### S.F. No. 1154, as introduced - 87th Legislative Session (2011-2012) [11-2883]

# SENATE STATE OF MINNESOTA EIGHTY-SEVENTH LEGISLATURE

OFFICIAL STATUS

S.F. No. 1154

(SENATE AUTHORS: THOMPSON, Harrington, Newman and Chamberlain)

Introduction and first reading

Referred to Judiciary and Public Safety

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DATE

04/11/2011

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A bill for an act relating to public safety; modifying provisions providing for representation by a public defender; amending Minnesota Statutes 2010, sections 611.14; 611.16; 611.18; 611.27, subdivision 5. BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA: Section 1. Minnesota Statutes 2010, section 611.14, is amended to read: 611.14 RIGHT TO REPRESENTATION BY PUBLIC DEFENDER. The following persons who are financially unable to obtain counsel are entitled to be represented by a public defender: (1) a person charged with a felony, gross misdemeanor, or misdemeanor crime, including a person charged under sections 629.01 to 629.29, or a person eligible under section 611.18; (2) a person appealing from a conviction of a felony or gross misdemeanor, or a person convicted of a felony or gross misdemeanor, who is pursuing a postconviction proceeding and who has not already had a direct appeal of the conviction; (3) a person who is entitled to be represented by counsel under section 609.14, subdivision 2; or (4) a minor ten years of age or older who is entitled to be represented by counsel under section 260B.163, subdivision 4, or 260C.163, subdivision 3. 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 charged with a criminal offense entitled by law the state or the United States Constitution to representation by

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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 611.18, is amended to read:

#### 611.18 APPOINTMENT OF PUBLIC DEFENDER.

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

Sec. 4. 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

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district public defender offices as of January 1, 1990. All other public defense related	ł
costs remain the responsibility of the counties unless the state specifically appropriate	<del>:S</del>
for these. The cost of additional state funding of these items and services must be off	<del>set</del>
by reductions in local aids in the same manner as the original state takeover to satisfy	<u> </u>
its obligations under this chapter. Counties shall not pay and no court shall order any	· -
county to pay for representation of individuals charged with a crime unless the county	has
established a program for representation in criminal matters.	

Sec. 4. 3