

**611.27 OFFICES OF DISTRICT PUBLIC DEFENDER; FINANCING; REPRESENTATION.**

Subdivision 1. **Budget.** (a) A chief 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. The chief 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.

(b) Money appropriated to the state Board of Public Defense for the board's administration, for the state public defender, for the judicial district public defenders, and for the public defense corporations shall be expended as determined by the board. In distributing funds to district public defenders, the board shall consider the geographic distribution of public defenders, the equity of compensation among the judicial districts, public defender case loads, and the results of the weighted case load study.

Subd. 2. [Repealed, 1998 c 367 art 8 s 26]

Subd. 3. **Transcript use.** If the chief appellate 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. [Repealed, 1998 c 367 art 8 s 26]

Subd. 5. **Representation; county payment.** The Board of Public Defense is solely responsible to provide counsel in adult criminal and juvenile cases, as specified under section 611.14. The court shall not appoint counsel at county expense for representation under section 611.14, except as provided in section 611.26, subdivision 3a, paragraph (c).

Subd. 6. **Case reporting system.** The state Board of Public Defense shall adopt and implement a uniform system for reporting of hours and cases by district public defenders. District public defenders shall provide whatever assistance the board requires in order to implement this reporting system.

Subd. 7. **Costs; state responsibility.** The state's obligation for the costs of the public defender services is limited to the appropriations made to the Board of Public Defense.

Subd. 8. **Adequate representation; review.** In a case where the chief district public defender does not believe that the office can provide adequate representation, the chief public defender of the district shall immediately notify the state public defender.

Subd. 9. **Request for other appointment of counsel.** The chief district public defender with the approval of the state public defender may request that the chief judge of the district court, or a district court judge designated by the chief judge, authorize appointment of counsel other than the district public defender in such cases.

Subd. 10. **Addition of permanent staff.** The chief public defender may not request the court nor may the court order the addition of permanent staff under subdivision 7.

Subd. 11. **Appointment of counsel.** If the court finds that the provision of adequate legal representation, including associated services, is beyond the ability of the district public defender to provide, the court shall order counsel to be appointed, with compensation and expenses to be paid under the provisions of this subdivision and subdivision 7. Counsel in such cases shall be appointed by the chief district public defender.

If the court issues an order denying the request, the court shall make written findings of fact and conclusions of law. Upon denial, the chief district public defender may immediately appeal the order denying the request to the Court of Appeals and may request an expedited hearing.

Subd. 12. **Compensation and expenses.** Counsel appointed under this subdivision shall document the time worked and expenses incurred in a manner prescribed by the chief district public defender.

Subd. 13. **Correctional facility inmates.** All billings for services rendered and ordered under subdivision 7 shall require the approval of the chief district public defender before being forwarded on a monthly basis to the state public defender. In cases where adequate representation cannot be provided by the district public defender and where counsel has been appointed under a court order, the state public defender shall forward to the commissioner of management and budget all billings for services rendered under the court order. The commissioner shall pay for services from county program aid retained by the commissioner of revenue for that purpose under section 477A.03, subdivision 2b, paragraph (a).

The costs of appointed counsel and associated services in cases arising from new criminal charges brought against indigent inmates who are incarcerated in a Minnesota state correctional facility are the responsibility of the state Board of Public Defense. In such cases the state public defender may follow the procedures outlined in this section for obtaining court-ordered counsel.

Subd. 14. [Repealed, 1997 c 7 art 2 s 67]

Subd. 15. **Costs of transcripts.** In appeal cases and postconviction cases where the appellate public defender's office does not have sufficient funds to pay for transcripts and other necessary expenses because it has spent or committed all of the transcript funds in its annual budget, the state public defender may forward to the commissioner of management and budget all billings for transcripts and other necessary expenses. The commissioner shall pay for these transcripts and other necessary expenses from county program aid retained by the commissioner of revenue for that purpose under section 477A.03, subdivision 2b, paragraph (a).

Subd. 16. **Appeal by prosecuting attorney; attorney fees.** (a) When a prosecuting attorney appeals to the Court of Appeals, in any criminal case, from any pretrial order of the district court, reasonable attorney fees and costs incurred shall be allowed to the defendant on the appeal which shall be paid by the governmental unit responsible for the prosecution involved in accordance with paragraph (b).

(b) By January 15, 2013, and every year thereafter, the chief judge of the judicial district, after consultation with city and county attorneys, the chief public defender, and members of the private bar in the district, shall establish a reimbursement rate for attorney fees and costs associated with representation under paragraph (a). The compensation to be paid to an attorney for such service rendered to a defendant under this subdivision may not exceed \$5,000, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the chief judge of the district as necessary to provide fair compensation for services of an unusual character or duration.

**History:** 1965 c 869 s 14; 1986 c 444; 1Sp1986 c 3 art 1 s 82; 1987 c 250 s 17,18; 1990 c 604 art 9 s 9; 1991 c 345 art 3 s 21-25; 1992 c 513 art 4 s 50-57; 1993 c 146 art 2 s 25; 1994 c 636 art 11 s 7; 1995 c 226 art 6 s 14; 1997 c 239 art 12 s 7,8; 1998 c 367 art 8 s 21,22; 1Sp2003 c 21 art 6 s 7,8; 1Sp2003 c 23 s 29; 2007 c 13 art 3 s 32,33; 2007 c 61 s 13-15; 2009 c 101 art 2 s 109; 2012 c 212 s 16,17; 2014 c 308 art 9 s 91,92