

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 applicant shall be under a continuing duty while represented by a public defender to disclose any changes in the applicant's financial circumstances that might be relevant to the applicant's eligibility for a public defender. The state public defender shall furnish appropriate forms for the financial statements. The forms must contain conspicuous notice of the applicant's continuing duty to disclose to the court changes in the applicant's financial circumstances. The information contained in the statement shall be confidential and for the exclusive use of the court and the public defender appointed by the court to represent the applicant 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: 1995 c 226 art 2 s 24

611.20 SUBSEQUENT ABILITY TO PAY COUNSEL.

[For text of subds 1 and 2, see M.S.1994]

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.

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.

Subd. 4. Employed defendants. A defendant who is employed when a public defender is appointed, or who becomes employed while represented by a public defender, shall reimburse the state for the cost of the public defender. The court may accept partial reimbursement from the defendant if the defendant's financial circumstances warrant a reduced reimbursement schedule. The court may consider the guidelines in subdivision 6 in determining a defendant's reimbursement schedule. If a defendant does not agree to make payments, the court may order the defendant's employer to withhold a percentage of the defendant's income to be turned over to the court. The percentage to be withheld may be determined under subdivision 6.

Subd. 5. Reimbursement rate. Legal fees required to be reimbursed under subdivision 4, shall be determined by multiplying the total number of hours worked on the case by a public defender by \$30 per hour. The public defender assigned to the defendant's case shall provide to the court, upon the court's request, a written statement containing the total number of hours worked on the defendant's case up to the time of the request.

Subd. 6. Reimbursement schedule guidelines. In determining a defendant's reimbursement schedule, the court may derive a specific dollar amount per month by multiplying the defendant's net income by the percent indicated by the following guidelines:

Net Income Per Month of Defendant	Number of Dependents Not Including Defendant				
	4 or more	3	2	1	0
\$200 and Below	Percentage based on the ability of the defendant to pay as determined by the court.				
\$200 – 350	8%	9.5%	11%	12.5%	14%
\$351 – 500	9%	11%	12.5%	14%	15%
\$501 – 650	10%	12%	14%	15%	17%
\$651 – 800	11%	13.5%	15.5%	17%	19%
\$801 and above	12%	14.5%	17%	19%	20%

"Net income" shall have the meaning given it in section 518.551, subdivision 5.

Subd. 7. Income withholding. (a) Whenever an obligation for reimbursement of public defender costs is ordered by a court under this section, the amount of reimbursement as determined by court order must be withheld from the income of the person obligated to pay. The court shall serve a copy of the reimbursement order on the defendant's employer. Notwithstanding any law to the contrary, the order is binding on the employer when served. Withholding must begin no later than the first pay period that occurs after 14 days following the date of the notice. The employer shall withhold from the income payable to the defendant the amount specified in the order and shall remit, within ten days of the date the defendant is paid the remainder of the income, the amounts withheld to the court.

(b) An employer shall not discharge, or refuse to hire, or otherwise discipline an employee as a result of a wage or salary withholding authorized by this section. The employer shall be liable to the court for any amounts required to be withheld. An employer that fails to withhold or transfer funds in accordance with this section is also liable for interest on the funds at the rate applicable to judgments under section 549.09, computed from the date the funds were required to be withheld. An employer that has failed to comply with the requirements of this section is subject to contempt of court.

(c) Amounts withheld under this section do not supersede or have priority over amounts withheld pursuant to other sections of law.

History: 1995 c 226 art 2 s 25–29

611.27 FINANCING THE OFFICES OF DISTRICT PUBLIC DEFENDER.

[For text of subs 1 to 3, see M.S.1994]

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 January 1, 1995, and July 1, 1997. This subdivision only relates to costs associated with felony, gross misdemeanor, juvenile, and misdemeanor public defense services. Notwithstanding the provisions of this subdivision, in the first, fifth, seventh, ninth, and tenth judicial districts, the cost of juvenile and misdemeanor public defense services for cases opened prior to January 1, 1995, shall remain the responsibility of the respective counties in those districts, even though the cost of these services may occur after January 1, 1995.

[For text of subs 5 to 14, see M.S.1994]

History: 1995 c 226 art 6 s 14

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 chapter must not be made a condition of probation. Reimbursement of costs as required by this chapter is a civil obligation and must not be made a condition of a criminal sentence.

[For text of subd 2, see M.S.1994]

History: 1995 c 226 art 2 s 30