

HF3007/SF2978: Court of Appeals Publication Criteria

MN State Bar Association

Background:

- Opinions issued by the Minnesota Court of Appeals are either published (and therefore considered precedential) or unpublished (and therefore not).
- Criteria dictating which opinions get published were put in statute in 1987 in response to rising caseloads.

The Bill:

- This proposal was crafted by a committee comprised of judges and lawyers from various practice areas.
- This bill repeals the statutory publication criteria for Court of Appeals opinions.
- The intent is that once the statutory roadblock removed, the court will be able to start fresh and craft new publication criteria through court rules.
 - Having publication criteria in statute is an encroachment on the separation of powers.
 - Congress does not dictate to the federal appellate courts what they can or cannot publish, and Minnesota should follow suit.
 - The Court of Appeals—using its experience, knowledge, and familiarity with legal developments—is in the best position to determine publication criteria and can do so via court rules.