

HOUSE RESEARCH

Bill Summary

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Authors: Bishop and others

Subject: Order of final argument; report on prosecutorial rebuttals

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Overview

This bill (1) requests the Minnesota Supreme Court to review the Rule of Criminal Procedure on prosecutorial rebuttals in closing arguments and to report to the legislature on its review; (2) amends the 1997 Legislature's request to the Minnesota Supreme Court for information on prosecutorial rebuttals to require reports under the court rule on rebuttals, instead of the statute on rebuttals; and (3) repeals the statutory provision on order of final argument.

Section

1 Rule Superseded. Amends the 1997 session law that provided that Minnesota Rule of Criminal Procedure, Rule 26.03, subdivision 11 (order of procedures in criminal cases), was superseded to the extent it conflicted with section 631.07, the statutory provision on order of final argument. Requests the Supreme Court to review Rule 26.03, subdivision 11, and to report to the chairs of the Senate and House committees with jurisdiction over criminal justice policy on prosecutorial rebuttals.

Prior to 1997, the statutory provision on order of final argument was consistent with the Rule of Criminal Procedure. The statute and rule both provided that, following the prosecution's and defense's closing arguments, the prosecution could make a motion to the court to permit it to reply in rebuttal if the court determined that the defense had made a misstatement of law or fact or an inflammatory or prejudicial statement in the defense's closing argument, with the rebuttal limited to a direct response to the misstatement of law or fact or the inflammatory or prejudicial statement.

The 1997 Legislature amended the statute on order of final argument to eliminate the need for a motion and to require the judge to allow the prosecution to reply in rebuttal, limited to a response to any misstatement of law or fact or a statement that is inflammatory or prejudicial made by the defense in its closing argument. Rule 26.03, subdivision 11, has not changed since 1997.

- 2 Report.** The 1997 Legislature requested the Minnesota Supreme Court to report, by January 15, 1999, to the chairs of the Senate and House committees with jurisdiction over criminal justice policy on prosecutorial rebuttals under section 631.07, the statutory provision on order of final argument. This report requested information on (1) the number of rebuttals requested by prosecutors; (2) the number of rebuttals permitted by courts; and (3) the circumstances involving instances in which rebuttals were not permitted.

This bill requests the Supreme Court to report on prosecutorial rebuttals made under the Rules of Criminal Procedure, instead of the statutory provision on order of final argument (section 631.07) and delays the reporting date from January 15, 1999, to January 15, 2000.

- 3 Repealer.** Repeals Minnesota Statutes 1998, section 631.07, the statutory provision on order of final argument.