

CHAPTER 611

RIGHTS OF ACCUSED

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611.17 FINANCIAL INQUIRY; STATEMENTS.

(a) Each judicial district must screen requests under paragraph (b).

(b) Upon a request for the appointment of counsel, the court shall make appropriate inquiry into the financial circumstances 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 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 or produce financial records constitutes a waiver of the right to the appointment of a public defender.

History: 1993 c 146 art 2 s 19

611.20 SUBSEQUENT ABILITY TO PAY COUNSEL.

Subdivision 1. **Court determination.** 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, the court shall terminate the appointment of the public defender. The judicial district may investigate the financial status of a defendant or other person for whom a public defender has been appointed and may act to collect payments directed by the court.

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.

Subd. 2. **Partial payment.** If the court determines that the defendant is able to make partial payment, the court shall direct the partial payments to the governmental unit responsible for the costs of the public defender. Payments directed by the court to the state shall be recorded by the court administrator who shall transfer the payments to the state treasurer.

Subd. 3. **Reimbursement.** In each fiscal year, the state treasurer shall deposit the first \$180,000 in the general fund. Payments in excess of \$180,000 shall be deposited in the general fund and credited to a separate account with the board of public defense. The amount credited to this account is appropriated to the board of public defense to reimburse the costs of attorneys providing part-time public defense services.

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.

History: 1993 c 146 art 2 s 20

NOTE: Subdivision 3, as added by Laws 1993, chapter 146, article 2, section 20, is repealed June 30, 1997. See Laws 1993, chapter 146, article 2, section 31.

611.216 CRIMINAL AND JUVENILE DEFENSE GRANTS.*[For text of subd 1, see M.S.1992]*

Subd. 1a. Indian child welfare defense corporation grants. (a) The board of public defense shall establish procedures for accepting applications for funding from an Indian child welfare defense corporation located in the American Indian community. The board must consult with the Minnesota Indian affairs council before making a grant under this subdivision.

(b) An "Indian child welfare defense corporation" refers to an American Indian nonprofit law corporation, having an American Indian majority on its board of directors, specializing primarily in providing culturally appropriate legal services to indigent clients or tribal representatives involved in a case governed by the Indian Child Welfare Act, United States Code, title 25, section 1901 et seq., or the Minnesota Indian family preservation act, sections 257.35 to 257.3579.

(c) An Indian child welfare defense corporation is a "public defense corporation" for the purposes of sections 611.14 to 611.271.

*[For text of subds 2 to 4, see M.S.1992]***History:** 1993 c 146 art 2 s 21**611.25 POWERS; DUTIES; LIMITATIONS.***[For text of subd 1, see M.S.1992]*

Subd. 3. Duties. The state public defender shall prepare a biennial report to the board and a report to the governor, the legislature, and the supreme court on the operation of the state public defender's office, district defender systems, and public defense corporations. The biennial report is due on or before the beginning of the legislative session following the end of the biennium. The state public defender may require the reporting of statistical data, budget information, and other cost factors by the chief district public defenders and appointed counsel systems. The state public defender shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded under section 611.26. The state public defender shall establish policies and procedures to administer the district public defender system, consistent with standards adopted by the state board of public defense.

History: 1993 c 146 art 2 s 22**611.26 DISTRICT PUBLIC DEFENDERS.***[For text of subd 2, see M.S.1992]*

Subd. 3. Compensation. (a) The compensation of the chief 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 chief district public defender with the approval of the board of public defense. To assist the board of public defense in determining compensation under this subdivision, counties shall provide to the board 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.

(b) This subdivision does not limit the rights of public defenders to collectively bargain with their employers.

*[For text of subds 3a to 10, see M.S.1992]***History:** 1993 c 146 art 2 s 23

611.265 TRANSITION.

(a) District public defenders and their employees, other than in the second and fourth judicial districts, are state employees in the judicial branch, and are governed by the personnel rules adopted by the state board of public defense.

(b) A district public defender or district public defender employee who becomes a state employee under this section, and who participated in a county insurance program on June 30, 1993, may elect to continue to participate in the county program according to procedures established by the board of public defense. An affected county shall bill the board of public defense for employer contributions, in a manner prescribed by the board. The county shall not charge the board any administrative fee. Notwithstanding any law to the contrary, a person who is first employed as a district public defender after July 1, 1993, shall participate in the state employee insurance program, as determined by the state board of public defense, in consultation with the commissioner of employee relations.

(c) A district public defender or district public defender employee who becomes a state employee under this section, and who participated in the public employee retirement association on June 30, 1993, may elect to continue to participate in the public employee retirement association according to procedures established by the board of public defense and the association. Notwithstanding any law to the contrary, a person who is first employed as a state employee or by a district public defender after July 1, 1993, must participate in the Minnesota state retirement system.

(d) A person performing district public defender work as an independent contractor is not eligible to be covered under the state group insurance plan or the public employee retirement association.

History: 1993 c 146 art 2 s 24

611.27 FINANCING THE OFFICES OF DISTRICT PUBLIC DEFENDER.

[For text of subds 1 to 3, see M.S.1992]

Subd. 4. **County portion of costs.** That portion of subdivision 1 directing counties to pay the costs of public defense service shall not be in effect between July 1, 1993, and July 1, 1995. This subdivision only relates to costs associated with felony and gross misdemeanor public defense services in all judicial districts and to juvenile and misdemeanor public defense services in the second, third, fourth, sixth, and eighth judicial districts.

[For text of subds 5 to 14, see M.S.1992]

History: 1993 c 146 art 2 s 25

611.271 COPIES OF DOCUMENTS; FEES.

The court administrators of courts, the prosecuting attorneys of counties and municipalities, and the law enforcement agencies of the state and its political subdivisions shall furnish, upon the request of the district public defender, the state public defender, or an attorney working for a public defense corporation under section 611.216, copies of any documents, including police reports, in their possession at no charge to the public defender.

History: 1993 c 146 art 2 s 26