

HF1218 - 0 - Interpreter Services to Prepare Defense

Chief Author: **Tou Xiong**
 Committee: **Judiciary Finance and Civil Law**
 Date Completed: **3/3/2021 12:43:26 PM**
 Lead Agency: **Supreme Court**
 Other Agencies:
 Public Defense Board

State Fiscal Impact	Yes	No
Expenditures		X
Fee/Departmental Earnings		X
Tax Revenue		X
Information Technology		X
Local Fiscal Impact		X

This table shows direct impact to state government only. Local government impact, if any, is discussed in the narrative. Reductions shown in the parentheses.

State Cost (Savings)	Biennium			Biennium		
	Dollars in Thousands	FY2021	FY2022	FY2023	FY2024	FY2025
State Total						
Total	-	-	-	-	-	-
Biennial Total			-			-

Full Time Equivalent Positions (FTE)	Biennium			Biennium	
	FY2021	FY2022	FY2023	FY2024	FY2025
Total	-	-	-	-	-

Lead LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 3/3/2021 12:43:26 PM
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State Cost (Savings) Calculation Details

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*Transfers In/Out and Absorbed Costs are only displayed when reported.

State Cost (Savings) = 1-2		Biennium			Biennium	
Dollars in Thousands		FY2021	FY2022	FY2023	FY2024	FY2025
Total		-	-	-	-	-
Biennial Total				-		-
1 - Expenditures, Absorbed Costs*, Transfers Out*						
Total		-	-	-	-	-
Biennial Total				-		-
2 - Revenues, Transfers In*						
Total		-	-	-	-	-
Biennial Total				-		-

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LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 3/3/2021 11:09:24 AM
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Biennial Total			-			-

Bill Description

HF1218 amends Minn. Stat. § 611.21(a), Services Other Than Counsel, to authorize counsel appointed for an indigent defendant to file an ex parte application requesting interpreter services necessary to an adequate defense in the case. Payment of section 611.21 expenses is by the county.

Assumptions

It is assumed that this bill is intended to address case law holding that Minn. Stat. § 611.33, subd. 3, imposes the burden of paying for interpreter services for out-of-court communications between the public defender and the defendant on the Board of Public Defense, and that Minn. Stat. § 611.21 does not apply to interpreter services and cannot be used to seek county payment of interpreter expenses.

It is assumed that prior to the case law upholding the denial of a request for interpreter services under section 611.21, such requests were not uncommon in section 611.21 motions. It is assumed that the provisions of this bill may result in some increase in the number of section 611.21 motions filed with the court, but the increase is not expected to be significant.

Expenditure and/or Revenue Formula

According to 3 years of judicial branch data, from 2017 through 2019 there were an average of 328 section 611.21 motions filed with the district court statewide per year. Assuming for purposes of this fiscal note that a judge spends on average of 15 minutes reviewing and determining these motions, the work required for these motions statewide is 4,920 minutes, which amounts to .06 judge FTE per year based on a 78,000 judge year in minutes. Thus even if the bill resulted in some increase in such motions each year, that is not anticipated to have a significant fiscal impact on the judicial branch.

Long-Term Fiscal Considerations

None

Local Fiscal Impact

Making public defender interpreter costs a county expense under 611.21 rather than solely a Board of Public Defense

expense under section 611.33 may have a fiscal impact on the counties.

References/Sources

Agency Contact:

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LBO Analyst's Comment

I have reviewed this fiscal note for reasonableness of content and consistency with the LBO's Uniform Standards and Procedures.

LBO Signature: Maren Bardal **Date:** 3/3/2021 12:40:36 PM
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Biennial Total			-			-
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Biennial Total			-			-

Bill Description

HF 1218 would make it clear that interpreter services, are included under M.S. 61.21.

Assumptions

Minnesota Statutes 611.21 allows counsel (both public and private) for indigent defendants, or counsel representing a defendant who, at the outset of the prosecution, has an annual income not greater than 125 percent of the poverty line established under United States Code, title 42, section 9902(2), to file an application with the court requesting investigative, expert, or other services necessary to an adequate defense in the case. Upon finding, that the request is appropriate the court authorizes counsel to obtain the services and directs payment by the county in which the prosecution originated.

For the last 25+ years once the budget for such services has been expended or encumbered, Chief Public Defenders review the requests from their staff and if appropriate request the court to provide for such services. Included in these services were requests for funding interpreters.

A recent Minnesota Court of Appeals decision concluded that the statute does not authorize payment for interpreter services.

The budget for all necessary services typically runs out in January of any given fiscal year. If interpreters are not allowed as an expense under M.S. 611.21 this funding will have to come from the budget of other necessary services. This will mean that requests under M.S. 611.21 for these necessary services will need to be made that much earlier in the year.

Expenditure and/or Revenue Formula

The amounts requested for interpreters vary from year to year, however the numbers are increasing. It is estimated that interpreter requests under M.S. 611.21 were around \$25,000 last year.

Long-Term Fiscal Considerations

Local Fiscal Impact

Any interpretive services paid for by the county under the bill (M.S. 611.21), would be offset by the Public Defense Board's budget for necessary services. The Public Defense Board budget allocated for necessary services would be unchanged

and would be able to cover some of the costs that otherwise may be paid by the county.”

References/Sources

Agency Contact:

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