

HOUSE RESEARCH

Bill Summary

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Subject: Order of final argument; prosecutorial rebuttal

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Overview

This bill eliminates restrictions on the circumstances in which the prosecution may reply in rebuttal to the closing argument of the defense in a criminal case and grants the prosecution an unqualified right to reply in rebuttal to the closing argument of the defense.

- 1 Order of final argument.** Current law specifies that, at the conclusion of a criminal case, the prosecution may make a closing argument, followed by the defense's closing argument. Current law requires the court to permit the prosecution to reply in rebuttal to the defense's argument, but this rebuttal must be limited to a response to any misstatement of law or fact or a response to an inflammatory or prejudicial statement made by the defense in its closing argument. This bill eliminates the restrictions on the prosecution's rebuttal argument and grants the prosecution the right to reply in rebuttal to the closing argument of the defense.
- 2 Rule superseded.** Provides that Rule 26.03, subdivision 11, of the Rules of Criminal Procedure is superseded to the extent it conflicts with section 1. Rule 26.03, subdivision 11, states the order of procedures in jury trials in criminal cases. This rule provides that, at the conclusion of the case, the prosecution may make a closing argument followed by the defense's closing argument. The prosecution may then make a motion to the court to permit it to reply in rebuttal if the court determines that the defense has made a misstatement of law or fact or an inflammatory or prejudicial statement in the defense's closing argument. The rule specifies that the rebuttal must be limited to a direct response to the misstatement of law or fact or the inflammatory or prejudicial statement.
- 3 Effective date.** Effective August 1, 1999, for crimes committed on or after that date.