

SENATE
STATE OF MINNESOTA
NINETY-THIRD SESSION

S.F. No. 3235

(SENATE AUTHORS: LATZ)

DATE
04/12/2023

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Introduction and first reading
 Referred to Judiciary and Public Safety

OFFICIAL STATUS

1.1 A bill for an act
 1.2 relating to judiciary; increasing reimbursement amount for attorney fees and other
 1.3 necessary services provided to indigent defendants; amending Minnesota Statutes
 1.4 2022, sections 611.21; 611.27, subdivision 16.

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

1.6 Section 1. Minnesota Statutes 2022, section 611.21, is amended to read:

1.7 **611.21 SERVICES OTHER THAN COUNSEL.**

1.8 (a) Counsel appointed by the court for an indigent defendant, or representing a defendant
 1.9 who, at the outset of the prosecution, has an annual income not greater than 125 percent of
 1.10 the poverty line established under United States Code, title 42, section 9902(2), may file
 1.11 an ex parte application requesting investigative, expert, interpreter, or other services necessary
 1.12 to an adequate defense in the case. Upon finding, after appropriate inquiry in an ex parte
 1.13 proceeding, that the services are necessary and that the defendant is financially unable to
 1.14 obtain them, the court shall authorize counsel to obtain the services on behalf of the
 1.15 defendant. The court may establish a limit on the amount which may be expended or promised
 1.16 for such services. The court may, in the interests of justice, and upon a finding that timely
 1.17 procurement of necessary services could not await prior authorization, ratify such services
 1.18 after they have been obtained, but such ratification shall be given only in unusual situations.
 1.19 The court shall determine reasonable compensation for the services and direct payment by
 1.20 the county in which the prosecution originated, to the organization or person who rendered
 1.21 them, upon the filing of a claim for compensation supported by an affidavit specifying the
 1.22 time expended, services rendered, and expenses incurred on behalf of the defendant, and
 1.23 the compensation received in the same case or for the same services from any other source.

2.1 (b) The compensation to be paid to a person for such service rendered to a defendant
2.2 under this section, or to be paid to an organization for such services rendered by an employee,
2.3 may not exceed ~~\$1,000~~ \$5,000, exclusive of reimbursement for expenses reasonably incurred,
2.4 unless payment in excess of that limit is certified by the court as necessary to provide fair
2.5 compensation for services of an unusual character or duration and the amount of the excess
2.6 payment is approved by the chief judge of the district. The chief judge of the judicial district
2.7 may delegate approval authority to an active district judge.

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

2.13 Sec. 2. Minnesota Statutes 2022, section 611.27, subdivision 16, is amended to read:

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

2.19 (b) By January 15, 2013, and every year thereafter, the chief judge of the judicial district,
2.20 after consultation with city and county attorneys, the chief public defender, and members
2.21 of the private bar in the district, shall establish a reimbursement rate for attorney fees and
2.22 costs associated with representation under paragraph (a). The compensation to be paid to
2.23 an attorney for such service rendered to a defendant under this subdivision may not exceed
2.24 ~~\$5,000~~ \$10,000, exclusive of reimbursement for expenses reasonably incurred, unless
2.25 payment in excess of that limit is certified by the chief judge of the district as necessary to
2.26 provide fair compensation for services of an unusual character or duration.