

CHAPTER 611

RIGHTS OF ACCUSED

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611.01 GROUND OF ARREST, KNOWLEDGE.

Every person arrested by virtue of process, or taken into custody by an officer, has a right to know from such officer the true ground of arrest; and every such officer who shall refuse to answer relative thereto, or shall answer untruly, or neglect on request to exhibit to the arrested person, or to any person acting in the arrested person's behalf, the precept by virtue of which such arrest is made, shall be punished by a fine not exceeding \$3,000, or by imprisonment in the county jail not exceeding one year.

History: (9951) *RL s 4783; 1984 c 628 art 3 s 11; 1986 c 444*

611.02 PRESUMPTION OF INNOCENCE; CONVICTION OF LOWEST DEGREE, WHEN.

Every defendant in a criminal action is presumed innocent until the contrary is proved and, in case of a reasonable doubt, is entitled to acquittal; and when an offense has been proved against the defendant, and there exists a reasonable doubt as to which of two or more degrees the defendant is guilty, the defendant shall be convicted only of the lowest.

History: (9952) *RL s 4784; 1986 c 444*

611.025 PRESUMPTION OF RESPONSIBILITY.

Except as otherwise provided by law, in every criminal proceeding, a person is presumed to be responsible for the person's acts and bears the burden of rebutting such presumption.

History: (9913) *RL s 4754; 1963 c 753 art 2 s 7; 1986 c 444*

611.026 CRIMINAL RESPONSIBILITY OF MENTALLY ILL OR DEFICIENT.

No person shall be tried, sentenced, or punished for any crime while mentally ill or mentally deficient so as to be incapable of understanding the proceedings or making a defense; but the person shall not be excused from criminal liability except upon proof that at the time of committing the alleged criminal act the person was laboring under such a defect of reason, from one of these causes, as not to know the nature of the act, or that it was wrong.

History: (9915) *RL s 4756; 1971 c 352 s 1; 1986 c 444*

611.03 CONVICTION.

No person indicted for any offense shall be convicted thereof, unless by admitting the truth of the charge in a demurrer, or plea, by confession in open court, or by verdict of a jury, accepted and recorded by the court.

History: (9953) *RL s 4785; 1986 c 444*

611.033 COPY OF CONFESSION OR ADMISSION.

A statement, confession, or admission in writing shall not be received in evidence in any criminal proceeding against any defendant unless within a reasonable time of the taking thereof the defendant is furnished with a copy thereof and which statement, confession, or admission shall have endorsed thereon or attached thereto the receipt of the accused or certification of a peace officer which shall state that a copy thereof has been received by or made available to the accused. Nothing in this section requires that a videotape, audiotape, or transcript of a tape be given to the defendant at the time the statement, confession, or admission is made or within a reasonable time thereafter, provided that the videotape or audiotape is available to the defendant or the defendant's attorney for review within a reasonable time of the defendant's arrest, as well as in discovery pursuant to the rules of criminal procedure.

History: 1951 c 263 s 1; 1951 c 284 s 1; 1979 c 258 s 20; 1986 c 435 s 11

611.04 [Repealed, 1979 c 233 s 42]**611.05 CONTINUANCE; EFFECT; BAIL.**

When the defendant is not indicted or tried as herein provided, and good reasons therefor are shown, the court may order the action continued from term to term, and in the meantime commit the defendant, or, in case the offense is bailable, admit the defendant to bail, on the defendant's furnishing satisfactory sureties. When the action is dismissed, the defendant shall be discharged from custody, or, if admitted to bail, the bail shall be exonerated, and, if money has been deposited for bail, that shall be refunded.

History: (9955) *RL s 4787; 1986 c 444*

611.06 DEFENDANT ENTITLED TO BLANK SUBPOENAS.

The court administrator of the court in which any indictment is to be tried shall at all times, upon application of a defendant not represented by counsel, and without charge, issue as many blank subpoenas, under the seal of the court, and subscribed by the court administrator as court administrator, for witnesses in the state, as are approved by order of court as provided by rule 22.01, subdivision 3, of the rules of criminal procedure and required by the defendant.

Issuance of subpoenas shall not require court approval if defendant is represented by counsel.

History: (9956) *RL s 4788; 1979 c 233 s 25; 1986 c 444; 1Sp1986 c 3 art 1 s 82*

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 the 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 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 a conviction before the court of appeals or supreme court for review, applies to the district court and makes an adequate showing of inability because of poverty to pay for a transcript which is reasonably needed 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: (9957) *RL s 4789; 1917 c 496 s 1; 1947 c 430 s 1; 1953 c 475 s 1; 1957 c 498 s 1; 1959 c 383 s 1; 1965 c 45 s 68; 1969 c 804 s 1; 1Sp1981 c 4 art 2 s 42; 1983 c 247 s 209,210; 1983 c 359 s 90; 1986 c 444*

NOTE: See section 481.10, as to right to consult attorney.

This section, by Laws 1965, Chapter 869, Section 18, is repealed as to any judicial district establishing a public defender system. See section 611.28.

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 postconviction proceeding.

Subd. 3. A person described in subdivision 2 may file a petition in the supreme court setting forth: (1) The facts relating to the jurisdictional requirements as set forth in subdivision 2; (2) A statement of the facts of the case in which the petitioner has been convicted; (3) The grounds upon which the petitioner seeks an appeal or writ of error or the grounds upon which the petitioner seeks to pursue postconviction proceedings, as the case may be; (4) A prayer requesting that the supreme court appoint counsel, order the payment of counsel fees and the actual necessary expenses.

Subd. 4. (a) If the supreme court finds that in the case of a person described in subdivision 2(a) the review is sought in good faith and upon reasonable grounds, it may appoint counsel for such person and direct the payment of such expenses as the supreme court may authorize. The payment of attorneys' fees and expenses shall be in the same manner and by the county as provided for in Minnesota Statutes 1961, section 611.07, subdivision 2.

(b) If the supreme court finds that in the case of a person described in subdivision 2(b) that the postconviction proceeding is sought in good faith and that there are reasonable grounds for the proceeding, the supreme court may appoint counsel to represent the petitioner in the postconviction proceeding and order the payment of counsel fees for services and the actual necessary expenses of the postconviction proceeding from the appropriation to the supreme court for that purpose.

Subd. 5. The supreme court may adopt such rules as are necessary and convenient to the impartial and speedy disposition of the petitions filed pursuant to this section.

History: 1963 c 838 s 2 subds 2-6; 1983 c 247 s 211,212; 1986 c 444

NOTE: This section, enacted by Laws 1963, Chapter 838, Section 2, is repealed by Laws 1965, Chapter 869, Section 18, as to any judicial district establishing a public defender system. See section 611.28.

611.08 [Repealed, 1979 c 233 s 42]

611.09 [Repealed, 1963 c 753 art 2 s 17]

611.10 [Repealed, 1963 c 753 art 2 s 17]

611.11 NO PRESUMPTION FROM FAILURE TO TESTIFY.

The defendant in the trial of an indictment, complaint, or other criminal proceeding shall, at the defendant's own request and not otherwise, be allowed to testify; but failure to testify shall not create any presumption against the defendant, nor shall it be alluded to by the prosecuting attorney or by the court.

History: (9815) *RL s 4661; 1986 c 444*

611.12 PUBLIC DEFENDER.

Subdivision 1. Appointment. In counties now or hereafter having a population of 300,000 or over the judges of the district court of such county may, by a unanimous vote, appoint an attorney at law, a member of the bar in such county, to appear for and defend all persons charged with a felony or gross misdemeanor in such county, and may appear for and represent all minors in juvenile court in such county, who are unable, by reason of poverty, to employ counsel.

Subd. 2. Designation; duties. The attorney so appointed shall be known as the public defender of county. The public defender shall appear for and defend all persons charged with any felony or gross misdemeanor, and may appear for and represent all minors in juvenile court in such county, when it shall appear to the court that the person accused is unable, by reason of poverty, to procure counsel.

Subd. 3. Appear before boards of pardons and parole. When the committing judge, or the judge in charge of the criminal court, shall deem it advisable the judge may by order direct the public defender to appear before the board of pardons, or the board of parole, for and on behalf of any applicant for pardon or parole who was committed from such county.

Subd. 4. Compensation. The public defender shall receive such compensation for services as the judges of the district court shall fix, such compensation to be paid by the county in the same manner and at the same time as the salaries of other county officials.

Subd. 5. Term. The term of office of the public defender shall be four years, subject to reappointment as often as the majority of the judges of the district court shall concur in such reappointment.

Subd. 6. Assistants. The public defender shall have the power to appoint and remove assistants, the number and compensation of whom shall be fixed by the judges of the district court, by an order filed with the county auditor. Their compensation shall be paid by the county in the same manner and at the same time as the salaries of other county officials.

Subd. 7. Appearance for criminals pleading guilty. The public defender shall also appear for and on behalf of criminals who shall have pleaded guilty to a criminal charge in accordance with the rules of criminal procedure.

History: (9957, 9958, 9959, 9960, 9961, 9962, 9963) *RL s 4789; 1917 c 496 s 1-7; 1963 c 506 s 1,2; 1Sp1981 c 4 art 2 s 43; 1986 c 444*

611.13 [Repealed, 1969 c 838 s 7]

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 postconviction 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;

(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: 1965 c 869 s 1; 1969 c 655 s 1; 1976 c 2 s 153; 1983 c 247 s 213; 1987 c 384 art 2 s 111

611.15 NOTIFICATION OF RIGHT TO REPRESENTATION.

In every criminal case or proceeding in which any person entitled by law to representation by counsel shall appear without counsel, the court shall advise such person of the right to be represented by counsel and that counsel will be appointed to represent the person if the person is financially unable to obtain counsel.

History: 1965 c 869 s 2; 1986 c 444

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 (b) of section 611.14, application for the appointment of a public defender may also be made to a judge of the supreme court.

History: 1965 c 869 s 3; 1986 c 444

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 the applicant's 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: 1965 c 869 s 4; 1983 c 359 s 91; 1986 c 444

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 the person 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 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.

History: 1965 c 869 s 5; 1969 c 655 s 2; 1983 c 247 s 214; 1986 c 444

611.19 WAIVER OF APPOINTMENT OF COUNSEL.

Where counsel is waived by a defendant, the waiver shall in all instances be made in writing, signed by the defendant, except that in such situation if the defendant refuses to sign the written waiver, then the court shall make a record evidencing such refusal of counsel.

History: 1965 c 869 s 6

611.20 SUBSEQUENT ABILITY TO PAY COUNSEL.

If at any time after the state public defender or a district public defender has been directed to act, the court having jurisdiction in the matter is satisfied that the defendant or other person is financially able to obtain counsel or to make partial payment for the representation, the court may terminate the appointment of the public defender, unless the person so represented is willing to pay therefor. If a public defender continues the representation, the court shall direct payment for such representation as the interests of justice may dictate. Any payments directed by the court shall be deposited with the court administrator thereof and the court administrator shall forthwith remit the amount thereof to the treasurer of the governmental unit chargeable with the compensation of such public defender for deposit in the treasury to the credit of the general revenue fund of such governmental unit or units.

If at any time after appointment a public defender should have reason to believe that a defendant is financially able to obtain counsel or to make partial payment for counsel, it shall be the public defender's duty to so advise the court so that appropriate action may be taken.

History: 1965 c 869 s 7; 1986 c 444; 1Sp1986 c 3 art 1 s 82

611.21 SERVICES OTHER THAN COUNSEL.

Counsel, whether or not appointed by the court, for a defendant who is financially unable to obtain investigative, expert, or other services necessary to an adequate defense in the case may request them in an ex parte application. Upon finding, after appropriate inquiry in an ex parte proceeding, that the services are necessary and that the defendant is financially unable to obtain them, the court shall authorize counsel to obtain the services on behalf of the defendant. The court may establish a limit on the amount which may be expended or promised for such services. The court may, in the interests of justice, and upon a finding that timely procurement of necessary services could not await prior authorization, ratify such services after they have been obtained, but such ratification shall be given only in unusual situations. The court shall determine reasonable compensation for the services and direct payment by the county in which the prosecution originated, to the organization or person who rendered them, upon the filing of a claim for compensation supported by an affidavit specifying the time expended, services rendered, and expenses incurred on behalf of the defendant, and the compensation received in the same case or for the same services from any other source. The compensation to be paid to a person for such service rendered to a

defendant under this section, or to be paid to an organization for such services rendered by an employee thereof, shall not exceed \$300, exclusive of reimbursement for expenses reasonably incurred.

History: 1965 c 869 s 8; 1969 c 9 s 91; 1986 c 444

611.214 APPLICABILITY.

Sections 611.26 and 611.27 do not apply to Hennepin county or to Ramsey county.

History: 1987 c 250 s 1

611.215 STATE BOARD OF PUBLIC DEFENSE CREATED.

Subdivision 1. Structure; membership. (a) The state board of public defense is a part of, but is not subject to the administrative control of, the judicial branch of government. The state board of public defense shall consist of seven members including:

- (1) a district court judge appointed by the supreme court;
- (2) four attorneys admitted to the practice of law, well acquainted with the defense of persons accused of crime, but not employed as prosecutors, appointed by the supreme court; and

- (3) two public members appointed by the governor.

(b) All members shall demonstrate an interest in maintaining a high quality, independent defense system for those who are unable to obtain adequate representation. The terms, compensation, and removal of members shall be as provided in section 15.0575. The chair shall be elected by the members from among the membership for a term of two years.

(c) In addition, the state board of public defense shall consist of an 11-member ad hoc board when considering the appointment of district public defenders under section 611.26, subdivision 2. The terms of district public defenders currently serving shall terminate in accordance with the staggered term schedule set forth in section 611.26, subdivision 2.

Subd. 1a. Chief administrator. The chair of the state board of public defense may, subject to the approval of the board, appoint a chief administrator who must be chosen solely on the basis of training, experience, and other qualifications, and who will serve at the pleasure of the board. The chief administrator need not be licensed to practice law. The administrator shall attend all meetings of the board, but may not vote, and shall:

- (1) enforce all resolutions, rules, regulations, or orders of the board;
- (2) appoint and remove all subordinate officers and regular employees of the board upon the basis of merit and fitness, subject to the provisions of a personnel code adopted by the board;
- (3) present to the board plans, studies, and reports prepared for board purposes and recommend to the board for adoption measures necessary to enforce or carry out the powers and duties of the board, or to efficiently administer the affairs of the board;
- (4) keep the board fully advised as to its financial condition, and prepare and submit to the board its annual budget and other financial information as it may request;
- (5) recommend to the board the adoption of rules and regulations necessary for the efficient operation of the board and its functions; and
- (6) perform other duties prescribed by the board.

Subd. 2. Duties and responsibilities. (a) The state board of public defense shall appoint the state public defender, who serves full time for a term of four years. The board must prepare an annual report to the governor, the legislature, and the supreme court on the operation of the state public defender's office, district defender systems, and appointed counsel systems. The board shall approve and recommend to the legislature a budget for the board, the office of state public defender, and the public defense corporations. The board shall establish procedures for distribution of state

funding under this chapter to the state and district public defenders, including Hennepin and Ramsey county public defenders, and to the public defense corporations.

(b) The board shall establish standards for the offices of the state and district public defenders and for the conduct of all appointed counsel systems. The standards must include, but are not limited to:

(1) standards needed to maintain and operate an office of public defender including requirements regarding the qualifications, training, and size of the legal and supporting staff for a public defender or appointed counsel system;

(2) standards for public defender caseloads;

(3) standards and procedures for the eligibility for appointment, assessment, and collection of the costs for legal representation provided by public defenders or appointed counsel;

(4) standards for contracts between a board of county commissioners and a county public defender system for the legal representation of indigent persons;

(5) standards prescribing minimum qualifications of counsel appointed under the board's authority or by the courts; and

(6) standards ensuring the economical and efficient delivery of legal services, including alternatives to the present geographic boundaries of the public defender districts.

The board may require the reporting of statistical data, budget information, and other cost factors by the state and district public defenders and appointed counsel systems.

Subd. 3. Limitation. In no event shall the board or its members interfere with the discretion, judgment or zealous advocacy of counsel in their handling of individual cases as a part of the judicial branch of government.

Subd. 4. Office space. The commissioner of administration shall provide suitable quarters outside the capitol building for the board and its appointees.

History: 1981 c 356 s 360; 1985 c 285 s 49; 1986 c 444; 1987 c 250 s 2-4; 1988 c 686 art 1 s 73

611.216 CRIMINAL AND JUVENILE DEFENSE GRANTS.

Subdivision 1. Eligible recipients. The board of public defense shall establish procedures for public defense corporations based in this state to apply for funding by the legislature. The applications must be submitted to the board. The board must review and prioritize them and include a recommended funding level for each corporation in the budget request the board submits to the legislature. Money appropriated to provide criminal and juvenile defense to indigent individuals must be distributed by the board of public defense to the nonprofit criminal and juvenile defense corporations included in the board's budget request or otherwise designated by law. Money may not be disbursed to a corporation in the Leech Lake reservation area or the White Earth reservation area without prior approval by the respective reservation tribal council. A corporation may accept cases involving felony, gross misdemeanor, and misdemeanor charges, and juvenile cases if financial eligibility standards are met, unless there is a legal or ethical reason for rejecting a case. A corporation may accept cases arising outside its geographic area of responsibility, as appropriate. Each corporation, in order to ensure broad support, shall provide matching money received from nonstate sources, which may include money or in-kind contribution from federal agencies, local governments, private agencies, and community groups, equal to ten percent of its state appropriation. The board of public defense shall give notice 30 days in advance and conduct a hearing if it has reasonable grounds to believe money appropriated for this purpose is being improperly used, or if it has reasonable cause to believe criminal and juvenile defense of proper quality is not being supplied. Payment must cease from the date of notice until either the board of public defense determines that the money appropriated will be properly handled, or the board of public defense determines that criminal and juvenile defense of proper quality will be provided. A

participating corporation may give notice at any time of its withdrawal from this program of financial assistance.

Subd. 2. **Discrimination; penalty.** An employee, administrator, officer, contractor, or agent of a recipient of the money provided by this section who discriminates on the basis of sex, race, color, national origin, religion, or creed is guilty of a gross misdemeanor.

Subd. 3. **Report.** Each corporation shall submit reports showing, at a minimum, the number of clients served, the number of charges brought, the number of cases of each kind, such as felonies, gross misdemeanors, misdemeanors, and juvenile delinquencies, the number of dispositions of each kind, such as jury trials, court trials, guilty pleas, and dismissals, the number of court appearances, and financial data. This information must be summarized for each corporation in the budget documents submitted to the legislature.

Subd. 4. **Audits.** The legislative auditor may conduct periodic postaward audits of these grants as may be requested by the board of public defense and approved by the legislative audit commission.

History: 1984 c 544 s 86; 1Sp1985 c 13 s 367,368; 1987 c 250 s 5-7

611.22 [Repealed, 1987 c 250 s 20]

611.23 OFFICE OF STATE PUBLIC DEFENDER; APPOINTMENT; SALARY.

The office of state public defender is under the supervision of the state board of public defense. The state public defender shall be appointed by the state board of public defense for a term of four years, except as otherwise provided in this section, and until a successor is appointed and qualified. The state public defender shall be a full-time qualified attorney, licensed to practice law in this state, serve in the unclassified service of the state, and be removed only for cause by the appointing authority. Vacancies in the office shall be filled by the appointing authority for the unexpired term. The salary of the state public defender shall be fixed by the state board of public defense but must not exceed the salary of the chief deputy attorney general. Terms of the state public defender shall commence on January 1. The state public defender shall devote full time to the performance of duties and shall not engage in the general practice of law.

History: 1965 c 869 s 10; 1967 c 696 s 2; 1981 c 356 s 361; 1986 c 444; 1987 c 250 s 8

611.24 ORGANIZATION OF OFFICE; ASSISTANTS.

The state public defender, subject to the limitations imposed by, and the supervision of, the state board of public defense, may employ or retain assistant state public defenders and other personnel as may be necessary to discharge the function of the office. An assistant public defender shall be a qualified attorney, licensed to practice law in this state, serve in the unclassified service of the state if employed, and serve at the pleasure of the appointing authority at a salary or retainer fee not to exceed reasonable compensation for comparable services performed for other governmental agencies or departments. Retained or part-time employed assistant state public defenders may engage in the general practice of law.

History: 1965 c 869 s 11; 1978 c 540 s 1; 1981 c 356 s 362; 1987 c 250 s 9; 1988 c 686 art 1 s 74

611.25 POWERS; DUTIES; LIMITATIONS.

Subdivision 1. **Representation.** The state public defender shall represent, without charge, a defendant or other person appealing from a conviction or pursuing a postconviction 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 the state public defender shall not represent a person in any action or proceeding in which a party is seeking a monetary judgment, recovery or award. When requested by a district public defender or appointed counsel, the state public defender may assist the district public defender, appointed counsel, or an organization designated in section 611.216 in the performance of duties, including trial representation in matters involving legal conflicts of interest or other special circumstances, and assistance with legal research and brief preparation. When the state public defender is directed by a court to represent a defendant or other person, the state public defender may, with the court's approval, assign the representation to any district public defender.

Subd. 2. General duties. The state public defender shall design and conduct programs, with the approval of the board of public defense, for the training of all state and district public defenders, appointed counsel, and attorneys for legal service corporations funded in section 611.216.

History: 1965 c 869 s 12; 1969 c 655 s 3; 1983 c 247 s 215; 1986 c 444; 1987 c 250 s 10

611.26 DISTRICT PUBLIC DEFENDERS.

Subdivision 1. Each judicial district shall have a district public defender. Public defenders and appointed counsel may request the assistance of the state public defender as provided in section 611.25, subdivision 1.

Subd. 2. The state board of public defense shall appoint a district public defender. When appointing a district public defender, the state board of public defense membership shall be increased to include two judges of the district and two county commissioners of the counties within the district. The additional members shall serve only in the capacity of selecting the district public defender. The judges within the district shall elect their two ad hoc members. The two county commissioners within the district shall be selected by the county boards of the counties within the district. The ad hoc state board of public defense shall appoint a district public defender only after requesting and giving reasonable time to receive any recommendations from the public, the local bar association, the judges of the district, and the county commissioners within the district. Each district public defender shall be a qualified attorney, licensed to practice law in this state. The district public defender shall be appointed for a term of four years, beginning August 1, pursuant to the following staggered term schedule: (1) in 1987, the third and eighth districts; (2) in 1988, the first and tenth districts; (3) in 1989, the fifth and ninth districts; and (4) in 1990, the sixth and seventh districts. The district public defenders shall serve for staggered four-year terms and may be removed for cause upon the order of the state board of public defense. Vacancies in the office shall be filled by the appointing authority for the unexpired term.

Subd. 3. The compensation of the district public defender shall be set by the board of public defense. The compensation of each assistant district public defender shall be set by the district public defender with the approval of the board of public defense. The compensation for district public defenders may not exceed the prevailing compensation for county attorneys within the district, and the compensation for assistant district public defenders may not exceed the prevailing compensation for assistant county attorneys within the district. To assist the board of public defense in determining prevailing compensation under this subdivision, counties shall include in their review and comment on proposed district public defender budgets information on the compensation of county attorneys, including salaries and benefits, rent, secretarial staff, and other pertinent budget data. For purposes of this subdivision, compensation means salaries, cash payments, and employee benefits including paid time off and group insurance benefits, and other direct and indirect items of compensation including the value of office space provided by the employer.

Subd. 4. A district public defender shall appoint assistants who are qualified attorneys licensed to practice law in this state and other staff as the district public

defender finds prudent and necessary subject to the standards adopted by the state board of public defense. Assistant district public defenders must be appointed to ensure broad geographic representation and caseload distribution within the district. Each assistant district public defender serves at the pleasure of the district public defender.

Subd. 5. [Repealed, 1987 c 250 s 20]

Subd. 6. The district public defender shall represent, without charge, a defendant charged with a felony or a gross misdemeanor when so directed by the district court.

Subd. 7. District public defenders and assistant district public defenders may engage in the general practice of law where not employed on a full time basis.

Subd. 8. [Repealed, 1987 c 250 s 20]

History: 1965 c 869 s 13; 1969 c 655 s 4; 1971 c 25 s 93; 1974 c 322 s 10; 1981 c 356 s 363-367; 1986 c 444; 1987 c 250 s 11-15

611.261 TRANSITION.

A written order filed before July 1, 1981 with the state judicial council establishing a district public defender system shall remain in effect. A district public defender, serving on July 1, 1981, may continue in office until the expiration of the term to which appointed. The state public defender, serving on July 1, 1981, may continue in office until the expiration of the term to which appointed.

History: 1981 c 356 s 368; 1986 c 444

611.262 REPRESENTATION BEFORE APPOINTMENT.

A district public defender or appointed assistant may, on request of a peace officer, a defendant, suspect, or other person, represent or consult with a person before formal appointment if there is a substantial factual basis to believe the person is indigent.

History: 1987 c 250 s 16

611.27 FINANCING THE OFFICES OF DISTRICT PUBLIC DEFENDER.

Subdivision 1. (a) The total compensation and expenses, including office equipment and supplies, of the district public defender are to be paid by the county or counties comprising the judicial district.

(b) A 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 and must, at a minimum, include detailed substantiation as to all revenues and expenditures. The 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.

Within ten days after an assistant district public defender is appointed, the district public defender shall certify to the state board of public defense the compensation that has been recommended for the assistant.

(c) The state board of public defense shall transmit the proposed budget of each district public defender to the respective district court administrators and county budget officers for comment before the board's final approval of the budget. The board shall determine and certify to the respective county boards a final comprehensive budget for the office of the district public defender that includes all expenses. After the board determines the allocation of the state funds authorized pursuant to paragraph (e), the board shall apportion the expenses of the district public defenders among the several counties and each county shall pay its share in monthly installments. The county share is the proportion of the total expenses that the population in the county bears to the total population in the district as determined by the last federal census. If the district public defender or an assistant district public defender is temporarily transferred to a county not situated in that public defender's judicial district, said county shall pay the proportionate part of that public defender's expenses for the services performed in said county.

(d) Reimbursement for actual and necessary travel expenses in the conduct of the office of the district public defender shall be charged to either (1) the general expenses of the office, (2) the general expenses of the district for which the expenses were incurred if outside the district, or (3) the office of the state public defender if the services were rendered for that office.

(e) Money appropriated to the state board of public defense and the public defender must be spent with the approval of the state board of public defense for the board's administration and for the state public defender and public defense corporations in amounts determined by the board. Funds may also be distributed by the state board of public defense to district public defenders including those in Hennepin and Ramsey counties. In making distributions to district public defenders, priority must be given, to the extent feasible and reasonable, to those districts having the greatest number of felonies and gross misdemeanors, and to those districts having the greatest number of distressed counties designated under section 297A.257. The board shall further consider each district's number of dispositions, such as jury trials, court trials and guilty pleas, the number of court appearances, and other trial-related financial data, and any special needs of districts organized in the calendar year 1987.

Subd. 2. The state board of public defense, after consultation with the county boards, shall designate the county officials of one or more counties within the district to pay the expenses of the district public defender. The county share assessed under subdivision 1 against each county of the district must be paid to the county treasurer of the designated county. The board may reimburse the designated counties for extra costs incurred. The board must provide for a revolving fund in the custody of the officials of the designated county into which each county must pay an initial deposit and its respective share of the expenses of the office of district public defender and from which the expenses of said office shall be paid in the manner provided in Laws 1965, chapter 869.

Subd. 3. If the state public defender or a district public defender deems it necessary to make a motion for a new trial, to take an appeal, or other postconviction proceedings in order to properly represent a defendant or other person whom that public defender had been directed to represent, that public defender may use the transcripts of the testimony and other proceedings filed with the court administrator of the district court as provided by section 243.49.

Subd. 4. The effective date of this section shall be January 1, 1966.

History: 1965 c 869 s 14; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 250 s 17,18

611.271 COPIES OF DOCUMENTS; FEES.

The court administrators of all courts and justices of peace shall furnish upon the request of the office of the state public defender copies of any documents in their possession and shall bill the office of the state public defender for these copies after they have been furnished. The fees for such documents shall be \$2 plus 12 cents for each page of the documents furnished.

History: 1969 c 655 s 5; 1Sp1986 c 3 art 1 s 82

611.28 REPEALER AND SAVINGS CLAUSE.

Subdivision 1. Minnesota Statutes 1961, sections 260.115, subdivision 2; 611.07; and Laws 1963, chapter 838, are hereby repealed.

Subd. 2. The provisions of sections 611.14 to 611.20 and the provisions of subdivision 1 are in effect as to any judicial district of the state upon the effective date of the establishment of a public defender system for said district as authorized by Laws 1965, chapter 869. Section 611.21 shall be effective on July 1, 1965.

Subd. 3. The repeal of the provisions of law set forth in subdivision 1 shall not affect the right of any defendant or other person to continue to be represented by counsel appointed pursuant to such repealed sections and counsel so appointed shall continue such representation until counsel's duties for such defendant or other persons

have been completed or counsel is otherwise discharged from performing such duties by the appointing authority.

History: 1965 c 869 s 18; 1986 c 444

611.29 EFFECTIVE DATE.

Except as otherwise provided in section 611.28, Laws 1965, chapter 869, is in effect on July 1, 1965.

History: 1965 c 869 s 19

611.30 RIGHT TO INTERPRETER, STATE POLICY.

It is hereby declared to be the policy of this state that the constitutional rights of persons handicapped in communication cannot be fully protected unless qualified interpreters are available to assist them in legal proceedings. It is the intent of sections 611.30 to 611.34 to provide a procedure for the appointment of interpreters to avoid injustice and to assist persons handicapped in communication in their own defense.

History: 1969 c 955 s 1; 1981 c 131 s 4

611.31 HANDICAPPED PERSON.

For the purposes of sections 611.30 to 611.34, "person handicapped in communication" means a person who: (a) because of a hearing, speech or other communication disorder, or (b) because of difficulty in speaking or comprehending the English language, cannot fully understand the proceedings or any charges made against the person, or is incapable of presenting or assisting in the presentation of a defense.

History: 1969 c 955 s 2; 1981 c 131 s 5; 1984 c 460 s 2; 1986 c 444

611.32 PROCEEDINGS WHERE INTERPRETER APPOINTED.

Subdivision 1. Proceedings and preliminary proceedings involving possible criminal sanctions or confinement. In any proceeding in which a person handicapped in communication may be subjected to confinement or criminal sanction, or in any proceeding preliminary to that proceeding, including coroner's inquest, grand jury proceedings, and proceedings relating to mental health commitments, the presiding judicial officer shall appoint a qualified interpreter to assist the person handicapped in communication and any witness handicapped in communication throughout the proceedings.

Subd. 2. Proceedings at time of apprehension or arrest. Following the apprehension or arrest of a person handicapped in communication for an alleged violation of a criminal law, the arresting officer, sheriff or other law enforcement official shall immediately make necessary contacts to obtain a qualified interpreter and shall obtain an interpreter at the earliest possible time at the place of detention. A law enforcement officer shall, with the assistance of the interpreter, explain to the person handicapped in communication, all charges filed against the person, and all procedures relating to the person's detainment and release. The interpreter shall also assist the person with all other communications, including communications relating to needed medical attention. Prior to interrogating or taking the statement of the person handicapped in communication, the arresting officer, sheriff, or other law enforcement official shall make available to the person a qualified interpreter to assist the person throughout the interrogation or taking of a statement.

History: 1969 c 955 s 3; 1984 c 460 s 3; 1986 c 444

611.33 QUALIFIED INTERPRETER.

Subdivision 1. No person shall be appointed as a qualified interpreter pursuant to sections 611.30 to 611.34 unless said person is readily able to communicate with the handicapped person, translate the proceedings for the handicapped person, and accurately repeat and translate the statements of the handicapped person to the officials before whom the proceeding is taking place.

Subd. 2. Every qualified interpreter appointed pursuant to the provisions of sections 611.30 to 611.34, before entering upon duties as such, shall take an oath, to make to the best of the interpreter's skill and judgment a true interpretation to the handicapped person being examined of all the proceedings, in a language which said person understands, and to repeat the statements, in the English language, of said person to the court or other officials before whom the proceeding is taking place.

Subd. 3. The fees and expenses of a qualified interpreter shall be fixed and ordered paid by the presiding official before whom the proceeding is taking place out of the general revenue fund of the county in which the proceeding occurs.

Subd. 4. An interpreter pursuant to sections 611.30 to 611.34 shall not, without the consent of the person handicapped in communication, be allowed to disclose any privileged communication made by the person or any privileged information gathered from the person which was communicated or gathered during the time of service as an interpreter.

History: 1969 c 955 s 4; 1971 c 25 s 94; 1981 c 131 s 6; 1986 c 444

611.34 APPLICABILITY TO ALL COURTS.

The provisions of sections 611.30 to 611.34 shall apply to all courts in this state and political subdivisions thereof.

History: 1969 c 955 s 5

611.35 REIMBURSEMENT OF PUBLIC DEFENDER AND APPOINTIVE COUNSEL.

Subdivision 1. Any person who is represented by a public defender or appointive counsel shall, if financially able to pay, reimburse the governmental unit chargeable with the compensation of such public defender or appointive counsel for the actual costs to the governmental unit in providing the services of the public defender or appointive counsel. The court in hearing such matter shall ascertain the amount of such costs to be charged to the defendant and shall direct reimbursement over a period of not to exceed six months, unless the court for good cause shown shall extend the period of reimbursement. If a term of probation is imposed as a part of a sentence, reimbursement of costs as required by this subdivision may be made a condition of probation.

Subd. 2. The county attorney may commence a civil action to recover such cost remaining unpaid at the expiration of six months unless the court has extended the reimbursement period and shall, if it appears that such recipient of public defender or appointive counsel services is about to leave the jurisdiction of the court or sell or otherwise dispose of assets out of which reimbursement may be obtained, commence such action forthwith. The county attorney may compromise and settle any claim for reimbursement with the approval of the court which heard the matter. No determination or action shall be taken later than two years after the termination of the duties of the public defender or appointive counsel.

History: 1969 c 1002 s 1,2; 1986 c 444