

SENATE
STATE OF MINNESOTA
EIGHTY-SEVENTH LEGISLATURE

S.F. No. 1027

(SENATE AUTHORS: NEWMAN, Hoffman, Thompson, Limmer and Ingebrigtsen)

DATE	D-PG	OFFICIAL STATUS
03/24/2011	701	Introduction and first reading Referred to Judiciary and Public Safety
03/28/2011	770	Author added Limmer
04/11/2011	1267	Author added Ingebrigtsen

1.1 A bill for an act

1.2 relating to public safety; permitting counties to withdraw from the statewide
1.3 public defense system for two-year periods; requiring withdrawing counties
1.4 to provide court-ordered representation for indigent offenders; requiring a
1.5 percentage of the budget of the State Board of Public Defense to be transferred
1.6 to a withdrawing county; requiring reports; proposing coding for new law in
1.7 Minnesota Statutes, chapter 611.

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

1.9 Section 1. **[611.50] WITHDRAWAL FROM STATEWIDE PUBLIC DEFENSE**
1.10 **SYSTEM BY COUNTY.**

1.11 Subdivision 1. Authority to withdraw. Notwithstanding any conflicting provision
1.12 of law, a county or a group of contiguous counties acting pursuant to a joint powers
1.13 agreement may elect under this section to withdraw from the statewide public defense
1.14 system. This election must be made by action of the county board. A court may not
1.15 order a county to make the election.

1.16 Subd. 2. Withdrawal time periods. An election to withdraw from the statewide
1.17 public defense system must be effective for a two-year period coinciding with the state's
1.18 biennial budget cycle. The period begins on July 1 of the odd-numbered year and
1.19 continues through June 30 of the next odd-numbered year. The election may be renewed
1.20 under this section for additional two-year periods. A county or group of counties shall
1.21 notify the State Board of Public Defense and the commissioner of management and budget
1.22 of the election at least 30 days before the start of the withdrawal.

1.23 Subd. 3. Effect of withdrawal. (a) A county or group of counties electing to
1.24 withdraw from the statewide public defense system under this section shall agree to
1.25 provide for the duration of the two-year period all court-ordered representation of indigent

2.1 persons in the county or group of counties that would otherwise under statute or appellate
2.2 decision be provided by a public defender. The county or group of counties is responsible
2.3 for all costs associated with the court-ordered representation of indigent offenders. The
2.4 provisions of this chapter apply to court-ordered representation provided by the county.
2.5 An attorney provided by the county has the same authority and responsibilities as a public
2.6 defender under Minnesota law.

2.7 (b) A county or group of counties electing to withdraw from the statewide public
2.8 defense system under this section shall contract with attorneys to provide the legal
2.9 representation required under this section. These attorneys are not considered state or
2.10 county employees.

2.11 Subd. 4. **Governance.** A county or group of counties that have elected to withdraw
2.12 from the statewide public defense system under this section shall form an advisory board
2.13 to develop a comprehensive plan for the provision of court-ordered representation of
2.14 indigent persons in the county or counties. The board must be comprised of individuals
2.15 who are well acquainted with the defense of persons accused of having committed a
2.16 crime. However, no person serving as a prosecutor may be appointed to the board. In
2.17 addition, the county or counties shall designate an official or agency to be responsible
2.18 for administering the money provided under subdivision 5 and implementing the local
2.19 takeover of public defender services. The county or counties may establish and organize
2.20 an administrative structure to provide for the budgeting, staffing, and operation of the
2.21 local takeover consistent with this section.

2.22 Subd. 5. **Transfer of a portion of state funding.** (a) By July 1 of each year of a
2.23 withdrawal, the State Board of Public Defense shall transfer to the official or agency
2.24 designated in subdivision 4 an amount representing the county's or group of counties'
2.25 share of the total state appropriation to the State Board of Public Defense for district
2.26 public defenders for that upcoming fiscal year based on the percentage indicated for
2.27 each participating county in paragraph (b).

	<u>Percentage of Total State Appropriation to State Board of Public Defense</u>
2.28	
2.29	
2.30	<u>(b) County</u>
2.31	<u>Aitkin</u>
2.32	<u>Anoka</u>
2.33	<u>Becker</u>
2.34	<u>Beltrami</u>
2.35	<u>Benton</u>
2.36	<u>Big Stone</u>
2.37	<u>Blue Earth</u>
2.38	<u>Brown</u>

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3.1	<u>Carlton</u>
3.2	<u>Carver</u>
3.3	<u>Cass</u>
3.4	<u>Chippewa</u>
3.5	<u>Chisago</u>
3.6	<u>Clay</u>
3.7	<u>Clearwater</u>
3.8	<u>Cook</u>
3.9	<u>Cottonwood</u>	.....
3.10	<u>Crow Wing</u>	.....
3.11	<u>Dakota</u>	.....
3.12	<u>Dodge</u>	.....
3.13	<u>Douglas</u>	.....
3.14	<u>Faribault</u>	.....
3.15	<u>Fillmore</u>	.....
3.16	<u>Freeborn</u>	.....
3.17	<u>Goodhue</u>	.....
3.18	<u>Grant</u>	.....
3.19	<u>Hennepin</u>	.....
3.20	<u>Houston</u>	.....
3.21	<u>Hubbard</u>	.....
3.22	<u>Isanti</u>	.....
3.23	<u>Itasca</u>	.....
3.24	<u>Jackson</u>	.....
3.25	<u>Kanabec</u>	.....
3.26	<u>Kandiyohi</u>	.....
3.27	<u>Kittson</u>	.....
3.28	<u>Koochiching</u>	.....
3.29	<u>Lac qui Parle</u>	.....
3.30	<u>Lake</u>	.....
3.31	<u>Lake of the Woods</u>	.....
3.32	<u>Le Sueur</u>	.....
3.33	<u>Lincoln</u>	.....
3.34	<u>Lyon</u>	.....
3.35	<u>McLeod</u>	.....
3.36	<u>Mahnomen</u>	.....
3.37	<u>Marshall</u>	.....
3.38	<u>Martin</u>	.....
3.39	<u>Meeker</u>	.....
3.40	<u>Mille Lacs</u>	.....
3.41	<u>Morrison</u>	.....
3.42	<u>Mower</u>	.....
3.43	<u>Murray</u>	.....

4.1	<u>Nicollet</u>	<u>.....</u>
4.2	<u>Nobles</u>	<u>.....</u>
4.3	<u>Norman</u>	<u>.....</u>
4.4	<u>Olmsted</u>	<u>.....</u>
4.5	<u>Otter Tail</u>	<u>.....</u>
4.6	<u>Pennington</u>	<u>.....</u>
4.7	<u>Pine</u>	<u>.....</u>
4.8	<u>Pipestone</u>	<u>.....</u>
4.9	<u>Polk</u>	<u>.....</u>
4.10	<u>Pope</u>	<u>.....</u>
4.11	<u>Ramsey</u>	<u>.....</u>
4.12	<u>Red Lake</u>	<u>.....</u>
4.13	<u>Redwood</u>	<u>.....</u>
4.14	<u>Renville</u>	<u>.....</u>
4.15	<u>Rice</u>	<u>.....</u>
4.16	<u>Rock</u>	<u>.....</u>
4.17	<u>Roseau</u>	<u>.....</u>
4.18	<u>St. Louis</u>	<u>.....</u>
4.19	<u>Scott</u>	<u>.....</u>
4.20	<u>Sherburne</u>	<u>.....</u>
4.21	<u>Sibley</u>	<u>.....</u>
4.22	<u>Stearns</u>	<u>.....</u>
4.23	<u>Steele</u>	<u>.....</u>
4.24	<u>Stevens</u>	<u>.....</u>
4.25	<u>Swift</u>	<u>.....</u>
4.26	<u>Todd</u>	<u>.....</u>
4.27	<u>Traverse</u>	<u>.....</u>
4.28	<u>Wabasha</u>	<u>.....</u>
4.29	<u>Wadena</u>	<u>.....</u>
4.30	<u>Waseca</u>	<u>.....</u>
4.31	<u>Washington</u>	<u>.....</u>
4.32	<u>Watonwan</u>	<u>.....</u>
4.33	<u>Wilkin</u>	<u>.....</u>
4.34	<u>Winona</u>	<u>.....</u>
4.35	<u>Wright</u>	<u>.....</u>
4.36	<u>Yellow Medicine</u>	<u>.....</u>

4.37 Subd. 6. Appeals. Notwithstanding a withdrawal from the statewide public defense
4.38 system under this section, the chief appellate public defender shall continue to represent
4.39 indigent offenders in the county or group of counties in appeals or postconviction
4.40 proceedings as required in section 611.14.

4.41 Subd. 7. Role of commissioner of management and budget. The commissioner
4.42 of management and budget shall oversee the transfer of state funds under subdivision 5

5.1 and resolve any dispute between a county and the State Board of Public Defense relating
5.2 to the transfer.

5.3 Subd. 8. **Reporting.** By February 15 of each year, the State Board of Public
5.4 Defense, the commissioner of management and budget, and any county withdrawing
5.5 from the statewide public defense system under this section shall report to the chairs
5.6 and ranking minority members of the senate and house of representatives committees
5.7 having jurisdiction over public defense policy and funding. The report must detail any
5.8 withdrawal from the state system. To the degree feasible, the report must evaluate the
5.9 effect of the withdrawal on the representation of indigent offenders both in the affected
5.10 county or counties and in the rest of the state.

5.11 Subd. 9. **Recommended changes to formula; report.** By February 15 of
5.12 each even-numbered year, the State Board of Public Defense, after consulting with
5.13 county officials in each county, shall recommend to the chairs and ranking minority
5.14 members of the senate and house of representatives committees having jurisdiction
5.15 over public defense policy and funding changes to the formula contained in subdivision
5.16 5, paragraph (b). Any recommended changes must attempt to more equitably and
5.17 accurately apportion costs related to the representation of indigent offenders throughout
5.18 the state. The recommendations shall take into account actual use and need relating to
5.19 government-appointed counsel for indigent offenders in the preceding two-year period.

5.20 **EFFECTIVE DATE.** This section is effective the day following final enactment.