

SENATE BILL REPORT

SB 5311

As of February 6, 1995

Title: An act relating to repayment of cost of counsel provided to indigent persons.

Brief Description: Tightening requirements for indigents' repayment of cost of provided counsel.

Sponsors: Senators Haugen and McCaslin.

Brief History:

Committee Activity: Law & Justice: 2/7/95.

SENATE COMMITTEE ON LAW & JUSTICE

Staff: Cynthia Runger (786-7717)

Background: A determination of indigency is made for those wishing a public defender in all cases where a right to counsel attaches. The entity charged with determining indigency is the court. If a determination of indigency cannot be made before services are first rendered, the court must appoint an attorney. All persons receiving public defense are required to sign a note to cover the costs of their defense. Under current law, there are no provisions requiring the promissory note to delineate guidelines for interest rate, maturity date, assignability, recovery of collection costs, deferral or forgiveness.

With the increasing cost of indigent defense, there is concern about adequate recovery to counties for the cost of providing counsel to those determined to be indigent.

Summary of Bill: A determination of indigency is made for persons wishing the appointment of counsel in misdemeanor and gross misdemeanor cases. The entity charged with determining indigency is the legislative authority. If indigency cannot be determined before services are first rendered, the legislative authority must appoint an attorney. No persons receiving public defense have to execute a promissory note, unless the legislative authority finds a reasonable basis to require the individual to contribute. The note must provide guidelines for interest rate, maturity, and recovery of collection costs. Payments may be deferred or forgiven if the maker's indigency status continues until the maturity of the note. The note may be assigned to a collection agency. If the note is assigned, the maker waives the right to have the note deferred or forgiven. If a person is denied an attorney based upon a determination that the person is not indigent, that person may appeal to the court.

Appropriation: None.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

