

A bill for an act relating to judiciary; modifying certain provisions relating to courts and sentencing, public defenders, sexually exploited youth, and prostitution crimes; providing for a statewide victim services model for sexually exploited youth or youth at risk of sexual exploitation; requiring reports; requiring a study; appropriating money for the courts, civil legal services, Guardian Ad Litem Board, Uniform Laws Commission, Board On Judicial Standards, Board of Public Defense, and sentencing guidelines; amending Minnesota Statutes 2010, sections 169.79, subdivision 6; 169.797, subdivision 4; 260B.007, subdivisions 6, 16; 260C.007, subdivisions 6, 11, by adding a subdivision; 260C.331, subdivision 3; 357.021, subdivision 6; 563.01, subdivision 3; 609.131, subdivision 1; 609.321, subdivisions 4, 8, 9; 609.324, subdivisions 2, 3, by adding subdivisions; 609.3241; 611.16; 611.17; 611.18; 611.20, subdivisions 3, 4; 611.27, subdivisions 1, 5; 626.558, subdivision 2a; repealing Minnesota Statutes 2010, sections 260B.141, subdivision 5; 260C.141, subdivision 6; 611.20, subdivision 6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

APPROPRIATIONS

Section 1. SUMMARY OF APPROPRIATIONS.

The amounts shown in this section summarize direct appropriations, by fund, made in this article.

		<u>2012</u>		<u>2013</u>		<u>Total</u>
<u>General</u>	\$	<u>363,303,000</u>	\$	<u>365,345,000</u>	\$	<u>728,648,000</u>
<u>Special Revenue</u>	\$	<u>-0-</u>	\$	<u>-0-</u>	\$	<u>-0-</u>
<u>Total</u>	\$	<u>363,303,000</u>	\$	<u>365,345,000</u>	\$	<u>728,648,000</u>

Sec. 2. APPROPRIATIONS.

The sums shown in the columns marked "Appropriations" are appropriated to the agencies and for the purposes specified in this article. The appropriations are from the general fund, or another named fund, and are available for the fiscal years indicated for each purpose. The figures "2012" and "2013" used in this article mean that the appropriation listed under them is available for the fiscal year ending June 30, 2012, or June 30, 2013, respectively.

APPROPRIATIONS
Available for the Year
Ending June 30
2012 **2013**

Sec. 3. **SUPREME COURT**

Subdivision 1. Total Appropriation \$ **41,274,000** \$ **39,575,000**

The amounts that may be spent for each purpose are specified in the following subdivisions.

Subd. 2. Supreme Court Operations **30,458,000** **30,759,000**

(a) Contingent Account. \$5,000 each year is for a contingent account for expenses necessary for the normal operation of the court for which no other reimbursement is provided.

(b) Employee Health Care. The chief justice of the Supreme Court shall study and report to the chairs and ranking minority members of the house of representatives and senate committees with jurisdiction over judiciary finance by January 15, 2012, on the advantages and disadvantages of having judicial branch officials and employees leave the state employee group insurance program and form their own group benefit plan, including the option of shifting to a plan based on high-deductible health savings accounts.

3.1	Subd. 3. <u>Civil Legal Services</u>	<u>10,816,000</u>	<u>8,816,000</u>
3.2	<u>(a) Legal Services to Low-Income</u>		
3.3	<u>Clients in Family Law Matters. Of this</u>		
3.4	<u>appropriation, \$877,000 each year is to</u>		
3.5	<u>improve the access of low-income clients to</u>		
3.6	<u>legal representation in family law matters.</u>		
3.7	<u>This appropriation must be distributed</u>		
3.8	<u>under Minnesota Statutes, section 480.242,</u>		
3.9	<u>to the qualified legal services programs</u>		
3.10	<u>described in Minnesota Statutes, section</u>		
3.11	<u>480.242, subdivision 2, paragraph (a). Any</u>		
3.12	<u>unencumbered balance remaining in the first</u>		
3.13	<u>year does not cancel and is available in the</u>		
3.14	<u>second year.</u>		
3.15	<u>(b) Limits on Services. No portion of the</u>		
3.16	<u>funds appropriated may be used to represent</u>		
3.17	<u>or serve clients: (1) in federal civil or</u>		
3.18	<u>criminal matters outside the jurisdiction of</u>		
3.19	<u>the state courts or agencies; (2) in suing a</u>		
3.20	<u>state or federal entity; and (3) in advocating</u>		
3.21	<u>at the legislature for or against current or</u>		
3.22	<u>proposed policy and law.</u>		
3.23	Sec. 4. <u>COURT OF APPEALS</u>	<u>\$ 10,106,000</u>	<u>\$ 10,228,000</u>
3.24	Sec. 5. <u>TRIAL COURTS</u>	<u>\$ 233,347,000</u>	<u>\$ 236,966,000</u>
3.25	Sec. 6. <u>GUARDIAN AD LITEM BOARD</u>	<u>\$ 11,988,000</u>	<u>\$ 11,988,000</u>
3.26	<u>Case priority. The board shall assign</u>		
3.27	<u>guardians to clients who are entitled by</u>		
3.28	<u>statute to representation prior to clients for</u>		
3.29	<u>whom the courts request guardians but who</u>		
3.30	<u>are not entitled to a guardian under statute.</u>		
3.31	Sec. 7. <u>TAX COURT</u>	<u>\$ 790,000</u>	<u>\$ 790,000</u>

4.1 **Operating schedule.** At least one tax court
4.2 judge shall hold hearings and meetings or
4.3 otherwise conduct regular business on all
4.4 days that executive branch agencies are open
4.5 for business.

4.6 Sec. 8. **UNIFORM LAWS COMMISSION** \$ **30,000** \$ **30,000**

4.7 **Membership dues.** This appropriation is
4.8 to pay the state's membership dues to the
4.9 National Uniform Laws Commission. No
4.10 portion of this appropriation may be used to
4.11 fund the travel or expenses of members of
4.12 the commission.

4.13 Sec. 9. **BOARD ON JUDICIAL STANDARDS** \$ **456,000** \$ **456,000**

4.14 Sec. 10. **BOARD OF PUBLIC DEFENSE** \$ **64,726,000** \$ **64,726,000**

4.15 **Public defense corporations**
4.16 **representation.** Funds appropriated
4.17 to public defense corporations shall
4.18 only be used to defend clients who are
4.19 constitutionally or statutorily entitled to a
4.20 public defender and who meet the income
4.21 eligibility standards in Minnesota Statutes,
4.22 section 611.17.

4.23 Sec. 11. **SENTENCING GUIDELINES** \$ **586,000** \$ **586,000**

4.24 Sec. 12. **PROHIBITION ON USE OF**
4.25 **APPROPRIATIONS**

4.26 No portion of these appropriations may be used for the purchase of motor vehicles
4.27 or out-of-state travel that is not directly connected with and necessary to carry out the core
4.28 functions of the organizations funded in this article.

4.29 Sec. 13. **SALARY FREEZE.**

4.30 (a) Effective July 1, 2011, a state employee funded under this article may not receive
4.31 a salary or wage increase. This section prohibits any increases, including but not limited

to: across-the-board increases; cost-of-living adjustments; increases based on longevity; step increases; increases in the form of lump-sum payments; increases in employer contributions to deferred compensation plans; or any other pay grade adjustments of any kind. This section does not prohibit an increase in the rate of salary and wages for an employee who is promoted or transferred to a position with greater responsibilities and with a higher salary or wage rate.

(b) This section expires on June 30, 2013.

Sec. 14. **CAPPING MILEAGE REIMBURSEMENT.**

For entities funded by an appropriation in this bill, no official or employee may be reimbursed for mileage expenses at a rate that exceeds 51 cents per mile.

ARTICLE 2

COURTS AND SENTENCING

Section 1. Minnesota Statutes 2010, section 169.79, subdivision 6, is amended to read:

Subd. 6. **Other motor vehicles.** If the motor vehicle is any kind of motor vehicle other than those provided for in subdivisions 2 to 4, ~~one plate~~ two plates must be displayed ~~on~~. One plate must be displayed at the front and one on the rear of the vehicle and one at the back. The two plates must either be mounted on the front and rear bumpers of the vehicle or on the front and back of the vehicle exterior in places designed to hold a license plate.

Sec. 2. Minnesota Statutes 2010, section 169.797, subdivision 4, is amended to read:

Subd. 4. **Penalty.** (a) A person who violates this section is guilty of a misdemeanor. A person is guilty of a gross misdemeanor who violates this section within ten years of the first of two prior convictions under this section, section 169.791, or a statute or ordinance in conformity with one of those sections. The operator of a vehicle who violates subdivision 3 and who causes or contributes to causing a vehicle accident that results in the death of any person or in substantial bodily harm to any person, as defined in section 609.02, subdivision 7a, is guilty of a gross misdemeanor. The same prosecuting authority who is responsible for prosecuting misdemeanor violations of this section is responsible for prosecuting gross misdemeanor violations of this section. In addition to any sentence of imprisonment that the court may impose on a person convicted of violating this section, the court shall impose a fine of not less than \$200 nor more than the maximum amount authorized by law. The court may allow community service in lieu of any fine imposed if the defendant is indigent.

6.1 (b) A driver who is the owner of the vehicle may, no later than the date and time
6.2 specified in the citation for the driver's first court appearance, produce proof of insurance
6.3 stating that security had been provided for the vehicle that was being operated at the time
6.4 of demand to the court administrator. The required proof of insurance may be sent by mail
6.5 by the driver as long as it is received no later than the date and time specified in the
6.6 citation for the driver's first court appearance. If a citation is issued, no person shall be
6.7 convicted of violating this section if the court administrator receives the required proof of
6.8 insurance no later than the date and time specified in the citation for the driver's first court
6.9 appearance. If the charge is made other than by citation, no person shall be convicted of
6.10 violating this section if the person presents the required proof of insurance at the person's
6.11 first court appearance after the charge is made.

6.12 (c) If the driver is not the owner of the vehicle, the driver shall, no later than the
6.13 date and time specified in the citation for the driver's first court appearance, provide the
6.14 district court administrator with proof of insurance or the name and address of the owner.
6.15 Upon receipt of the name and address of the owner, the district court administrator shall
6.16 communicate the information to the law enforcement agency.

6.17 (d) If the driver is not the owner of the vehicle, the officer may send or provide a
6.18 notice to the owner of the vehicle requiring the owner to produce proof of insurance for
6.19 the vehicle that was being operated at the time of the demand. Notice by mail is presumed
6.20 to be received five days after mailing and shall be sent to the owner's current address or the
6.21 address listed on the owner's driver's license. Within ten days after receipt of the notice,
6.22 the owner shall produce the required proof of insurance to the place stated in the notice
6.23 received by the owner. The required proof of insurance may be sent by mail by the owner
6.24 as long as it is received within ten days. Any owner who fails to produce proof of insurance
6.25 within ten days of an officer's request under this subdivision is guilty of a misdemeanor.
6.26 The peace officer may mail the citation to the owner's current address or address stated
6.27 on the owner's driver's license. It is an affirmative defense to a charge against the owner
6.28 that the driver used the owner's vehicle without consent, if insurance would not have been
6.29 required in the absence of the unauthorized use by the driver. It is not a defense that a
6.30 person failed to notify the Department of Public Safety of a change of name or address as
6.31 required under section 171.11. The citation may be sent after the ten-day period.

6.32 ~~(b)~~ (e) The court may impose consecutive sentences for offenses arising out of a
6.33 single course of conduct as permitted in section 609.035, subdivision 2.

6.34 ~~(c)~~ (f) In addition to the criminal penalty, the driver's license of an operator convicted
6.35 under this section shall be revoked for not more than 12 months. If the operator is also an
6.36 owner of the vehicle, the registration of the vehicle shall also be revoked for not more

than 12 months. Before reinstatement of a driver's license or registration, the operator shall file with the commissioner of public safety the written certificate of an insurance carrier authorized to do business in this state stating that security has been provided by the operator as required by section 65B.48.

~~(d)~~ (g) The commissioner shall include a notice of the penalties contained in this section on all forms for registration of vehicles required to maintain a plan of reparation security.

Sec. 3. Minnesota Statutes 2010, section 260C.331, subdivision 3, is amended to read:

Subd. 3. **Court expenses.** The following expenses are a charge upon the county in which proceedings are held upon certification of the judge of juvenile court or upon such other authorization provided by law:

(1) the fees and mileage of witnesses, and the expenses and mileage of officers serving notices and subpoenas ordered by the court, as prescribed by law;

(2) the expense of transporting a child to a place designated by a child-placing agency for the care of the child if the court transfers legal custody to a child-placing agency;

(3) the expense of transporting a minor to a place designated by the court;

(4) reasonable compensation for an attorney appointed by the court to serve as counsel.

The State Guardian Ad Litem Board shall pay for guardian ad litem expenses and reasonable compensation for an attorney to serve as counsel for a guardian ad litem, if necessary. In no event may the court order that guardian ad litem expenses or compensation for an attorney serving as counsel for a guardian ad litem be charged to a county.

Sec. 4. Minnesota Statutes 2010, section 357.021, subdivision 6, is amended to read:

Subd. 6. **Surcharges on criminal and traffic offenders.** (a) Except as provided in this paragraph, the court shall impose and the court administrator shall collect a \$75 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, other than a violation of a law or ordinance relating to vehicle parking, for which there shall be a \$12 surcharge. When a defendant is convicted of more than one offense in a case, the surcharge shall be imposed only once in that case. In the Second Judicial District, the court shall impose, and the court administrator shall collect, an additional \$1 surcharge on every person convicted of any felony, gross misdemeanor, misdemeanor, or petty misdemeanor offense, including a violation of a law or ordinance relating to vehicle parking, if the Ramsey County Board of Commissioners authorizes the

\$1 surcharge. The surcharge shall be imposed whether or not the person is sentenced to imprisonment or the sentence is stayed. The surcharge shall not be imposed when a person is convicted of a petty misdemeanor for which no fine is imposed.

(b) If the court fails to impose a surcharge as required by this subdivision, the court administrator shall show the imposition of the surcharge, collect the surcharge, and correct the record.

(c) The court may not waive payment of the surcharge required under this subdivision. Upon a showing of indigency or undue hardship upon the convicted person or the convicted person's immediate family, the sentencing court may authorize payment of the surcharge in installments.

(d) The court administrator or other entity collecting a surcharge shall forward it to the commissioner of management and budget.

(e) If the convicted person is sentenced to imprisonment and has not paid the surcharge before the term of imprisonment begins, the chief executive officer of the correctional facility in which the convicted person is incarcerated shall collect the surcharge from any earnings the inmate accrues from work performed in the facility or while on conditional release. The chief executive officer shall forward the amount collected to the court administrator or other entity collecting the surcharge imposed by the court.

(f) A person who ~~successfully completes a diversion or similar program~~ enters a diversion program, continuance without prosecution, continuance for dismissal, or stay of adjudication for a violation of chapter 169 must pay the surcharge described in this subdivision. A surcharge imposed under this paragraph shall be imposed only once per case.

(g) The surcharge does not apply to administrative citations issued pursuant to section 169.999.

Sec. 5. Minnesota Statutes 2010, section 563.01, subdivision 3, is amended to read:

Subd. 3. **Authorization of forma pauperis.** (a) Any court of the state of Minnesota or any political subdivision thereof may authorize the commencement or defense of any civil action, or appeal therein, without prepayment of fees, costs and security for costs by a natural person who makes affidavit stating (a) the nature of the action, defense or appeal, (b) a belief that affiant is entitled to redress, and (c) that affiant is financially unable to pay the fees, costs and security for costs.

(b) Upon a finding by the court that the action is not of a frivolous nature, the court shall allow the person to proceed in forma pauperis if the affidavit is substantially in the

language required by this subdivision and is not found by the court to be untrue. Persons meeting the requirements of this subdivision include, but are not limited to, a person who is receiving public assistance, who is represented by an attorney on behalf of a civil legal services program or a volunteer attorney program based on indigency, or who has an annual income not greater than 125 percent of the poverty line established under United States Code, title 42, section 9902(2), except as otherwise provided by section 563.02.

(c) If, at or following commencement of the action, the party is or becomes able to pay a portion of the fees, costs, and security for costs, the court may order any of the following:

(1) payment of a fee of not less than \$75;

(2) partial payment of fees, costs, and security for costs; or

(3) reimbursement of all or a portion of fees, costs, and security for costs paid in monthly payments as directed by the court.

The court administrator shall transmit any fees or payments to the commissioner of management and budget for deposit in the state treasury and credit them to the general fund.

EFFECTIVE DATE. This section is effective July 1, 2011.

ARTICLE 3

PUBLIC DEFENDERS

Section 1. Minnesota Statutes 2010, section 609.131, subdivision 1, is amended to read:

Subdivision 1. **General rule.** Except as provided in subdivision 2, an alleged misdemeanor violation must be treated as a petty misdemeanor if the prosecuting attorney believes that it is in the interest of justice that the defendant not be imprisoned if convicted and certifies that belief to the court at or before the time of arraignment or pretrial hearing, and the court approves of the certification motion. Prior to the appointment of a public defender to represent a defendant charged with a misdemeanor, the court shall inquire of the prosecutor whether the prosecutor intends to certify the case as a petty misdemeanor. The defendant's consent to the certification is not required. When an offense is certified as a petty misdemeanor under this section, ~~the defendant's eligibility for court-appointed counsel must be evaluated as though the offense were a misdemeanor~~ defendant is not eligible for the appointment of a public defender.

Sec. 2. Minnesota Statutes 2010, section 611.16, is amended to read:

611.16 REQUEST FOR APPOINTMENT OF PUBLIC DEFENDER.

Any person described in section 611.14 ~~or any other person entitled by law to representation by counsel~~, may at any time request the court in which the matter is pending, or the court in which the conviction occurred, to appoint a public defender to represent the person. In a proceeding defined by ~~clause (2) of~~ section 611.14, clause (2), application for the appointment of a public defender may also be made to a judge of the Supreme Court.

Sec. 3. Minnesota Statutes 2010, section 611.17, is amended to read:

**611.17 FINANCIAL INQUIRY; STATEMENTS; CO-PAYMENT;
STANDARDS FOR DISTRICT PUBLIC DEFENSE ELIGIBILITY.**

(a) Each judicial district must screen requests for representation by the district public defender. A defendant is financially unable to obtain counsel if:

~~(1) the defendant, or any dependent of the defendant who resides in the same household as the defendant, receives means-tested governmental benefits; or is charged with a misdemeanor and has an annual household income not greater than 125 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2);~~

(2) the defendant is charged with a gross misdemeanor and has an annual household income not greater than 150 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2);

(3) the defendant is charged with a felony and has an annual household income not greater than 175 percent of the poverty guidelines updated periodically in the Federal Register by the United States Department of Health and Human Services under the authority of United States Code, title 42, section 9902(2); or

~~(2) (4) the court determines that~~ the defendant, through any combination of liquid assets and current income, would be unable to pay the reasonable costs charged by private counsel in that judicial district for a defense of the same matter.

(b) Upon a request for the appointment of counsel, the court shall make an appropriate inquiry into the determination of financial circumstances eligibility under paragraph (a) of the applicant, who shall submit a financial statement under oath or affirmation setting forth the applicant's assets and liabilities, including the value of any real property owned by the applicant, whether homestead or otherwise, less the amount of any encumbrances on the real property, the source or sources of income, and any other information required by the court. The applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial

11.1 ~~circumstances that might be relevant to the applicant's eligibility for a public defender.~~

11.2 The state public defender shall furnish appropriate forms for the financial statements,
11.3 which must be used by the district courts throughout the state. The forms must contain
11.4 conspicuous notice of the applicant's continuing duty to disclose to the court changes in
11.5 the applicant's financial circumstances. The forms must also contain conspicuous notice
11.6 of the applicant's obligation to make a co-payment for the services of the district public
11.7 defender, as specified under paragraph (c). The information contained in the statement
11.8 shall be confidential and for the exclusive use of the court and the public defender
11.9 ~~appointed by the court to represent the applicant~~ except for any prosecution under
11.10 section 609.48. A refusal to execute the financial statement or produce financial records
11.11 constitutes a waiver of the right to the appointment of a public defender. The court shall
11.12 not appoint a district public defender to a defendant who is financially able to retain
11.13 private counsel but refuses to do so.

11.14 An inquiry to determine financial eligibility of a defendant for the appointment of
11.15 the district public defender shall be made whenever possible prior to the court appearance
11.16 and by such persons as the court may direct. This inquiry may be combined with the
11.17 prerelease investigation provided for in Minnesota Rule of Criminal Procedure 6.02,
11.18 subdivision 3. ~~In no case shall the district public defender be required to perform this~~
11.19 ~~inquiry or investigate the defendant's assets or eligibility. The court has the sole duty to~~
11.20 ~~conduct a financial inquiry.~~ The inquiry must include the following:

11.21 (1) the liquidity of real estate assets, including the defendant's homestead;
11.22 (2) any assets that can be readily converted to cash or used to secure a debt;
11.23 (3) the determination of whether the transfer of an asset is voidable as a fraudulent
11.24 conveyance; and

11.25 (4) the value of all property transfers occurring on or after the date of the alleged
11.26 offense. The burden is on the accused to show that the accused is financially unable
11.27 to afford counsel. Defendants who fail to provide information necessary to determine
11.28 eligibility shall be deemed ineligible. The court must not appoint the district public
11.29 defender as advisory counsel.

11.30 (c) Upon disposition of the case, an individual who has received public defender
11.31 services shall pay to the court a \$75 co-payment for representation provided by a public
11.32 defender, unless the co-payment is, or has been, reduced in part or waived by the court.

11.33 The co-payment must be credited to the general fund. If a term of probation is
11.34 imposed as a part of an offender's sentence, the co-payment required by this section must
11.35 not be made a condition of probation. The co-payment required by this section is a civil
11.36 obligation and must not be made a condition of a criminal sentence.

12.1 (d) The court shall not appoint a public defender to a defendant who is financially
12.2 able to retain counsel but refuses to do so, refuses to execute the financial statement or
12.3 refuses to provide information necessary to determine financial eligibility under this
12.4 section, or waives appointment of a public defender under section 611.19.

12.5 Sec. 4. Minnesota Statutes 2010, section 611.18, is amended to read:

12.6 **611.18 APPOINTMENT OF PUBLIC DEFENDER.**

12.7 If it appears to a court that a person requesting the appointment of counsel satisfies
12.8 the requirements of this chapter, the court shall order the ~~appropriate~~ public defender to
12.9 represent the person ~~at all further stages of the proceeding through appeal, if any.~~ For a
12.10 person appealing from a conviction, or a person pursuing a postconviction proceeding
12.11 and who has not already had a direct appeal of the conviction, according to the standards
12.12 of sections 611.14, clause (2), and 611.25, subdivision 1, paragraph (a), clause (2), the
12.13 ~~state chief appellate~~ public defender shall be appointed. For a person covered by section
12.14 611.14, clause (1), a (3), or (4), the chief district public defender shall be appointed to
12.15 represent that person. ~~If (a) conflicting interests exist, (b) the district public defender for~~
12.16 ~~any other reason is unable to act, or (c) the interests of justice require, the state public~~
12.17 ~~defender may be ordered to represent a person. When the state public defender is directed~~
12.18 ~~by a court to represent a defendant or other person, the state public defender may assign~~
12.19 ~~the representation to any district public defender.~~ If at any stage of the proceedings;
12.20 ~~including an appeal,~~ the court finds that the defendant is financially unable to pay counsel
12.21 whom the defendant had retained, the court may appoint the ~~appropriate~~ public defender
12.22 to represent the defendant, as provided in this section. Prior to any court appearance, a
12.23 public defender may represent a person accused of violating the law, who appears to be
12.24 financially unable to obtain counsel, ~~and shall continue to represent the person unless it~~
12.25 ~~is subsequently determined that the person is financially able to obtain counsel.~~ The
12.26 representation may be made available at the discretion of the public defender, ~~upon the~~
12.27 ~~request of the person or someone on the person's behalf. Any law enforcement officer may~~
12.28 ~~notify the public defender of the arrest of any such person.~~

12.29 Sec. 5. Minnesota Statutes 2010, section 611.20, subdivision 3, is amended to read:

12.30 Subd. 3. **Reimbursement.** In each fiscal year, the commissioner of management
12.31 and budget shall deposit the payments in the special revenue fund and credit them to a
12.32 separate account with the Board of Public Defense. The amount credited to this account is
12.33 appropriated to the Board of Public Defense.

The balance of this account does not cancel but is available until expended. Expenditures by the board from this account for each judicial district public defense office must be based on the amount of the payments received by the state from the courts in each judicial district. ~~A district public defender's office that receives money under this subdivision shall use the money to supplement office overhead payments to part-time attorneys providing public defense services in the district.~~ By January 15 of each year, the Board of Public Defense shall report to the chairs and ranking minority members of the senate and house of representatives divisions having jurisdiction over criminal justice funding on the amount appropriated under this subdivision, the number of cases handled by each district public defender's office, the number of cases in which reimbursements were ordered, and the average amount of reimbursement ordered, ~~and the average amount of money received by part-time attorneys under this subdivision.~~

EFFECTIVE DATE. This section is effective July 1, 2011.

Sec. 6. Minnesota Statutes 2010, section 611.20, subdivision 4, is amended to read:

Subd. 4. **Employed defendants; ability to pay.** (a) A court shall order a defendant who is employed when a public defender is appointed, or who becomes employed while represented by a public defender, or who is or becomes able to make partial payments for counsel, to reimburse the state for the cost of the public defender. If reimbursement is required under this subdivision, the court shall order the reimbursement when a public defender is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from the defendant if the defendant's financial circumstances warrant a reduced reimbursement schedule. ~~The court may consider the guidelines in subdivision 6 in determining a defendant's reimbursement schedule.~~ If a defendant does not agree to make payments, the court may order the defendant's employer to withhold a percentage of the defendant's income to be turned over to the court. ~~The percentage to be withheld may be determined under subdivision 6.~~ In determining the percentage to be withheld, the court shall consider the income and assets of the defendant based on the financial statement provided by the defendant when applying for the public defender under section 611.17.

(b) If a court determines under section 611.17 that a defendant is financially unable to pay the reasonable costs charged by private counsel due to the cost of a private retainer fee, the court shall evaluate the defendant's ability to make partial payments or reimbursement.

Sec. 7. Minnesota Statutes 2010, section 611.27, subdivision 1, is amended to read:

Subdivision 1. ~~County payment responsibility~~ **District public defender budget.**

(a) A chief district public defender shall annually submit a comprehensive budget to the state Board of Public Defense. The budget shall be in compliance with standards and forms required by the board. The chief district public defender shall, at times and in the form required by the board, submit reports to the board concerning its operations, including the number of cases handled and funds expended for these services.

(b) Money appropriated to the state Board of Public Defense for the board's administration, for the state public defender, for the judicial district public defenders, and for the public defense corporations shall be expended as determined by the board. In distributing funds to district public defenders, the board shall consider the geographic distribution of public defenders, the equity of compensation among the judicial districts, public defender case loads, and the results of the weighted case load study.

Sec. 8. Minnesota Statutes 2010, section 611.27, subdivision 5, is amended to read:

Subd. 5. **District public defender budgets and county payment responsibility.**

The board of public defense ~~may only~~ shall fund all those items and services ~~in necessary~~ for the district public defender budgets which were included in the original budgets of district public defender offices as of January 1, 1990. All other public defense related costs remain the responsibility of the counties unless the state specifically appropriates for these. The cost of additional state funding of these items and services must be offset by reductions in local aids in the same manner as the original state takeover. to satisfy its obligations under this chapter. Except as provided in section 611.26, subdivision 3a, counties shall not pay and no court shall order any county to pay for representation of individuals charged with a crime.

Sec. 9. **REPEALER.**

Minnesota Statutes 2010, section 611.20, subdivision 6, is repealed.

ARTICLE 4

SEXUALLY EXPLOITED YOUTH

Section 1. Minnesota Statutes 2010, section 260B.007, subdivision 6, is amended to read:

Subd. 6. **Delinquent child.** (a) Except as otherwise provided in ~~paragraph~~ paragraphs (b) and (c), "delinquent child" means a child:

(1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 16 to 18;

(2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult;

(3) who has escaped from confinement to a state juvenile correctional facility after being committed to the custody of the commissioner of corrections; or

(4) who has escaped from confinement to a local juvenile correctional facility after being committed to the facility by the court.

(b) The term delinquent child does not include a child alleged to have committed murder in the first degree after becoming 16 years of age, but the term delinquent child does include a child alleged to have committed attempted murder in the first degree.

(c) The term delinquent child does not include a child who is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct.

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to offenses committed on or after that date.

Sec. 2. Minnesota Statutes 2010, section 260B.007, subdivision 16, is amended to read:

Subd. 16. **Juvenile petty offender; juvenile petty offense.** (a) "Juvenile petty offense" includes a juvenile alcohol offense, a juvenile controlled substance offense, a violation of section 609.685, or a violation of a local ordinance, which by its terms prohibits conduct by a child under the age of 18 years which would be lawful conduct if committed by an adult.

(b) Except as otherwise provided in paragraph (c), "juvenile petty offense" also includes an offense that would be a misdemeanor if committed by an adult.

(c) "Juvenile petty offense" does not include any of the following:

(1) a misdemeanor-level violation of section 518B.01~~;~~ 588.20~~;~~ 609.224~~;~~ 609.2242~~;~~ 609.324, subdivision 2 or 3; 609.5632~~;~~ 609.576~~;~~ 609.66~~;~~ 609.746~~;~~ 609.748~~;~~ 609.79~~;~~ or 617.23;

(2) a major traffic offense or an adult court traffic offense, as described in section 260B.225;

(3) a misdemeanor-level offense committed by a child whom the juvenile court previously has found to have committed a misdemeanor, gross misdemeanor, or felony offense; or

(4) a misdemeanor-level offense committed by a child whom the juvenile court has found to have committed a misdemeanor-level juvenile petty offense on two or

more prior occasions, unless the county attorney designates the child on the petition as a juvenile petty offender notwithstanding this prior record. As used in this clause, "misdemeanor-level juvenile petty offense" includes a misdemeanor-level offense that would have been a juvenile petty offense if it had been committed on or after July 1, 1995.

(d) A child who commits a juvenile petty offense is a "juvenile petty offender." The term juvenile petty offender does not include a child alleged to have violated any law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct which, if committed by an adult, would be a misdemeanor.

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to offenses committed on or after that date.

Sec. 3. Minnesota Statutes 2010, section 260C.007, subdivision 6, is amended to read:

Subd. 6. **Child in need of protection or services.** "Child in need of protection or services" means a child who is in need of protection or services because the child:

(1) is abandoned or without parent, guardian, or custodian;

(2)(i) has been a victim of physical or sexual abuse as defined in section 626.556, subdivision 2, (ii) resides with or has resided with a victim of child abuse as defined in subdivision 5 or domestic child abuse as defined in subdivision 13, (iii) resides with or would reside with a perpetrator of domestic child abuse as defined in subdivision 13 or child abuse as defined in subdivision 5 or 13, or (iv) is a victim of emotional maltreatment as defined in subdivision 15;

(3) is without necessary food, clothing, shelter, education, or other required care for the child's physical or mental health or morals because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(4) is without the special care made necessary by a physical, mental, or emotional condition because the child's parent, guardian, or custodian is unable or unwilling to provide that care;

(5) is medically neglected, which includes, but is not limited to, the withholding of medically indicated treatment from a disabled infant with a life-threatening condition. The term "withholding of medically indicated treatment" means the failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration, and medication which, in the treating physician's or physicians' reasonable medical judgment, will be most likely to be effective in ameliorating or correcting all conditions, except that the term does not include the failure to provide treatment other

than appropriate nutrition, hydration, or medication to an infant when, in the treating physician's or physicians' reasonable medical judgment:

(i) the infant is chronically and irreversibly comatose;

(ii) the provision of the treatment would merely prolong dying, not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or otherwise be futile in terms of the survival of the infant; or

(iii) the provision of the treatment would be virtually futile in terms of the survival of the infant and the treatment itself under the circumstances would be inhumane;

(6) is one whose parent, guardian, or other custodian for good cause desires to be relieved of the child's care and custody, including a child who entered foster care under a voluntary placement agreement between the parent and the responsible social services agency under section 260C.212, subdivision 8;

(7) has been placed for adoption or care in violation of law;

(8) is without proper parental care because of the emotional, mental, or physical disability, or state of immaturity of the child's parent, guardian, or other custodian;

(9) is one whose behavior, condition, or environment is such as to be injurious or dangerous to the child or others. An injurious or dangerous environment may include, but is not limited to, the exposure of a child to criminal activity in the child's home;

(10) is experiencing growth delays, which may be referred to as failure to thrive, that have been diagnosed by a physician and are due to parental neglect;

(11) ~~has engaged in prostitution as defined in section 609.321, subdivision 9~~ is a sexually exploited youth as defined in subdivision 31;

(12) has committed a delinquent act or a juvenile petty offense before becoming ten years old;

(13) is a runaway;

(14) is a habitual truant;

(15) has been found incompetent to proceed or has been found not guilty by reason of mental illness or mental deficiency in connection with a delinquency proceeding, a certification under section 260B.125, an extended jurisdiction juvenile prosecution, or a proceeding involving a juvenile petty offense; or

(16) has a parent whose parental rights to one or more other children were involuntarily terminated or whose custodial rights to another child have been involuntarily transferred to a relative and there is a case plan prepared by the responsible social services agency documenting a compelling reason why filing the termination of parental rights petition under section 260C.301, subdivision 3, is not in the best interests of the child.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 4. Minnesota Statutes 2010, section 260C.007, subdivision 11, is amended to read:

Subd. 11. **Delinquent child.** "Delinquent child" ~~means a child:~~

~~(1) who has violated any state or local law, except as provided in section 260B.225, subdivision 1, and except for juvenile offenders as described in subdivisions 19 and 28; or~~

~~(2) who has violated a federal law or a law of another state and whose case has been referred to the juvenile court if the violation would be an act of delinquency if committed in this state or a crime or offense if committed by an adult~~ has the meaning given in section 260B.007, subdivision 6.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 5. Minnesota Statutes 2010, section 260C.007, is amended by adding a subdivision to read:

Subd. 31. **Sexually exploited youth.** "Sexually exploited youth" means an individual who:

(1) is alleged to have engaged in conduct which would, if committed by an adult, violate any federal, state, or local law relating to being hired, offering to be hired, or agreeing to be hired by another individual to engage in sexual penetration or sexual conduct;

(2) is a victim of a crime described in section 609.342, 609.343, 609.345, 609.3451, 609.3453, 609.352, 617.246, or 617.247;

(3) is a victim of a crime described in United States Code, title 18, section 2260; 2421; 2422; 2423; 2425; 2425A; or 2256; or

(4) is a sex trafficking victim as defined in section 609.321, subdivision 7b.

EFFECTIVE DATE. This section is effective August 1, 2011.

Sec. 6. Minnesota Statutes 2010, section 609.321, subdivision 8, is amended to read:

Subd. 8. **Prostitute.** "Prostitute" means an individual 18 years of age or older who engages in prostitution.

EFFECTIVE DATE. This section is effective August 1, 2014, and applies to crimes committed on or after that date.

Sec. 7. Minnesota Statutes 2010, section 609.3241, is amended to read:

609.3241 PENALTY ASSESSMENT AUTHORIZED.

(a) When a court sentences an adult convicted of violating section 609.322 or 609.324, while acting other than as a prostitute, the court shall impose an assessment of not less than ~~\$250~~ \$500 and not more than ~~\$500~~ \$750 for a violation of section 609.324, subdivision 2, or a misdemeanor violation of section 609.324, subdivision 3; otherwise the court shall impose an assessment of not less than ~~\$500~~ \$750 and not more than \$1,000. ~~The mandatory minimum portion of the assessment is to be used for the purposes described in section 626.558, subdivision 2a, shall be distributed as provided in paragraph (c) and is in addition to the surcharge required by section 357.021, subdivision 6. Any portion of the assessment imposed in excess of the mandatory minimum amount shall be deposited in an account in the special revenue fund and is appropriated annually to the commissioner of public safety. The commissioner, with the assistance of the General Crime Victims Advisory Council, shall use money received under this section for grants to agencies that provide assistance to individuals who have stopped or wish to stop engaging in prostitution. Grant money may be used to provide these individuals with medical care, child care, temporary housing, and educational expenses.~~

(b) The court may not waive payment of the minimum assessment required by this section. If the defendant qualifies for the services of a public defender or the court finds on the record that the convicted person is indigent or that immediate payment of the assessment would create undue hardship for the convicted person or that person's immediate family, the court may reduce the amount of the minimum assessment to not less than \$100. The court also may authorize payment of the assessment in installments.

(c) The assessment collected under paragraph (a) must be distributed as follows:

(1) 40 percent of the assessment shall be forwarded to the political subdivision that employs the arresting officer for use in enforcement, training, and education activities related to combating sexual exploitation of youth, or if the arresting officer is an employee of the state, this portion shall be forwarded to the commissioner of public safety for those purposes identified in clause (3);

(2) 20 percent of the assessment shall be forwarded to the prosecuting agency that handled the case for use in training and education activities relating to combating sexual exploitation activities of youth; and

(3) 40 percent of the assessment must be forwarded to the commissioner of public safety to be deposited in the safe harbor for youth account in the special revenue fund and are appropriated to the commissioner for distribution to crime victims services organizations that provide services to sexually exploited youth, as defined in section 260C.007, subdivision 31.

20.1 (d) A safe harbor for youth account is established as a special account in the state
20.2 treasury.

20.3 **EFFECTIVE DATE.** This section is effective August 1, 2011.

20.4 Sec. 8. Minnesota Statutes 2010, section 626.558, subdivision 2a, is amended to read:

20.5 Subd. 2a. ~~Juvenile prostitution~~ **Sexually exploited youth outreach program.** A
20.6 multidisciplinary child protection team may assist the local welfare agency, local law
20.7 enforcement agency, or an appropriate private organization in developing a program of
20.8 outreach services for ~~juveniles who are engaging in prostitution~~ sexually exploited youth,
20.9 including homeless, runaway, and truant youth who are at risk of sexual exploitation.
20.10 For the purposes of this subdivision, at least one representative of a youth intervention
20.11 program or, where this type of program is unavailable, one representative of a nonprofit
20.12 agency serving youth in crisis, shall be appointed to and serve on the multidisciplinary
20.13 child protection team in addition to the standing members of the team. These services may
20.14 include counseling, medical care, short-term shelter, alternative living arrangements, and
20.15 drop-in centers. ~~The county may finance these services by means of the penalty assessment~~
20.16 ~~authorized by section 609.3241.~~ A juvenile's receipt of intervention services under this
20.17 subdivision may not be conditioned upon the juvenile providing any evidence or testimony.

20.18 **EFFECTIVE DATE.** This section is effective August 1, 2011.

20.19 Sec. 9. **SAFE HARBOR FOR SEX TRAFFICKED YOUTH; SEXUALLY**
20.20 **EXPLOITED YOUTH; STATEWIDE VICTIM SERVICES MODEL.**

20.21 (a) If sufficient funding from outside sources is donated, the commissioner of public
20.22 safety shall develop a statewide model as provided in this section. By June 30, 2012, the
20.23 commissioner of public safety, in consultation with the commissioners of health and
20.24 human services, shall develop a victim services model to address the needs of sexually
20.25 exploited youth and youth at risk of sexual exploitation. The commissioner shall take into
20.26 consideration the findings and recommendations as reported to the legislature on the
20.27 results of the safe harbor for sexually exploited youth pilot project authorized by Laws
20.28 2006, chapter 282, article 13, section 4, paragraph (b). In addition, the commissioner
20.29 shall seek recommendations from prosecutors, public safety officials, public health
20.30 professionals, child protection workers, and service providers.

20.31 (b) By January 15, 2013, the commissioner of public safety shall report to the chairs
20.32 and ranking minority members of the senate and house of representatives divisions having
20.33 jurisdiction over health and human services and criminal justice funding and policy on the

21.1 development of the statewide model, including recommendations for additional legislation
21.2 or funding for services for sexually exploited youth or youth at risk of sexual exploitation.

21.3 (c) As used in this section, "sexually exploited youth" has the meaning given in
21.4 section 260C.007, subdivision 31.

21.5 **EFFECTIVE DATE.** This section is effective August 1, 2011.

21.6 Sec. 10. **REPEALER.**

21.7 Minnesota Statutes 2010, sections 260B.141, subdivision 5; and 260C.141,
21.8 subdivision 6, are repealed.

21.9 **EFFECTIVE DATE.** This section is effective August 1, 2014.

21.10 **ARTICLE 5**

21.11 **PROSTITUTION CRIMES**

21.12 Section 1. Minnesota Statutes 2010, section 609.321, subdivision 4, is amended to read:

21.13 Subd. 4. **Patron.** "Patron" means an individual who ~~hires or offers or agrees~~
21.14 engages in prostitution by hiring, offering to hire, or agreeing to hire another individual to
21.15 engage in sexual penetration or sexual contact.

21.16 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
21.17 committed on or after that date.

21.18 Sec. 2. Minnesota Statutes 2010, section 609.321, subdivision 8, is amended to read:

21.19 Subd. 8. **Prostitute.** "Prostitute" means an individual who engages in prostitution
21.20 by being hired, offering to be hired, or agreeing to be hired by another individual to
21.21 engage in sexual penetration or sexual contact.

21.22 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
21.23 committed on or after that date.

21.24 Sec. 3. Minnesota Statutes 2010, section 609.321, subdivision 9, is amended to read:

21.25 Subd. 9. **Prostitution.** "Prostitution" means ~~engaging or offering or agreeing to~~
21.26 ~~engage for hire~~ hiring, offering to hire, or agreeing to hire another individual to engage in
21.27 sexual penetration or sexual contact, or being hired, offering to be hired, or agreeing to be
21.28 hired by another individual to engage in sexual penetration or sexual contact.

22.1 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
22.2 committed on or after that date.

22.3 Sec. 4. Minnesota Statutes 2010, section 609.324, subdivision 2, is amended to read:

22.4 Subd. 2. **Prostitution in public place; penalty for patrons.** Whoever, while acting
22.5 as a patron, intentionally does any of the following while in a public place is guilty of a
22.6 gross misdemeanor:

22.7 (1) engages in prostitution with an individual 18 years of age or older; or

22.8 (2) hires ~~or~~ offers to hire, or agrees to hire an individual 18 years of age or older to
22.9 engage in sexual penetration or sexual contact.

22.10 Except as otherwise provided in subdivision 4, a person who is convicted of violating this
22.11 subdivision ~~while acting as a patron~~ must, at a minimum, be sentenced to pay a fine
22.12 of at least \$1,500.

22.13 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
22.14 committed on or after that date.

22.15 Sec. 5. Minnesota Statutes 2010, section 609.324, subdivision 3, is amended to read:

22.16 Subd. 3. **General prostitution crimes; penalties for patrons.** (a) Whoever, while
22.17 acting as a patron, intentionally does any of the following is guilty of a misdemeanor:

22.18 (1) engages in prostitution with an individual 18 years of age or ~~above~~ older; or

22.19 (2) hires ~~or~~ offers to hire, or agrees to hire an individual 18 years of age or ~~above~~
22.20 older to engage in sexual penetration or sexual contact. Except as otherwise provided in
22.21 subdivision 4, a person who is convicted of violating this paragraph ~~while acting as a~~
22.22 ~~patron~~ must, at a minimum, be sentenced to pay a fine of at least \$500.

22.23 (b) Whoever violates the provisions of this subdivision within two years of a
22.24 previous prostitution conviction for violating this section or section 609.322 is guilty
22.25 of a gross misdemeanor. Except as otherwise provided in subdivision 4, a person who
22.26 is convicted of violating this paragraph ~~while acting as a patron~~ must, at a minimum,
22.27 be sentenced as follows:

22.28 (1) to pay a fine of at least \$1,500; and

22.29 (2) to serve 20 hours of community work service.

22.30 The court may waive the mandatory community work service if it makes specific,
22.31 written findings that the community work service is not feasible or appropriate under the
22.32 circumstances of the case.

23.1 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
23.2 committed on or after that date.

23.3 Sec. 6. Minnesota Statutes 2010, section 609.324, is amended by adding a subdivision
23.4 to read:

23.5 Subd. 6. **Prostitution in public place; penalty for prostitutes.** Whoever, while
23.6 acting as a prostitute, intentionally does any of the following while in a public place is
23.7 guilty of a gross misdemeanor:

23.8 (1) engages in prostitution with an individual 18 years of age or older; or

23.9 (2) is hired, offers to be hired, or agrees to be hired by an individual 18 years of age
23.10 or older to engage in sexual penetration or sexual contact.

23.11 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
23.12 committed on or after that date.

23.13 Sec. 7. Minnesota Statutes 2010, section 609.324, is amended by adding a subdivision
23.14 to read:

23.15 Subd. 7. **General prostitution crimes; penalties for prostitutes.** (a) Whoever,
23.16 while acting as a prostitute, intentionally does any of the following is guilty of a
23.17 misdemeanor:

23.18 (1) engages in prostitution with an individual 18 years of age or older; or

23.19 (2) is hired, offers to be hired, or agrees to be hired by an individual 18 years of age
23.20 or older to engage in sexual penetration or sexual contact.

23.21 (b) Whoever violates the provisions of this subdivision within two years of a
23.22 previous prostitution conviction for violating this section or section 609.322 is guilty
23.23 of a gross misdemeanor.

23.24 **EFFECTIVE DATE.** This section is effective August 1, 2011, and applies to crimes
23.25 committed on or after that date.

APPENDIX
Article locations in H0440-1

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ARTICLE 5	PROSTITUTION CRIMES	Page.Ln 21.10

260B.141 PETITION.

Subd. 5. **Concurrent jurisdiction.** When a petition is filed alleging that a child has engaged in prostitution as defined in section 609.321, subdivision 9, the county attorney shall determine whether concurrent jurisdiction is necessary to provide appropriate intervention and, if so, proceed to file a petition alleging the child to be both delinquent and in need of protection or services.

260C.141 PETITION.

Subd. 6. **Concurrent jurisdiction.** When a petition is filed alleging that a child has engaged in prostitution as defined in section 609.321, subdivision 9, the county attorney shall determine whether concurrent jurisdiction is necessary to provide appropriate intervention and, if so, proceed to file a petition alleging the child to be both delinquent and in need of protection or services.

611.20 SUBSEQUENT ABILITY TO PAY COUNSEL.

Subd. 6. **Reimbursement schedule guidelines.** In determining a defendant's reimbursement schedule, the court may derive a specific dollar amount per month by multiplying the defendant's net income by the percent indicated by the following guidelines:

Net Income Per Month of Defendant	Number of Dependents Not Including Defendant				
	4 or more	3	2	1	0
\$200 and below	Percentage based on the ability of the defendant to pay as determined by the court				
\$200 - 350	8%	9.5%	11%	12.5%	14%
\$351 - 500	9%	11%	12.5%	14%	15%
\$501 - 650	10%	12%	14%	15%	17%
\$651 - 800	11%	13.5%	15.5%	17%	19%
\$801 and above	12%	14.5%	17%	19%	20%