

## CHAPTER 611

### RIGHTS OF ACCUSED

- |         |  |         |  |
|---------|--|---------|--|
| 611.01  | Ground of arrest, knowledge.                                 | 611.216 | Criminal and juvenile defense grants.                    |
| 611.02  | Presumption of innocence; conviction of lowest degree, when. | 611.23  | Office of state public defender; appointment; salary.    |
| 611.025 | Presumption of responsibility.                               | 611.24  | Organization of office; assistants.                      |
| 611.026 | Criminal responsibility of mentally ill or deficient.        | 611.25  | Powers; duties; limitations.                             |
| 611.03  | Conviction.  | 611.26  | District public defenders.                               |
| 611.033 | Copy of confession or admission.                             | 611.261 | Transition.  |
| 611.05  | Continuance; effect; bail.                                   | 611.262 | Representation before appointment.                       |
| 611.06  | Defendant entitled to blank subpoenas.                       | 611.263 | County is employer of Ramsey, Hennepin defenders.        |
| 611.11  | No presumption from failure to testify.                      | 611.27  | Financing the offices of district public defender.       |
| 611.14  | Right to representation by public defender.                  | 611.271 | Copies of documents; fees.                               |
| 611.15  | Notification of right to representation.                     | 611.28  | Repealer and savings clause.                             |
| 611.16  | Request for appointment of public defender.                  | 611.29  | Effective date.  |
| 611.17  | Financial inquiry; statements.                               | 611.30  | Right to interpreter, state policy.                      |
| 611.18  | Appointment of public defender.                              | 611.31  | Handicapped person.                                      |
| 611.19  | Waiver of appointment of counsel.                            | 611.32  | Proceedings where interpreter appointed.                 |
| 611.20  | Subsequent ability to pay counsel.                           | 611.33  | Qualified interpreter.                                   |
| 611.21  | Services other than counsel.                                 | 611.34  | Applicability to all courts.                             |
| 611.215 | State board of public defense created.                       | 611.35  | Reimbursement of public defender and appointive counsel. |

#### 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** [Repealed, 1989 c 335 art 1 s 270; art 3 s 57]

**611.071** [Repealed, 1989 c 335 art 1 s 270; art 3 s 57]

**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** [Repealed, 1989 c 335 art 3 s 57 subd 2]

**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 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; 1989 c 335 art 1 s 260*

**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 recorded by the court administrator, who shall transfer the payments to the governmental unit responsible for the costs of the public defender.

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; 1990 c 604 art 9 s 5*

**611.21 SERVICES OTHER THAN COUNSEL.**

(a) 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.

(b) 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, may not exceed \$1,000, exclusive of reimbursement for expenses reasonably incurred, unless payment in excess of that limit is certified by the court as necessary to provide fair compensation for services of an unusual character or duration and the amount of the excess payment is approved by the chief judge of the district. The chief judge of the judicial district may delegate approval authority to an active district judge.

(c) If the court denies authorizing counsel to obtain services on behalf of the defendant, the court shall make written findings of fact and conclusions of law that state the basis for determining that counsel may not obtain services on behalf of the defendant. When the court issues an order denying counsel the authority to obtain services, the defendant may appeal immediately from that order to the court of appeals and may request an expedited hearing.

*History: 1965 c 869 s 8; 1969 c 9 s 91; 1986 c 444; 1989 c 335 art 1 s 261*

**611.214** [Repealed, 1989 c 335 art 3 s 57 subd 2]

**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 shall 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 public defense corporations. The board shall approve and recommend to the legislature a budget for the board, the office of state public defender, the judicial district public defenders, 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.

The state board of public defense shall design and conduct programs for the training of all state and district public defenders, appointed counsel, and attorneys for public defense corporations funded in section 611.26.

**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; 1989 c 335 art 1 s 262; 1990 c 604 art 9 s 6; 1990 c 612 s 12

### 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. [Repealed, 1989 c 335 art 1 s 270; art 3 s 57]

**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 November 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; (4) in 1990, the sixth and seventh districts; (5) in 1991, the second, fourth, and eighth districts; and (6) in 1992, the first, third, and tenth 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 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.

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; 1989 c 335 art 3 s 36; 1990 c 604 art 9 s 7,8; 1990 c 612 s 12

#### **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

#### **611.263 COUNTY IS EMPLOYER OF RAMSEY, HENNEPIN DEFENDERS.**

Subdivision 1. **Employees.** (a) The district public defender and assistant public defenders of the second judicial district are employees of Ramsey county in the unclassified service under section 383A.286.

(b) The district public defender and assistant public defenders of the fourth judicial district are employees of Hennepin county under section 383B.63, subdivision 6.

Subd. 2. **Public employer.** (a) Notwithstanding section 179A.03, subdivision 15, clause (c), the Ramsey county board is the public employer under the public employment labor relations act for the district public defender and assistant public defenders of the second judicial district.

(b) Notwithstanding section 179A.03, subdivision 15, clause (c), the Hennepin county board is the public employer under the public employment labor relations act for the district public defender and assistant public defenders of the fourth judicial district.

**History:** 1989 c 335 art 3 s 37

**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 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 results of the weighted case load study.

Subd. 2. The state board of public defense, after receiving an appropriation from the legislature for payment of district public defender costs, shall designate the county officials of one county within the district as a host county to reimburse the expenses of the district public defender. A county selected by the board must serve as the designee. 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 county for extra costs incurred.

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. **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, 1990, and July 1, 1991. This subdivision only relates to costs associated with felony and gross misdemeanor public defense services and all public defense services in the second, fourth, and eighth judicial districts.

**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

**611.271 COPIES OF DOCUMENTS; FEES.**

The court administrators of all courts shall furnish upon the request of the district public defender or the state public defender copies of any documents in their possession at no charge to the public defender.

*History: 1969 c 655 s 5; 1Sp1986 c 3 art 1 s 82; 1990 c 604 art 9 s 10*

**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 reim-

# MINNESOTA STATUTES 1990

11159

RIGHTS OF ACCUSED 611.35

bursement 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