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State of Minnesota

HOUSE OF REPRESENTATIVES

NINETIETH SESSION

H. F. No. 2431

03/16/2017 Authored by Cornish
The bill was read for the first time and referred to the Committee on Public Safety and Security Policy and Finance

1.1 A bill for an act
1.2 relating to courts; updating outdated statutes pertaining to court reporters; modifying
1.3 name of drug court to treatment court; authorizing direct appeals of referee orders
1.4 and decrees in probate or civil commitment court proceedings to the Court of
1.5 Appeals; clarifying statutes related to penalty of perjury for documents provided
1.6 to the court; modifying service of harassment restraining orders; amending
1.7 Minnesota Statutes 2016, sections 243.49; 299A.707, subdivision 2; 357.42;
1.8 358.116; 484.70, subdivision 7; 484.702, by adding a subdivision; 486.01; 486.02;
1.9 486.05, subdivision 1; 486.06; 609.48, by adding a subdivision; 609.748,
1.10 subdivision 4; repealing Minnesota Statutes 2016, sections 484.72; 486.05,
1.11 subdivision 1a; 525.112.

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

1.13 Section 1. Minnesota Statutes 2016, section 243.49, is amended to read:

1.14 243.49 COMMITMENT PAPERS; DUTY OF COURT ADMINISTRATOR.

1.15 Upon a plea of guilty or finding of guilty after trial, the court administrator of every
1.16 court which sentences a defendant for a felony or gross misdemeanor to the custody of the
1.17 commissioner of corrections or to the superintendent of the workhouse or work farm, shall
1.18 provide the officer or person having custody of the defendant a certified record for
1.19 commitment, including (1) a copy of the indictment and plea, (2) a transcript of the sentencing
1.20 proceedings, with the date thereof, together with the defendant's statement under oath, if
1.21 obtained, as to the defendant's true name, residence, if any, the date and place of birth, the
1.22 names and addresses of parents and other relatives and of employers and others who know
1.23 the defendant well, social and other affiliations, past occupations and employments, former
1.24 places of residence and the period of time and the dates the defendant has resided in each,
1.25 citizenship, the number, dates, places and causes of any prior convictions, and (3) if the
1.26 person pleaded guilty, a transcript of the sentencing proceedings. The record shall also

2.1 include the trial judge's impressions of the defendant's mental and physical condition, general  
 2.2 character, capacity, disposition, habits and special needs. ~~The court reporter shall provide~~  
 2.3 ~~the required transcripts.~~ The certified record for commitment may be used as evidence in  
 2.4 any postconviction proceeding brought by the defendant. The court administrator shall also  
 2.5 deliver to the sheriff or other officer or person conveying the defendant to the correctional  
 2.6 facility, workhouse, or work farm designated by the commissioner of corrections or the  
 2.7 judge a warrant of commitment together with a certified copy of the warrant directing the  
 2.8 conveyor to deliver the person and the certified record for commitment to the principal  
 2.9 officer in charge of the correctional facility, workhouse, or work farm. Upon the delivery  
 2.10 of any person, the principal officer in charge of the correctional facility, workhouse, or work  
 2.11 farm shall keep the certified copy of the warrant of commitment and endorse the principal  
 2.12 officer's receipt upon the original, which shall be filed with the sentencing court. The court  
 2.13 administrator shall retain ~~one copy of the required transcripts, and a tape recording and the~~  
 2.14 court reporter's notes of all ~~other~~ proceedings.

2.15 Sec. 2. Minnesota Statutes 2016, section 299A.707, subdivision 2, is amended to read:

2.16 Subd. 2. **Account purpose, grants.** Money in this account shall be allocated by a grant  
 2.17 program administered by the commissioner of public safety through the Office of Justice  
 2.18 Programs. Local units of government and nonprofit organizations are eligible for grants to  
 2.19 establish or operate chemical dependency and mental health treatment programs, programs  
 2.20 that improve supervision, including pretrial and precharge supervision, and programs to  
 2.21 reduce recidivism of controlled substances offenders on probation or supervised release or  
 2.22 participating in drug treatment courts or to fund local participation in drug treatment court  
 2.23 initiatives approved by the Judicial Council.

2.24 Sec. 3. Minnesota Statutes 2016, section 357.42, is amended to read:

2.25 **357.42 DRUG TREATMENT COURT FEES.**

2.26 (a) When a court establishes a drug treatment court process, the court may establish one  
 2.27 or more fees for services provided to defendants participating in the process.

2.28 (b) In each fiscal year, the court shall deposit the drug treatment court participation fees  
 2.29 in the special revenue fund and credit the fees to a separate account for the trial courts. The  
 2.30 balance in this account is appropriated to the trial courts and does not cancel but is available  
 2.31 until expended. Expenditures from this account must be made for drug treatment court  
 2.32 purposes.

3.1 Sec. 4. Minnesota Statutes 2016, section 358.116, is amended to read:

3.2 **358.116 COURT DOCUMENTS.**

3.3 Unless specifically required by court rule, a pleading, motion, affidavit, or other document  
3.4 filed with a court of the Minnesota judicial branch, or presented to a judge or judicial officer  
3.5 in support of a request for a court order, warrant, or other relief, is not required to be  
3.6 notarized. Signing a document filed with the court or presented to a judge or judicial officer  
3.7 constitutes "verification upon oath or affirmation" as defined in section 358.41, clause (3),  
3.8 without administration of an oath under section 358.07, provided that the signature, as  
3.9 defined by court rules, is affixed immediately below a declaration using substantially the  
3.10 following language: "I declare under penalty of perjury that everything I have stated in this  
3.11 document is true and correct." In addition to the signature, the date of signing and the county  
3.12 and state where the document was signed shall be noted on the document. A person who  
3.13 signs knowing that the document is false in any material respect is guilty of perjury under  
3.14 section 609.48, even if the date, county, and state of signing are omitted from the document.

3.15 Sec. 5. Minnesota Statutes 2016, section 484.70, subdivision 7, is amended to read:

3.16 Subd. 7. **Referee duties.** The duties and powers of referees shall be as follows:

3.17 (a) Hear and report all matters assigned by the chief judge.

3.18 (b) Recommend findings of fact, conclusions of law, temporary and interim orders, and  
3.19 final orders for judgment.

3.20 All recommended orders and findings of a referee shall be subject to confirmation by a  
3.21 judge.

3.22 (c) Upon the conclusion of the hearing in each case, the referee shall transmit to a judge  
3.23 the court file together with recommended findings and orders in writing. The recommended  
3.24 findings and orders of a referee become the findings and orders of the court when confirmed  
3.25 by a judge. The order of the court shall be proof of such confirmation, and also of the fact  
3.26 that the matter was duly referred to the referees.

3.27 (d) Review of any recommended order or finding of a referee by a judge may be by  
3.28 notice served and filed within ten days of effective notice of the recommended order or  
3.29 finding. The notice of review shall specify the grounds for review and the specific provisions  
3.30 of the recommended findings or orders disputed, and the court, upon receipt of a notice of  
3.31 review, shall set a time and place for a review hearing.

4.1 (e) All orders and findings recommended by a referee become an effective order when  
 4.2 countersigned by a judge and remain effective during the pendency of a review, including  
 4.3 a remand to the referee, unless a judge:

- 4.4 (1) expressly stays the effect of the order;
- 4.5 (2) changes the order during the pendency of the review; or
- 4.6 (3) changes or vacates the order upon completion of the review.

4.7 (f) Notwithstanding paragraphs (d) and (e), referee orders and decrees in probate or civil  
 4.8 commitment court proceedings, if appealed, must be appealed directly to the Court of  
 4.9 Appeals, in the same manner as judicial orders and decrees.

4.10 Sec. 6. Minnesota Statutes 2016, section 484.702, is amended by adding a subdivision to  
 4.11 read:

4.12 Subd. 6. Expedited child support process. Hearings and proceedings conducted in the  
 4.13 expedited child support process under this section may be reported by use of electronic  
 4.14 recording equipment provided that the equipment meets the minimum standards established  
 4.15 by the state court administrator. Electronic recording equipment must be operated and  
 4.16 monitored by a person who meets the minimum qualifications established by the state court  
 4.17 administrator.

4.18 Sec. 7. Minnesota Statutes 2016, section 486.01, is amended to read:

4.19 **486.01 APPOINTMENT, DUTIES, BOND; SUBSTITUTES.**

4.20 Each judge, by ~~duplicate orders~~ order filed with the court administrator ~~and county~~  
 4.21 ~~auditor of the several counties of the judge's district~~, may appoint a competent stenographer  
 4.22 court reporter as reporter of the court, to hold office during the judge's pleasure, and to act  
 4.23 as the judge's secretary in all matters pertaining to official duties. ~~Such reporter shall give~~  
 4.24 ~~bond to the state in the sum of \$2,000, to be approved by the appointing judge, conditioned~~  
 4.25 ~~for the faithful and impartial discharge of all the reporter's duties, which bond, with the oath~~  
 4.26 ~~of office, shall be filed with the court administrator in the county in which the judge resides.~~

4.27 ~~Whenever the official reporter so appointed, because of sickness or physical disability,~~  
 4.28 ~~is temporarily unable to perform duties, the judge of the court affected may, if another~~  
 4.29 ~~official court reporter is not available, secure for the temporary period of disability of the~~  
 4.30 ~~official court reporter, another competent reporter to perform such duties for not to exceed~~  
 4.31 ~~60 days in any calendar year. The substitute court reporter so appointed shall receive as~~  
 4.32 ~~salary an amount equal to the salary of the official court reporter for the period of time~~

5.1 ~~involved and shall also receive in addition thereto expenses and fees provided by sections~~  
 5.2 ~~486.05 and 486.06. The salary of such substitute reporter shall be paid in the manner now~~  
 5.3 ~~provided by law for the payment of the salary of the official court reporter. The substitute~~  
 5.4 ~~court reporter shall not be required to furnish bond, unless ordered by the judge to do so.~~  
 5.5 ~~The employment of and the compensation paid to such substitute reporter shall in no way~~  
 5.6 ~~affect or prejudice the employment of and the compensation paid to the official court reporter~~  
 5.7 ~~of said court.~~

5.8 Sec. 8. Minnesota Statutes 2016, section 486.02, is amended to read:

5.9 **486.02 STENOGRAPHIC RECORD.**

5.10 ~~Except as provided in section 484.72,~~ A competent ~~stenographer~~ court reporter who  
 5.11 meets minimum qualifications promulgated by the Supreme Court, shall make a complete  
 5.12 ~~stenographic~~ record of all testimony given and all proceedings had before the judge upon  
 5.13 the trial of issues of fact, with or without a jury, or before any referee appointed by such  
 5.14 judge. In so doing the ~~stenographer~~ court reporter shall take down all questions in the exact  
 5.15 language thereof, and all answers thereto precisely as given by the witness or by the sworn  
 5.16 interpreter. The ~~stenographer~~ court reporter shall also record, verbatim, all objections made,  
 5.17 and the grounds thereof as stated by counsel, all rulings thereon, all exceptions taken, all  
 5.18 motions, orders, and admissions made and the charge to the jury. When directed so to do  
 5.19 by the judge, the ~~stenographer~~ court reporter shall make a like record of any other matter  
 5.20 or proceeding, and shall read to such judge or referee any record made by the ~~stenographer~~  
 5.21 court reporter, or transcribe the same, without charge, for any purpose in furtherance of  
 5.22 justice.

5.23 Sec. 9. Minnesota Statutes 2016, section 486.05, subdivision 1, is amended to read:

5.24 Subdivision 1. **Salaries.** The salary for each court reporter shall be set ~~annually by the~~  
 5.25 ~~district administrator~~ as provided in judicial branch personnel policies and collective  
 5.26 bargaining agreements within the range established under section 480.181 as provided in  
 5.27 the judicial branch personnel rules.

5.28 Sec. 10. Minnesota Statutes 2016, section 486.06, is amended to read:

5.29 **486.06 CHARGE FOR TRANSCRIPT.**

5.30 In addition to the salary set in section 486.05, the court reporter may charge for a  
 5.31 transcript of a record ordered by any person other than the judge ~~50 cents per original folio~~  
 5.32 ~~thereof and ten cents per folio for each manifold or other copy thereof when so ordered that~~

6.1 ~~it can be made with the original transcript. The chief judge of the judicial district may by~~  
6.2 ~~order establish new transcript fee ceilings annually~~ a rate set by the chief justice.

6.3 A court reporter may impose a fee authorized under this section only if the transcript is  
6.4 delivered to the person who ordered it within a reasonable time after it was ordered.

6.5 Sec. 11. Minnesota Statutes 2016, section 609.48, is amended by adding a subdivision to  
6.6 read:

6.7 Subd. 5. **Venue.** A violation of subdivision 1, clause (4), may be prosecuted in the county  
6.8 where the statement, under penalty of perjury, was signed, or the county of the district court  
6.9 in which the statement was filed.

6.10 Sec. 12. Minnesota Statutes 2016, section 609.748, subdivision 4, is amended to read:

6.11 Subd. 4. **Temporary restraining order; relief by court.** (a) The court may issue a  
6.12 temporary restraining order that provides any or all of the following:

6.13 (1) orders the respondent to cease or avoid the harassment of another person; or

6.14 (2) orders the respondent to have no contact with another person.

6.15 (b) The court may issue an order under paragraph (a) if the petitioner files a petition in  
6.16 compliance with subdivision 3 and if the court finds reasonable grounds to believe that the  
6.17 respondent has engaged in harassment. When a petition alleges harassment as defined by  
6.18 subdivision 1, paragraph (a), clause (1), the petition must further allege an immediate and  
6.19 present danger of harassment before the court may issue a temporary restraining order under  
6.20 this section. When signed by a referee, the temporary order becomes effective upon the  
6.21 referee's signature.

6.22 (c) Notice need not be given to the respondent before the court issues a temporary  
6.23 restraining order under this subdivision. A copy of the restraining order must be served on  
6.24 the respondent along with the order for hearing and petition, as provided in subdivision 3.  
6.25 If the respondent is a juvenile, whenever possible, a copy of the restraining order, along  
6.26 with notice of the pendency of the case and the time and place of the hearing, shall also be  
6.27 served by mail at the last known address upon any parent or guardian of the juvenile  
6.28 respondent who is not the petitioner. A temporary restraining order may be entered only  
6.29 against the respondent named in the petition.

6.30 (d) The temporary restraining order is in effect until a hearing is held on the issuance of  
6.31 a restraining order under subdivision 5. The court shall hold the hearing on the issuance of  
6.32 a restraining order if the petitioner requests a hearing. The hearing may be continued by the

7.1 court upon a showing that the respondent has not been served with a copy of the temporary  
7.2 restraining order despite the exercise of due diligence or if service is made by published  
7.3 notice under subdivision 3 and the petitioner files the affidavit required under that  
7.4 subdivision.

7.5 (e) If the temporary restraining order has been issued and the respondent requests a  
7.6 hearing, the hearing shall be scheduled by the court upon receipt of the respondent's request.  
7.7 Service of the notice of hearing must be made upon the petitioner not less than five days  
7.8 prior to the hearing. The court shall serve the notice of the hearing upon the petitioner by  
7.9 mail in the manner provided in the Rules of Civil Procedure for pleadings subsequent to a  
7.10 complaint and motions and shall also mail notice of the date and time of the hearing to the  
7.11 respondent. In the event that service cannot be completed in time to give the respondent or  
7.12 petitioner the minimum notice required under this subdivision, the court may set a new  
7.13 hearing date.

7.14 (f) A request for a hearing under this subdivision must be made within ~~45~~ 20 days ~~after~~  
7.15 ~~the temporary restraining order is issued~~ of the date of completed service of the petition.

7.16 Sec. 13. **REPEALER.**

7.17 Minnesota Statutes 2016, sections 484.72; 486.05, subdivision 1a; and 525.112, are  
7.18 repealed.

**484.72 ELECTRONIC RECORDING OF COURT PROCEEDINGS.**

Subdivision 1. **Authorization.** Except as provided in subdivision 4, electronic recording equipment may be used to record court proceedings in lieu of a court reporter. However, at the request of any party to any proceedings, the court may, in its discretion, require a competent stenographer who meets minimum qualifications promulgated by the Supreme Court, to make a complete stenographic record of the proceedings.

Subd. 2. **Appointment of operator, costs and payment.** The court shall have the authority to appoint a person or persons to operate and monitor electronic recording equipment. The person or persons may be paid on a salary basis, on a contract basis, or such other basis as the court deems appropriate.

Subd. 3. **Specification for electronic recording equipment; qualifications for operator.** For the purpose of this section the state court administrator shall promulgate specifications for acceptable electronic recording equipment used to record court proceedings and minimum qualifications for the persons who operate and monitor the equipment.

Subd. 4. **Limitations on use of electronic recording equipment.** A competent stenographer who meets minimum qualifications promulgated by the Supreme Court, shall make a complete stenographic record of the following court proceedings:

(1) Felony and gross misdemeanor offenses, except arraignments and first appearance in district court as specified in rule 8 of the Rules of Criminal Procedure.

(2) District court jury trials.

(3) Contested district court trials and fact-finding hearings. Where required by statute or court rule, electronic recording equipment may be used in addition to the services of a competent stenographer.

Subd. 5. **Malfunction of electronic recording.** If, when electronic recording equipment is used, a malfunction occurs in the recording process so that the recording is incomplete, the court may declare a mistrial if the malfunction is discovered during the trial. If the malfunction is discovered in the course of preparing a transcript after a verdict has been entered, the court may grant a new trial upon motion of any party.

Subd. 6. **Expedited child support process.** Notwithstanding subdivisions 1 and 4, hearings and proceedings conducted in the expedited child support process under section 484.702 may be reported by use of electronic recording equipment provided that the equipment meets the minimum standards promulgated by the state court administrator. Electronic recording equipment must be operated and monitored by a person who meets the minimum qualifications promulgated by the state court administrator.

**486.05 DISTRICT COURT; REPORTERS' SALARIES AND EXPENSES.**

Subd. 1a. **Expenses.** A court reporter, in addition to a salary, shall be paid necessary mileage, traveling, and hotel expenses incurred in the discharge of official duties while absent from the home chambers where the judge the reporter serves is assigned. The expenses are to be paid by the state upon presentation of a verified itemized statement approved by the judge.

**525.112 COURT REPORTERS FOR HENNEPIN COUNTY COURT.**

The county judge or judge of probate of any county now having or which may hereafter have 400,000 inhabitants, or over, may appoint a competent stenographer as court reporter and secretary, who shall be paid a salary of \$3,000 per annum; and, in addition to this salary, the court reporter may also be paid such fees for transcripts of evidence made in relation to probate hearings, as the judge of probate shall fix and allow, and appoint two additional clerks who shall be competent stenographers, who shall each be paid a salary of \$1,200 per annum.