

House Research Act Summary

CHAPTER: 61

SESSION: 2007 Regular Session

TOPIC: Public Defender Modifications

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Analyst: Rebecca Pirius (651-296-5044)

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Overview

This act modifies and updates public defender provisions. It strikes references to public defender co-payments that have been declared unconstitutional and reinstates the prior \$28 co-payment, renames the deputy state public defender as the chief appellate public defender, removes unconstitutional language regarding representation in postconviction cases, repeals the \$40 per hour reimbursement rate for public defender services, and strikes obsolete references.

Section

- 1** **Debt.** Strikes a reference to the public defender co-payment in the Revenue Recapture Act (the co-payment was declared unconstitutional by the Minnesota Supreme Court).
- 2, 3** **Postconviction case.** Strike language giving the State Public Defender discretion to not represent defendants in postconviction remedy proceedings.
- 4** **Standards for district public defense eligibility.** Strikes language regarding public defender co-payments that was declared unconstitutional by the Minnesota Supreme Court in *State v. Tennin*. Reinstates the \$28 co-payment that is assessed upon completion of a case and may be waived by the court. (The \$28 co-payment was previously upheld on a constitutional challenge by the Minnesota Court of Appeals in *State v. Cunningham*.)
- 5** **Reimbursement schedule guidelines.** Corrects a reference to the definition of income in the child support statute for purposes of calculating public defender reimbursement.
- 6** **Structure; membership.** Strikes archaic language relating to former members of the State Board of Public Defense.
- 7** **Chief administrator.** Restores the appointment of the Chief Administrator to the Board of

Section

Public Defense, rather than the State Public Defender.

- 8** **Office of state public defender; appointment; salary.** Moves existing language from another section relating to the duties of the State Public Defender.
- 9** **Chief appellate public defender; organization of office.** Renames the Deputy State Public Defender as the "Chief Appellate Public Defender," in charge of the appellate office. Provides appointment by the State Board of Public Defense for a four-year term, with the current deputy serving the first term. Provides that compensation of the chief appellate public defender and of each assistant public defender shall be set by the State Board of Public Defense.
- 10** **Representation.** Removes discretion of Chief Appellate Public Defenders to decline to represent defendants in postconviction remedy proceedings, as decided by the Minnesota Supreme Court. Strikes language relating to the State Public Defender, which is moved to another section.
- 11** **Appointment; terms.** Updates the terms of the Chief District Public Defenders, who are full-time employees who shall not engage in the outside practice of law.
- 12** **Other employment.** Strikes language that Chief District Public Defenders may engage in the general practice of law if they are not full-time employees.
- 13** **Transcript use.** Conforming amendment.
- 14-15** **County criminal justice aid.** Strike obsolete references to county criminal justice aid, which has been repealed.
- 16** **Reimbursement of appointed counsel.** Removes references to public defender reimbursement, which is covered in another section.
- 17** **Repealer.** Repeals Minnesota Statutes 2006, section 611.20, subdivision 5, relating to the \$40 per hour reimbursement rate for public defender services.