

HOUSE RESEARCH

Bill Summary

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Article 1: Appropriations

Overview

Article 1 contains appropriations for the following state government entities: Supreme Court, Court of Appeals, Trial Courts, Guardian Ad Litem Board, Tax Court, Uniform Laws Commission, Board on Judicial Standards, Board of Public Defense, and Sentencing Guidelines Commission.

- 1 Summary of Appropriations.** Summarizes direct appropriations by fund.
- 2 Appropriations.** Specifies that appropriations are available for FY12 and FY13.
- 3 Supreme Court.**

Subd. 1. Total appropriation. Appropriates \$41,274,000 for FY12 and \$39,575,000 for FY13.

Subd. 2. Supreme Court Operations. Appropriates \$30,458,000 for FY12 and \$30,759,000 for FY13.

- **Contingent account.** Authorizes \$5,000 each year for a contingent account for expenses necessary for the normal operation of the court.
- **Employee healthcare.** Directs the court to study and report to the legislature on the advantages and disadvantages of having judicial branch employees leave the state employee group insurance program to form their own benefit plan.

Subd. 3. Civil legal services. Appropriates \$10,816,000 in FY12 and \$8,816,000 in FY13.

Paragraph (a) provides that \$877,000 each year is to improve access of low-income clients to legal representation in family law matters.

Paragraph (b) prohibits using appropriated funds for representing or serving clients: in federal matters, in suing a state or federal entity, or in advocating at the legislature for or against

current or proposed policy and law.

- 4 **Court of Appeals.** Appropriates \$10,106,000 for FY12 and \$10,228,000 for FY13.
- 5 **Trial Courts.** Appropriates \$233,347,000 for FY12 and \$236,966,000 for FY13.
- 6 **Guardian Ad Litem board.** Appropriates \$11,988,000 for both FY12 and FY13.
- **Case priority.** Directs board to give priority in assigning GALs to clients who are statutorily entitled to representation.
- 7 **Tax Court.** Appropriates \$790,000 for both FY12 and FY13.
- **Operating schedule.** Provides that at least one tax court judge shall conduct regular business on all days that executive branch agencies are open for business.
- 8 **Uniform Laws Commission.** Appropriates \$30,000 for both FY12 and FY13.
- **Membership dues.** Provides that appropriated funds may be used only to pay dues and not for travel or other expenses.
- 9 **Board on Judicial Standards.** Appropriates \$456,000 for both FY12 and FY13.
- 10 **Board of Public Defense.** Appropriates \$64,726,000 for both FY12 and FY13.
- **Public defense corporations.** Limits use of appropriated funds by corporations to defend only clients who are constitutionally or statutorily entitled to a public defender and who meet the income eligibility standards.
- 11 **Sentencing Guidelines.** Appropriates \$586,000 for both FY12 and FY13.
- 12 **Prohibition on use of appropriations.** Provides that no appropriated funds may be used for the purchase of motor vehicles or out-of-state travel that is not directly connected with and necessary to carry out core functions.
- 13 **Salary freeze.** Prohibits salary or wage increases for state employees funded under this article. This would not apply to promotions or transferring to positions with greater responsibilities.
- Expires June 30, 2013.
- 14 **Capping mileage reimbursement.** Caps mileage reimbursement for entities funded in this article at \$.51 per mile.

Article 2: Courts and Sentencing

Overview

This article makes the following changes relating to courts: clarifies placement of vehicle license plates; establishes administrative dismissal process for submitting proof of insurance in failure to provide vehicle insurance cases; clarifies fees and surcharges for diversion cases; and authorizes partial payments or reimbursement in IFP cases.

- 1 **Other motor vehicles.** Clarifies requirements regarding placement of motor vehicle license plates. Provides that two plates must be displayed and must be mounted on the front and rear bumpers or on the front and back of the vehicle exterior in places designed to hold a license plate.
- 2 **Court expenses.** Provides that in no event may a court charge guardian ad litem expenses upon a county. (Current law provides that the state Guardian Ad Litem Board shall pay GAL expenses.

- 3** **Surcharges on criminal and traffic offenders.** Provides that a surcharge imposed in cases where a defendant participates in a diversion program or receives a continuance or stay of adjudication be paid upon entering the program and not upon completion. Clarifies that only one surcharge may be imposed per case.
- 5** **Authorization of forma pauperis (IFP).** Authorizes the court to seek partial payment or reimbursement of court fees and costs from a party proceeding *in forma pauperis* (IFP). If the party is or becomes able to pay a portion of the fees and costs, the court may order: payment of a fee of not less than \$75, partial payment of costs, or reimbursement of all or a portion of costs paid in monthly payments. Payments are credited to the general fund.
Under the current IFP statute, if the court finds that a person is financially unable to pay the fees and costs of a civil court action, the court may authorize commencement or defense of the action without prepayment of costs, including filing fees, process server fees, witness fees, deposition and transcript expenses, and copy costs. These expenses are then paid by the state.

Article 3: Public Defenders.

Overview

This article 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.

Article 4: Sexually Exploited Youth

Overview

This article provides that a juvenile could not be prosecuted for committing a prostitution offense (as a prostitute) under the delinquency code. These juveniles and others would fall under the definition of "sexually exploited youth" as a child in need of protection or services. (Changes to the juvenile delinquency code are delayed until August 1, 2014.) It also makes changes to a penalty assessment currently imposed on adult patrons by increasing and amending distribution of the assessment. Finally, article 4 directs DPS to develop a statewide victim service model for sexually exploited youth, if funded.

- 1** **Delinquent child.** Excludes juveniles prostitutes from the definition of delinquent child. *See* § 3 - a juvenile prostitute would be considered a "sexually exploited youth" under the child protection laws. (Juveniles who are alleged to have violated prostitution laws, while acting other than as a prostitute, are not affected by this change.)
- Effective: August 1, 2014.
- 2** **Juvenile petty offender.** Provides a conforming cross-reference to article 5, §§ 4 and 5. Excludes juvenile prostitutes from the definition of juvenile petty offender.
- Effective: August 1, 2014.
- 3** **Child in need of protection or services.** Strikes language in the CHIPS definition referring to a child who has engaged in prostitution and replaces it with a reference to the definition of "sexually exploited youth." (*See* § 5.)

- 4 Delinquent child.** Provides a cross-reference in the CHIPS chapter to the definition of "delinquent child."
- 5 Sexually exploited youth.** Defined as an individual who: (1) is alleged to have committed prostitution; (2) is a victim of sexual assault or a pornography crime involving minors; (3) is a victim of a federal prostitution crime; or (4) is a sex trafficking victim.
- 6 Prostitute.** Amends the definition of prostitute to mean individuals age 18 or older.
Effective: August 1, 2014.
- 7 Penalty assessment.** Amends the penalty assessment currently imposed on adults convicted of violating prostitution laws, while acting other than as a prostitute. Increases the minimum and maximum penalty amounts.
Provides that the court may not waive payment of the penalty assessment. If the person is indigent or payment would create an undue hardship, the court may reduce the amount to not less than \$100. The court may also authorize payment in installments.
Amends the distribution of the assessment. Provides that the assessment shall be distributed as follows: (1) 40 percent to the political subdivision employing the arresting officer; (2) 20 percent to the prosecuting agency that handled the case; and (3) 40 percent to DPS for distribution to crime victim service organizations that provide services to sexually exploited youth. The funds must be used by the agencies to combat sexual exploitation of youth. (Under current law, the mandatory minimum assessment may be used for juvenile prostitution outreach programs in section 8.)
- 8 Sexually exploited youth outreach program.** Strikes references to "juvenile prostitution" and replaces them with references to "sexually exploited youth." Makes conforming changes (*see* § 7).
- 9 Safe harbor for sex trafficked youth; sexually exploited youth; statewide victims services model.** Provides that if sufficient outside funding is donated, DPS, in consultation with HHS, shall develop a victim services model to address the needs of sexually exploited youth by June 30, 2012. Directs DPS to take into consideration results of a prior pilot project and to seek recommendations from stakeholders. Requires a report to the legislature by January 15, 2013, on development of the model, including additional recommendations for legislation or funding.
- 10 Repealer.** Repeals provisions in the delinquency and CHIPS chapters relating to concurrent jurisdiction when a child is alleged to have engaged in prostitution. Under this article, a juvenile prostitute would be considered a child in need of protection services.
Effective: August 1, 2014.

Article 5: Prostitution Crimes

Overview

This article amends the crimes of general prostitution and prostitution in a public place by separating and creating new subdivisions to distinguish and track prosecution of crimes by prostitutes versus crimes by patrons. It also clarifies the definitions of the crime as they apply to patrons and prostitutes. The article does not change or add any penalties.