

CHAPTER 611

RIGHTS OF ACCUSED

611.07 Counsel for defense.
 611.071 Appeals from felony convictions, counsel fees
 and expenses.
 611.14 Right to representation by public defender.

611.17 Financial inquiry; statements.
 611.18 Appointment of public defender.
 611.25 Powers; duties; limitations.

611.07 COUNSEL FOR DEFENSE.

Subdivision 1. **Appointment.** When a defendant is charged upon indictment or information or complaint for any felony or gross misdemeanor and asks to have counsel appointed to assist in his defense, counsel shall be appointed and compensated as provided for by law and court rule.

Subd. 2. **Payment.** If the counsel appointed appeals, and after the hearing of the appeal, the court of appeals or supreme court determines that defendant is unable, by reason of poverty, to pay counsel, and that review was sought in good faith and upon reasonable grounds, the counsel may be paid the sum for his services and expenses as the court determines, to be certified to the county treasurer by the clerk of the appellate courts. The compensation and expense shall be paid by the county in which the defendant was accused.

Subd. 3. **Transcript.** When a defendant convicted of a felony or a gross misdemeanor who has appealed or has procured a writ of error, or who has otherwise brought the validity of his conviction before the court of appeals or supreme court for review, applies to the district court and makes an adequate showing that because of his poverty he is unable to pay for a transcript which he reasonably needs in presenting the alleged errors raised for appellate review, the district court shall order a transcript in accordance with the rules of criminal procedure.

History: 1983 c 247 s 209,210; 1983 c 359 s 90

611.071 APPEALS FROM FELONY CONVICTIONS, COUNSEL FEES AND EXPENSES.

Subdivision 1. **Counsel; fees.** The supreme court or the court of appeals may order the appointment of counsel, provide for the payment of counsel fees, and direct the payment of expenses in conformity with the provisions of this section.

Subd. 2. **Counsel; fees.** Application may be made to the supreme court or the court of appeals for the appointment of counsel, the allowance of counsel fees, and the payment of expenses in the following cases:

(a) A person who has been convicted of a felony in the district court, who is without counsel, whose time for appeal from the judgment of conviction has not expired, and who is unable, by reason of poverty, to pay counsel and the expenses of an appeal.

(b) A person who has been convicted of a felony, who is without counsel, whose time for appeal from the judgment of conviction has expired, and who is unable by reason of poverty to pay counsel and the expenses of a post-conviction proceeding.

[For text of subds 3 to 5, see M.S.1982]

History: 1983 c 247 s 211,212

611.14 RIGHT TO REPRESENTATION BY PUBLIC DEFENDER.

The following persons who are financially unable to obtain counsel, shall be entitled to be represented by a public defender:

(a) a person charged with a felony or gross misdemeanor, including a person charged pursuant to sections 629.01 to 629.29;

(b) 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 post-conviction proceeding, after the time for appeal from the judgment has expired;

(c) a person who is entitled to be represented by counsel pursuant to the provisions of section 609.14, subdivision 2, or section 609.16;

(d) a minor who is entitled to be represented by counsel pursuant to the provisions of section 260.155, subdivision 2, if the judge of the juvenile court concerned has requested and received the approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases, and approval of the compensation on a monthly, hourly or per diem basis to be paid for such services pursuant to section 260.251, subdivision 2, clause (e); or

(e) a person, entitled by law to be represented by counsel, charged with an offense within the trial jurisdiction of a municipal, county, or probate court, if the trial judge or a majority of the trial judges of the court concerned have requested and received approval of a majority of the district court judges of the judicial district to utilize the services of the public defender in such cases and approval of the compensation on a monthly, hourly or per diem basis to be paid for such services by the county or municipality within the court's jurisdiction.

History: 1983 c 247 s 213

611.17 FINANCIAL INQUIRY; STATEMENTS.

Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances of the applicant, who shall submit, unless waived in whole or in part by the court, a financial statement under oath or affirmation setting forth his assets and liabilities, source or sources of income, and any other information required by the court. The state public defender shall furnish appropriate forms for the financial statements. The information contained in the statement shall be confidential and for the exclusive use of the court, except for any prosecution under section 609.48. A refusal to execute the financial statement constitutes a waiver of the right to the appointment of a public defender.

History: 1983 c 359 s 91

611.18 APPOINTMENT OF PUBLIC DEFENDER.

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 him at all further stages of the proceeding through appeal, if any. For those persons appealing from a conviction or pursuing a post conviction proceeding, after the time for appeal has expired, the state public defender shall be appointed. For all other persons covered by section 611.14, a district public defender shall be appointed to represent them. 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. If at any stage of the proceedings, including an appeal, the

court finds that the defendant is financially unable to pay counsel whom he had retained, the court may appoint the appropriate public defender to represent him, 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 his behalf. Any law enforcement officer may notify the public defender of the arrest of any such person.

History: 1983 c 247 s 214

611.25 POWERS; DUTIES; LIMITATIONS.

The state public defender shall represent, without charge, a defendant or other person appealing from a conviction or pursuing a post conviction proceeding after the time for appeal has expired when the state public defender is directed to do so by a judge of the district court, of the court of appeals or of the supreme court. The state public defender shall represent any other person, who is financially unable to obtain counsel, when directed to do so by the supreme court or the court of appeals, except that he shall not represent a person in any action or proceeding in which a party is seeking a monetary judgment, recovery or award. The state public defender may assist a district public defender in the performance of his duties when the district public defender requests. Whenever the state public defender is directed by a court to represent any defendant or other person, with the approval of the court he may assign the representation to any district public defender.

He also shall supervise the training of all state and district public defenders, and may establish a training course for such purpose.

History: 1983 c 247 s 215