

HOUSE RESEARCH

Bill Summary

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Overview

This bill makes changes to provisions regarding public defender representation, including eligibility, appointment, and reimbursement obligations.

- 1 General rule.** Requires the court, prior to appointing a public defender, to inquire whether a prosecutor intends to certify a misdemeanor as a petty misdemeanor. Provides that if an offense is certified as a petty misdemeanor, a defendant would not be eligible for a public defender.
- 2 Request for appointment of public defender.** Clarifies that only those persons with a statutory right to a public defender under section 611.14 may request appointment of a public defender.
- 3 Financial inquiry.** Paragraph (a). Establishes criteria to determine eligibility for public defender representation based on the offense level charged and the defendant's income.

Misdemeanor level: defendant is financially unable to obtain private counsel if annual household income is not greater than 125 percent of the federal poverty guidelines.

Gross misdemeanor level: defendant is financially unable to obtain private counsel if annual household income is not greater than 150 percent of the federal poverty guidelines.

Felony level: defendant is financially unable to obtain private counsel if annual household income is not greater than 175 percent of the federal poverty guidelines.

Maintains current language allowing the court to also determine eligibility based on defendant's ability to pay for private counsel with current income and liquid assets.

Paragraph (b). Technical\clarifying changes. Strikes the following: language limiting applicant's duty to disclose information about changes in financial circumstances that is only relevant to eligibility for a public defender; language that allows only the public defender representing the applicant to see information in the application; and language providing that the court has the sole duty to conduct a financial inquiry, not the public defender. Requires all district courts to use financial statement forms furnished by the state public defender.

Paragraph (c). Authorizes the court to reduce the \$75 copayment for public defender representation.

Currently, the court can only impose or waive the full amount.

Paragraph (d). Provides that the court shall not appoint a public defender if a defendant: is financially able to retain counsel but refuses to do so; refuses to execute the required financial statement or provide information; or waives appointment of a public defender.

- 4** **Appointment of public defender.** Provides that the chief appellate public defender represents persons pursuing an appeal or post-conviction relief and the district public defender represents persons in all other statutorily defined cases. Strikes language mandating continued representation of an arrested individual and maintains permissive language allowing the public defender discretion in such cases.
- 5** **Reimbursement.** Eliminates restrictions on how reimbursements collected from defendants may be used by a district public defender's office. Currently, reimbursements may only be used to supplement office overhead payments to part-time public defenders.
- 6** **Employed defendants.** Adds language requiring a defendant who is or becomes able to make partial payments to reimburse the state for the cost of the public defender. Strikes language referring to reimbursement guidelines (which is repealed in section 9). Directs the court, in determining a defendant's payment schedule, to consider the defendant's financial statement application. Requires the court to evaluate a defendant's ability to make partial payments if the court originally determined that the defendant was financially unable to afford counsel due to the private retainer fee.
- 7 - 8** **District public defender budgets and county payment responsibility.** Provides that the Board of Public Defense must fund all items and services necessary to satisfy its obligations under chapter 611. Provides that a county is not responsible for public defender costs, except for costs currently paid by Hennepin County in the fourth judicial district.
- 9** **Repealer.** Repeals the following subdivision:
- § 611.20, subd. 6 - Sets forth the reimbursement schedule guideline based on a defendant's net income and number of dependents.