

HOUSE RESEARCH

Bill Summary

FILE NUMBER: H.F. 1657
Version: First committee engrossment

DATE: April 14, 2009

Authors: Paymar

Subject: Public Safety Finance Omnibus Bill

Analyst: Jeff Diebel
Rebecca Pirius

This publication can be made available in alternative formats upon request. Please call 651-296-6753 (voice); or the Minnesota State Relay Service at 1-800-627-3529 (TTY) for assistance. Summaries are also available on our website at: www.house.mn/hrd.

Section

Article 1: Appropriations

Overview

Article 1 contains appropriations for the following state government entities: Supreme Court, Court of Appeals, Trial Courts, Tax Court, Uniform Laws Commission, Board on Judicial Standards, Board of Public Defense, Department of Public Safety, Peace Officers Standards and Training Board, Private Detective Board, Department of Human Rights, Department of Corrections, and Sentencing Guidelines Commission.

- 1 Summary of Appropriations.** Summarizes direct appropriations by fund.
- 2 Public Safety Appropriations.** Describes, in general terms, the appropriations contained in this article.
- 3 Supreme Court.**

Subd. 1. Total appropriation. Appropriates \$43,919,000 for FY10 and \$43,366,000 for FY11.

Subd. 2. Supreme Court Operations

Criminal justice forum. Requests that the supreme court continues its criminal justice forum and submit a report to the legislature by February 15, 2010, regarding identified criminal justice efficiencies and cost savings.

Federal stimulus funds. Encourages the supreme court to apply for all available grants for federal stimulus funds to: (1) continue drug court programs and (2)

make technological improvements.

Judicial and referee vacancies. Provides that the supreme court shall not certify any judicial or referee vacancies until it has examined alternative options. Requires the court to submit a report to the legislature 30 days prior to certifying a vacancy to the governor explaining what alternatives were examined, why they were rejected, and why certification is necessary.

Subd. 3. Civil legal services. Appropriates \$12,179,000 in FY10 and \$12,027,000 in FY11 to improve access of low-income clients to legal representation.

4 **Court of Appeals.** Appropriates \$10,353,000 for FY10 and \$10,222,000 for FY11.

5 **Trial Courts.** Appropriates \$251,696,000 for FY10 and \$248,540,000 for FY11.

6 **Tax Court.** Appropriates \$800,000 for both FY10 and FY11.

7 **Uniform Laws Commission.** Appropriates \$51,000 for FY10 and \$50,000 for FY11.

8 **Board on Judicial Standards.** Appropriates \$446,000 for both FY10 and FY11. Provides that the base budget in FY12 and FY13 shall be \$321,000 each year.

9 **Board of Public Defense.** Appropriates \$67,628,000 for FY10 and \$65,028,000 for FY11.

Agency lobbyist. Prohibits the board from using any of the appropriation to hire a lobbyist.

10 **Public Safety.**

Subd. 1. Total appropriation. Appropriates \$160,529,000 for FY10 and \$160,892,000 for FY11.

Agency lobbyist. Prohibits the commissioner from using any portion of the department's appropriation to hire a lobbyist.

Governor's employees. Prohibits the commissioner from paying the salary, or a portion thereof, of an employee of the governor.

Car fleet. Directs the commissioner to reduce the department's car fleet in the metro area by 20%.

Subd. 2. Emergency management. Appropriates \$2,583,000 each year to the emergency management division.

Hazmat. Transfers funding of HAZMAT and CAT teams to the fire safety account.

Subd. 3. Criminal apprehension. Appropriates \$43,763,000 the first year and \$42,063,000 the second year to the BCA.

Forensic scientists. Directs the commissioner to consider the number of scientists that work in regional or local forensic labs when calculating the need for additional scientists at the state labs.

DWI analysis. Transfers funding for DWI lab analysis from the general fund to the trunk highway fund.

Subd. 4. Fire Marshal. Appropriates \$8,000,000 each year to fund the state fire marshal.

Subd. 5. Alcohol and Gambling Enforcement. Appropriates \$2,538,000 each year to the alcohol and gambling enforcement division.

Subd. 6. Office of Justice Programs. Appropriates \$37,175,000 for FY10 and \$35,475,000 for FY11.

Federal stimulus funds; report. Directs OJP to submit two reports to the legislature: (1) by June 1, 2009, a report outlining the competitive grant process for administering federal stimulus funds, and (2) by October 1, 2009, a report listing all the grants awarded. Requests OJP to consider awarding grants for federal stimulus funds to the following initiatives: (i) trafficking victim programs; (ii) nonprofit organization providing resources to families of persons who have died traumatically; (iii) mentoring grants for children of incarcerated parents; (iv) youth intervention programs; (v) juvenile detention alternatives; (vi) re-entry programs; (vii) restorative justice programs; and (viii) judicial branch efficiency programs.

Crime victim and youth intervention programs. Provides that funding for the following programs shall not be reduced by more than three percent from the level of state funding for FY09: (i) crime victim reparations; (ii) battered women's shelters; (iii) general crime victim programs; (iv) sexual assault victim programs; and (v) youth intervention programs.

Subd. 7. Emergency communications networks. Appropriates \$66,470,000 the first year and \$70,233,000 the second year from the 911 emergency telecommunications service fee account for emergency communications.

Funds public safety answering points, medical resource communication centers, ARMER debt service, MET Council debt service, ARMER state backbone operating costs, ARMER improvements, and next generation 911.

Authorizes the commissioner to spend \$5,000,000 in the first year for any purpose related to the effective operation of the emergency communication system, including the cost of personnel who prepare for and respond to emergencies.

11 Peace Officers Standards and Training Board. Appropriates \$4,162,000 each year to the POST Board, of which amount \$3,009,000 is for reimbursements to local governments for peace officer training costs.

Agency lobbyists. Prohibits the board from hiring a lobbyist.

12 Private Detective Board. Appropriates \$125,000 each year to the private detective board.

13 Human Rights. Appropriates \$3,534,000 the first year and \$3,418,000 the second year for the department of human rights.

14 Department of Corrections.

Subd. 1. Total appropriation. Appropriates \$466,339,000 the first year and \$466,759,000 the second year to the department of corrections.

Agency lobbyists. Prohibits the commissioner from using any portion of the department's appropriation to hire a lobbyist.

Governor's employees. Prohibits the commissioner from paying the salary, or a portion thereof, of an employee of the governor.

Car fleet. Directs the commissioner to reduce the department's car fleet by 20%.

Subd. 2. Correctional institutions. Appropriates \$328,336,000 the first year and \$333,363,000 the second year to correctional institutions.

Appropriates \$19,000,000 each year from the American Recovery and Reinvestment Act of 2009.

Treatment alternatives report. Requires the commissioner to submit a report to the legislature on treatment alternatives.

Challenge incarceration program. Directs the commissioner to fill all challenge incarceration beds and, if the commissioner fails to do so, to submit a report to the legislature.

Performance measure; per diem reduction. Directs the commissioner to cut the adult facility per diem by one percent and cuts funding in that amount. If the commissioner reduces the per diem by more than one percent, the additional savings are to be put toward treatment beds. If the commissioner fails to cut the per diem by one percent, she must find the unrealized savings in the operations support division and submit a report to the legislature.

Drug court bed savings. Directs the commissioner to consider the bed impact savings of drug courts in formulating prison bed projections.

Subd. 3. Community services. Appropriates \$115,044,000 in the first year and \$111,837,000 in the second year for community services.

Short-term offenders. Appropriates \$1,607,000 to fund the cost of housing short-term offenders who are sentenced prior to July 1, 2009, in local jails. Stipulates that this population of offenders shall serve their entire sentence in local jails unless the commissioner decides otherwise.

Federal reentry and restorative justice grants. Directs the commissioner to apply for all federal grants that can be used to continue and expand re-entry and restorative justice programs.

Subd. 4. Operations support. Appropriates \$22,959,000 the first year and \$21,559,000 the second year for the department's operations support group.

15 Sentencing Guidelines. Appropriates \$591,000 each year to the sentencing guidelines commission.

Article 2: Courts and Public Defenders

Overview

This article makes the following changes to statutory provisions relating to the courts and public defenders: amends provisions on judicial vacancies, clarifies and amends provisions on disbursement of fines and fees, restructures controlled substance and DWI laws to allow tracking of specific penalties, deletes obsolete language relating to the state takeover of court costs, clarifies that law library fees and criminal surcharges may only be applied once during a case, clarifies court collection processes and uniform fine schedule provisions, increases the interest rate for judgments over \$50,000, and makes various changes in an effort to maximize efficiency of judicial administration. In addition, article 2 contains increases in court filing fees, the public defender co-pay, parking surcharges, and attorney registration fees.

- 1-2** **Judicial and referee vacancies.** Deletes the 90-day deadline in which the supreme court must certify a judicial or referee vacancy to the governor.
- 3** **Procedure.** Removes outdated language pertaining to the pay rate for retired justices assigned to hear cases.
- 4** **Retired justices and judges.** Clarifies that the chief justice of the Supreme Court shall determine the pay and expenses to be received by a retired justice or judge acting as a judge on any court.
- 5** **Fines and bail money.** Provides that all fines, installment payments, and forfeited bail money collected from persons for violations of water safety and water craft laws shall be disbursed as follows: one-half to the state general fund and one-half to the DNR water recreation account.
- 6-7** **Law library fees.** Provides that the law library fee shall be applied only once per case. (section 6: Hennepin and Ramsey counties, section 7: all other counties)
- 8-10** **Controlled substance penalties.** Restructures the crimes of sale/possession of controlled substance in the fifth degree and possession of meth precursors to allow tracking of first and subsequent offense penalties. There are no changes to the current penalties. (See also section 50 – repealing sections 152.025, subd. 3 and 152.0262, subd. 2.)
- 11-14** **DWI; different vehicles; penalties.** Restructures DWI law to allow tracking of offenses based on the type of vehicle involved (motor vehicle, motorboat, snowmobile, all-terrain vehicles, and off-road vehicles). There are no substantive changes to the current elements or penalties.
- 15-18;
20-21** **DWI; cross references.** Conforming changes made to reflect the newly restructured subdivisions created in sections 11-14. Adds cross-references.
- 19** **Chemical dependency assessment.** Clarifies how the assessment charge and surcharge are to be distributed when the assessment is not conducted by the county. Directs the court administrator to collect and forward the \$25 charge and \$5 surcharge, if any, to the commissioner of finance for deposit in the state general fund. Directs the court to order the

offender to pay the assessment costs directly to the service provider. Authorizes the court to waive the \$25 assessment charge but not the direct assessment costs.

- 22 Traffic fines and forfeited bail money; State Patrol.** Deletes obsolete references to the state takeover of court costs. Deletes a reference to “traffic and motor vehicle violations” so that the statute’s distribution provisions apply to any citation issued by the State Patrol.
- 23-27 Fee amounts.** Increases the following court filing fees by the following amounts:
- Initial filing fee in a district court civil action (\$240 to \$300)
 - Initial filing fee in a marriage dissolution action (\$270 to \$330)
 - Jury demand fee (\$75 to \$100)
 - Motion fees (\$55 to \$100)
 - Certified and uncertified copies (\$10/5 to \$14/8)
 - Issuing a subpoena (\$12 to \$16)
 - Issuing an execution or writ (\$40 to \$55)
 - Issuing or docketing a judgment (\$30 to \$40)
 - Filing an account in a trusteeship (\$40 to \$50)
 - Depositing a will (\$20 to \$27)
 - Filing fee in conciliation court (\$50 to \$65)
 - Filing fee for an appeal (\$500 to \$550)
- Increases the parking surcharge (\$4 to \$5) by \$1 and makes conforming changes. (Currently, court filing fees and the parking surcharge are credited to the state general fund.)
- 24 Surcharges on criminal and traffic offenders.** Clarifies that the criminal and traffic surcharge shall only be imposed once per case, even if the defendant is convicted of more than one offense in a case. (Currently, counties are doing this differently across the state.)
- 28 Practice of law; exception.** Exempts the Judicial Branch from the requirements of chapter 364, relating to prior criminal convictions and public employment.
- 29 Offices and supplies; county officers.** Deletes language that predates the state takeover.
- 30 Uniform collection policies and procedures.** Provides statutory authority for the Judicial branch to establish uniform collection policies and procedures. Defines court debt and collection costs. Requires the court to pay for collection services and allows the court to add collection costs to the debts.
- 31 Disposition of fines, fees, and other money: Ramsey County.** Updates language relating to the disposition of fines and fees for Ramsey County. Eliminates fees taxed to a governmental subdivision outside of Ramsey County for prosecution of out-of-county offenses. Retains the current distribution (offenses in St. Paul: two-thirds to St. Paul, one-third to state general fund; offenses in other cities: one-half to the governmental subdivision, one-half to state general fund).
- 32 Allocation.** Updates language relating to the disposition of fines and fees for counties other than Hennepin and Ramsey. Maintains the current distribution of two-thirds to the governmental subdivision and one-third to the state general fund.
- 33 Judgment debtor disclosure.** Permits a judgment creditor’s attorney to order disclosure of assets for judgment enforcement in conciliation court matters, rather than applying to the

court.

- 34 Original documents.** Eliminates the statutory requirement that original documents in probate proceedings be retained for five years. (Note: many courts are using document imaging to store documents.)
- 35 When owed; rate.** Increases the interest rate to 10 percent for a judgment or award over \$10,000.
- 36 Judgment debtor disclosure.** Permits a judgment creditor’s attorney to order disclosure of assets for judgment enforcement in district court matters, rather than applying to the court.
- 37 DWI; cross reference.** See sections 15-18; 20-21.
- 38 Sentences available.** Deletes the court’s authority to order imprisonment for nonpayment of fines. Provides that a fine or restitution order is due on the date it is imposed unless the court authorizes a payment plan.
- 39 Minimum fines.** Removes language regarding the Judicial Council’s authority to promulgate a uniform fine schedule (“payables”), which is moved to a new section of law (see section 43). Eliminates the state’s 20 percent share of minimum fines for felony and gross misdemeanor offenses.
- 40 Fine and surcharge collection.** Establishes authority for a court to refer unpaid fines to a collection process. Provides that a defendant may contest the collection referral based on inability to pay. Requires the defendant to be notified in writing of the right to contest the collection referral. Provides that a defendant’s obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees shall survive for a period set by the Judicial Council.
- 41 Sentences available.** Deletes the court’s authority to order imprisonment for nonpayment of fines. Provides that a fine or restitution order is due on the date it is imposed unless the court authorizes a payment plan.
- 42 Use of conviction for enhancement.** Provides that a conviction for a misdemeanor violation that was treated as a petty misdemeanor by inclusion on the uniform fine schedule may not be used to enhance a subsequent violation as a gross misdemeanor.
- 43 Uniform fine schedule.**

Subd. 1. Creates a new section of law regarding the Judicial Council’s authority to promulgate a uniform fine schedule (“payables”) for petty misdemeanors and misdemeanors (excluding targeted misdemeanors). Provides that the schedule shall set a fine that may be paid for each offense in lieu of a court appearance. Provides that the Judicial Council must submit the schedule and any modifications to the legislature not later than January 1st to become effective on July 1st, unless the legislature by law provides otherwise.

Subd. 2. Provides that misdemeanors shall be treated as petty misdemeanors unless there is a formal complaint or a traffic violation was committed under circumstances that may endanger any person or property. Clarifies that this subdivision does not limit a peace officer’s arrest authority. Sunsets the subdivision

on July 1, 2011.

Subd. 3. Requires written notice to a defendant that payment of a fine constitutes a plea of guilty, waiver of the right to trial, and waiver of the right to counsel.

- 44 Terms and conditions.** Provides that fines, day-fines, or restitution ordered as an intermediate sanction is due on the date it is imposed unless the court authorizes a payment plan.
- 45 Failure to pay restitution.** Removes the option for probation to request a hearing if a fine has not been paid before the offender's probation term expires.
- 46 Stay of sentence maximum periods.** Removes the court's authority to extend probation if a fine is unpaid.
- 47 Financial inquiry; statements; co-payment; standards for district public defense eligibility.** Increases the public defender co-pay from \$28 to \$75 (may be waived by the court).
- 48 Sentence; cost of prosecution.** Provides that prosecution costs shall be paid to the municipality or governmental subdivision which employed the prosecutor or otherwise provided for prosecution of the case. (Currently, the statute references payment to the county treasurer and makes no provision for city prosecutions.)
- 49 Public defender fee; public defender fee account.** Authorizes the Supreme Court to assess a public defender fee on all licensed attorneys. The fee must be at least equal to the civil legal services fee that the Supreme Court currently collects from attorneys.

By way of comparison, Minnesota's \$217 registration fee ranks as 15th lowest among the 50 states. Of that amount, \$50 is dedicated to civil legal services. By adding \$50 to the current fee, Minnesota would rank 26th.

Moneys collected must be deposited in a public defender fee special revenue account and used to fund the public defender. Prohibits using funds in the public defender account for any purpose other than for funding the public defender.

- 50 Repealer.** Repeals the following sections:

Sections 152.025, subd. 3 and 152.0262, subd. 2 – conforming changes to sections 8-10 (restructuring statutory penalties for controlled substance crimes).

Section 484.90, subs. 1-3, 5 – repealing language relating to former judicial officers.

Section 609.135, subd. 8 – repealing six-year period relating to a defendant's obligation to pay court-ordered fines, surcharges, court costs, restitution, and fees. (See section 40 – time period to be set by Judicial Council.)

Article 3: Public Safety and Corrections.

Overview

This article contains a variety of provisions related to the department of public

safety, the department of corrections, drug sentencing, and probation.

- 1 **5th Degree Controlled Substance Crimes.** Permits a court to disregard the six month mandatory minimum sentence for repeat fifth degree controlled substance offenders if the court, on the record, finds – on its own motion or the motion of the prosecutor – that there are substantial and compelling reasons to disregard the mandatory minimum.
- 2 **Reinstatement fees and surcharges allocated and appropriated.** Allows for license reinstatement fees to be automatically appropriated to the commissioner of public safety rather than requiring the fees to be legislatively appropriated.
- 3 **Biennial report.** Directs the commissioner of corrections to submit a report to the legislature that specifies the performance measures that the commissioner will include in its biennial report to the legislature.
- 4 **Conditional release of certain nonviolent controlled substance offenders.** Permits the commissioner of corrections to deny an offender’s application to participate in the conditional release program for nonviolent drug offenders if the offender does not have access to aftercare, community-based chemical dependency treatment or housing upon release.
- 5 **Sunset.** Extends the sunset for the nonviolent drug offender conditional release program for two years.
- 6 **Mission; efficiency.** Removes the discretionary language regarding the department of public safety’s submission of a performance report to the legislature.
- 7 **Performance report; performance measures and targets.** Requires the commissioner of public safety to submit a biennial performance report to the legislature. Requires the commissioner to submit a report to the legislature that identifies the performance measures that the department will include in its performance report.
- 8 **Emergency telecommunications service fee; account.** Permits the commissioner of public safety to use 911 service fees for any purpose related to the effective operation of the emergency telecommunications system. Establishes a June 30, 2011, expiration date.
- 9 **Sentence to more than one year.** Eliminates the short-term offender program under which offenders who are sentenced to prison with less than 6 months left in their sentence serve the remainder of their sentence in local jails.
- 10 **County based revocation center pilot project; report.** Authorizes counties to develop a pilot project for a secure residential center and supervision of persons facing revocation of their probation. Requires a report to the legislature on the pilot project proposal.
- 11 **Repealer.** Repeals language related to the short-term offender program.