is
11.10 certified by the chief judge of the district as necessary to provide fair compensation for
11.11 services of an unusual character or duration.

11.12 **Sec. 18. APPROPRIATION; BOARD OF PUBLIC DEFENSE.**

11.13 \$..... in fiscal year 2025 is appropriated from the general fund to the Board of Public
11.14 Defense for

11.15 **Sec. 19. REVISOR INSTRUCTION.**

11.16 The revisor of statutes shall renumber each section of Minnesota Statutes listed in column
11.17 A with the number listed in column B. The revisor shall make necessary cross-reference
11.18 changes consistent with the renumbering. The revisor shall also make any technical and
11.19 other changes necessitated by the renumbering and cross-reference changes.

	<u>Column A</u>	<u>Column B</u>
11.20		
11.21	<u>611.27, subdivision 3</u>	<u>611.24, subdivision 2</u>
11.22	<u>611.27, subdivision 15</u>	<u>611.24, subdivision 3</u>
11.23	<u>611.27, subdivision 16</u>	<u>611.24, subdivision 4</u>

11.24 **Sec. 20. REPEALER.**

11.25 Minnesota Statutes 2022, sections 611.20, subdivisions 3, 4, and 7; 611.25, subdivision
11.26 3; and 611.27, subdivisions 6, 9, and 12, are repealed.

611.20 SUBSEQUENT ABILITY TO PAY COUNSEL.

Subd. 3. **Reimbursement.** In each fiscal year, the commissioner of management and budget shall deposit the payments in the special revenue fund and credit them to a separate account with the Board of Public Defense. The amount credited to this account is appropriated to the Board of Public Defense.

The balance of this account does not cancel but is available until expended. Expenditures by the board from this account for each judicial district public defense office must be based on the amount of the payments received by the state from the courts in each judicial district. A district public defender's office that receives money under this subdivision shall use the money to supplement office overhead payments to part-time attorneys providing public defense services in the district. By January 15 of each year, the Board of Public Defense shall report to the chairs and ranking minority members of the senate and house of representatives divisions having jurisdiction over criminal justice funding on the amount appropriated under this subdivision, the number of cases handled by each district public defender's office, the number of cases in which reimbursements were ordered, the average amount of reimbursement ordered, and the average amount of money received by part-time attorneys under this subdivision.

Subd. 4. **Employed defendants; ability to pay.** (a) A court may order a defendant to reimburse the state for the cost of the public defender. In determining the amount of reimbursement, the court shall consider the defendant's income, assets, and employment. If reimbursement is required under this subdivision, the court shall order the reimbursement when a public defender is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from the defendant if the defendant's financial circumstances warrant establishing a reduced reimbursement schedule. If a defendant does not agree to make payments, the court may order the defendant's employer to withhold a percentage of the defendant's income to be turned over to the court.

(b) If a court determines under section 611.17 that a defendant is financially unable to pay the reasonable costs charged by private counsel due to the cost of a private retainer fee, the court shall evaluate the defendant's ability to make partial payments or reimbursement.

Subd. 7. **Income withholding.** (a) Whenever an obligation for reimbursement of public defender costs is ordered by a court under this section, the amount of reimbursement as determined by court order must be withheld from the income of the person obligated to pay. The court shall serve a copy of the reimbursement order on the defendant's employer. Notwithstanding any law to the contrary, the order is binding on the employer when served. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. The employer shall withhold from the income payable to the defendant the amount specified in the order and shall remit, within ten days of the date the defendant is paid the remainder of the income, the amounts withheld to the court.

(b) An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer shall be liable to the court for any amounts required to be withheld. An employer that fails to withhold or transfer funds in accordance with this section is also liable for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date the funds were required to be withheld. An employer that has failed to comply with the requirements of this section is subject to contempt of court.

(c) Amounts withheld under this section do not supersede or have priority over amounts withheld pursuant to other sections of law.

611.25 POWERS; DUTIES; LIMITATIONS.

Subd. 3. **Duties.** The state public defender may require the reporting of statistical data, budget information, and other cost factors by the chief district public defenders and appointed counsel systems. The state public defender shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded under section 611.26. The state public defender shall establish policies and procedures to administer the district public defender system, consistent with standards adopted by the State Board of Public Defense.

**611.27 OFFICES OF DISTRICT PUBLIC DEFENDER; FINANCING;
REPRESENTATION.**

Subd. 6. **Case reporting system.** The state Board of Public Defense shall adopt and implement a uniform system for reporting of hours and cases by district public defenders. District public defenders shall provide whatever assistance the board requires in order to implement this reporting system.

Subd. 9. **Request for other appointment of counsel.** The chief district public defender may request that the state public defender authorize appointment of counsel other than the district public defender in such cases.

Subd. 12. **Compensation and expenses.** Counsel appointed under this subdivision shall document the time worked and expenses incurred in a manner prescribed by the chief district public defender.