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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-FIFTH
SESSION

HOUSE FILE No. 1388

February 26, 2007

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The bill was read for the first time and referred to the Committee on Public Safety and Civil Justice

1.1 A bill for an act
 1.2 relating to courts; authorizing the attorney general to represent guardians ad
 1.3 litem who are sued for acts committed in scope of employment; removing certain
 1.4 salary range language for state court administrator and district administrators;
 1.5 requiring county responsibility for persons civilly committed; reinstating certain
 1.6 bail forfeiture language inadvertently removed; authorizing the state court
 1.7 administrator to develop a uniform form for summons and writ of recovery
 1.8 of premises; modifying provisions of law to conform to current guardian ad
 1.9 litem responsibilities; permitting court administrators to collect restitution for
 1.10 six years; providing new judges expense payments; removing certain obsolete
 1.11 judicial provisions relating to reports; amending Minnesota Statutes 2006,
 1.12 sections 3.732, subdivision 1; 3.736, subdivision 1; 15A.083, subdivision 4;
 1.13 253B.185, subdivision 5; 352D.02, subdivision 1; 484.54, subdivision 2; 484.83;
 1.14 504B.361, subdivision 1; 518.165, subdivisions 1, 2; 518A.35, subdivision 3;
 1.15 609.135, subdivision 8; Laws 2001, First Special Session chapter 8, article
 1.16 4, section 4; Laws 2003, First Special Session chapter 2, article 1, section 2;
 1.17 repealing Minnesota Statutes 2006, sections 260B.173; 480.175, subdivision 3;
 1.18 626A.17, subdivision 3.

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

1.20 Section 1. Minnesota Statutes 2006, section 3.732, subdivision 1, is amended to read:

1.21 Subdivision 1. **Definitions.** As used in this section and section 3.736 the terms
 1.22 defined in this section have the meanings given them.

1.23 (1) "State" includes each of the departments, boards, agencies, commissions, courts,
 1.24 and officers in the executive, legislative, and judicial branches of the state of Minnesota
 1.25 and includes but is not limited to the Housing Finance Agency, the Minnesota Office of
 1.26 Higher Education, the Higher Education Facilities Authority, the Health Technology
 1.27 Advisory Committee, the Armory Building Commission, the Zoological Board, the Iron
 1.28 Range Resources and Rehabilitation Board, the State Agricultural Society, the University
 1.29 of Minnesota, the Minnesota State Colleges and Universities, state hospitals, and state

2.1 penal institutions. It does not include a city, town, county, school district, or other local
 2.2 governmental body corporate and politic.

2.3 (2) "Employee of the state" means all present or former officers, members, directors,
 2.4 or employees of the state, members of the Minnesota National Guard, members of a
 2.5 bomb disposal unit approved by the commissioner of public safety and employed by a
 2.6 municipality defined in section 466.01 when engaged in the disposal or neutralization of
 2.7 bombs or other similar hazardous explosives, as defined in section 299C.063, outside the
 2.8 jurisdiction of the municipality but within the state, or persons acting on behalf of the state
 2.9 in an official capacity, temporarily or permanently, with or without compensation. It does
 2.10 not include either an independent contractor except, for purposes of this section and
 2.11 section 3.736 only, a guardian ad litem acting under court appointment, or members of the
 2.12 Minnesota National Guard while engaged in training or duty under United States Code,
 2.13 title 10, or title 32, section 316, 502, 503, 504, or 505, as amended through December
 2.14 31, 1983. Notwithstanding sections 43A.02 and 611.263, for purposes of this section and
 2.15 section 3.736 only, "employee of the state" includes a district public defender or assistant
 2.16 district public defender in the Second or Fourth Judicial District and a member of the
 2.17 Health Technology Advisory Committee.

2.18 (3) "Scope of office or employment" means that the employee was acting on behalf
 2.19 of the state in the performance of duties or tasks lawfully assigned by competent authority.

2.20 (4) "Judicial branch" has the meaning given in section 43A.02, subdivision 25.

2.21 Sec. 2. Minnesota Statutes 2006, section 3.736, subdivision 1, is amended to read:

2.22 Subdivision 1. **General rule.** The state will pay compensation for injury to or loss
 2.23 of property or personal injury or death caused by an act or omission of an employee of
 2.24 the state while acting within the scope of office or employment or a peace officer who is
 2.25 not acting on behalf of a private employer and who is acting in good faith under section
 2.26 629.40, subdivision 4, under circumstances where the state, if a private person, would be
 2.27 liable to the claimant, whether arising out of a governmental or proprietary function.
 2.28 Nothing in this section waives the defense of judicial, quasi-judicial, or legislative
 2.29 immunity except to the extent provided in subdivision 8.

2.30 Sec. 3. Minnesota Statutes 2006, section 15A.083, subdivision 4, is amended to read:

2.31 Subd. 4. **Ranges for other judicial positions.** Salaries or salary ranges are provided
 2.32 for the following positions in the judicial branch of government. The appointing authority
 2.33 of any position for which a salary range has been provided shall fix the individual salary
 2.34 within the prescribed range, considering the qualifications and overall performance of the

3.1 employee. ~~The Supreme Court shall set the salary of the state court administrator and the~~
 3.2 ~~salaries of district court administrators. The salary of the state court administrator or a~~
 3.3 ~~district court administrator may not exceed the salary of a district court judge.~~ If district
 3.4 court administrators die, the amounts of their unpaid salaries for the months in which
 3.5 their deaths occur must be paid to their estates. The salary of the state public defender
 3.6 shall be fixed by the State Board of Public Defense but must not exceed the salary of a
 3.7 district court judge.

3.8		Salary or Range
3.9		Effective
3.10		July 1, 1994
3.11	Board on Judicial	
3.12	Standards executive	
3.13	director	\$44,000-60,000

3.14 Sec. 4. Minnesota Statutes 2006, section 253B.185, subdivision 5, is amended to read:

3.15 Subd. 5. **Financial responsibility.** (a) For purposes of this subdivision, "state
 3.16 facility" has the meaning given in section 246.50.

3.17 (b) Notwithstanding sections 246.54, 253B.045, and any other law to the contrary,
 3.18 when a petition is filed for commitment under this section pursuant to the notice required in
 3.19 section 244.05, subdivision 7, ~~the state and county are each~~ is responsible for ~~50 percent of~~
 3.20 the cost of the person's confinement at a state facility or county jail, prior to commitment.

3.21 ~~(c) The county shall submit an invoice to the state court administrator for~~
 3.22 ~~reimbursement of the state's share of the cost of confinement.~~

3.23 ~~(d) Notwithstanding paragraph (b), the state's responsibility for reimbursement is~~
 3.24 ~~limited to the amount appropriated for this purpose.~~

3.25 Sec. 5. Minnesota Statutes 2006, section 352D.02, subdivision 1, is amended to read:

3.26 Subdivision 1. **Coverage.** (a) Employees enumerated in paragraph (c), clauses (2),
 3.27 (3), (4), and (6) to (14), if they are in the unclassified service of the state or Metropolitan
 3.28 Council and are eligible for coverage under the general state employees retirement plan
 3.29 under chapter 352, are participants in the unclassified plan under this chapter unless the
 3.30 employee gives notice to the executive director of the Minnesota State Retirement System
 3.31 within one year following the commencement of employment in the unclassified service
 3.32 that the employee desires coverage under the general state employees retirement plan.
 3.33 For the purposes of this chapter, an employee who does not file notice with the executive
 3.34 director is deemed to have exercised the option to participate in the unclassified plan.

3.35 (b) Persons referenced in paragraph (c), clause (5), are participants in the unclassified
 3.36 program under this chapter unless the person was eligible to elect different coverage under

4.1 section 3A.07 and elected retirement coverage by the applicable alternative retirement
4.2 plan. Persons referenced in paragraph (c), clause (15), are participants in the unclassified
4.3 program under this chapter for judicial employment in excess of the service credit limit in
4.4 section 490.121, subdivision 22.

4.5 (c) Enumerated employees and referenced persons are:

4.6 (1) the governor, the lieutenant governor, the secretary of state, the state auditor,
4.7 and the attorney general;

4.8 (2) an employee in the Office of the Governor, Lieutenant Governor, Secretary
4.9 of State, State Auditor, Attorney General;

4.10 (3) an employee of the State Board of Investment;

4.11 (4) the head of a department, division, or agency created by statute in the unclassified
4.12 service, an acting department head subsequently appointed to the position, or an employee
4.13 enumerated in section 15A.0815 or 15A.083, subdivision 4;

4.14 (5) a member of the legislature;

4.15 (6) a full-time unclassified employee of the legislature or a commission or agency of
4.16 the legislature who is appointed without a limit on the duration of the employment or a
4.17 temporary legislative employee having shares in the supplemental retirement fund as a
4.18 result of former employment covered by this chapter, whether or not eligible for coverage
4.19 under the Minnesota State Retirement System;

4.20 (7) a person who is employed in a position established under section 43A.08,
4.21 subdivision 1, clause (3), or in a position authorized under a statute creating or establishing
4.22 a department or agency of the state, which is at the deputy or assistant head of department
4.23 or agency or director level;

4.24 (8) the regional administrator, or executive director of the Metropolitan Council,
4.25 general counsel, division directors, operations managers, and other positions as designated
4.26 by the council, all of which may not exceed 27 positions at the council and the chair;

4.27 (9) the executive director, associate executive director, and not to exceed nine
4.28 positions of the Minnesota Office of Higher Education in the unclassified service, as
4.29 designated by the Minnesota Office of Higher Education before January 1, 1992, or
4.30 subsequently redesignated with the approval of the board of directors of the Minnesota
4.31 State Retirement System, unless the person has elected coverage by the individual
4.32 retirement account plan under chapter 354B;

4.33 (10) the clerk of the appellate courts appointed under article VI, section 2, of the
4.34 Constitution of the state of Minnesota, the state court administrator and judicial district
4.35 administrators;

5.1 (11) the chief executive officers of correctional facilities operated by the Department
 5.2 of Corrections and of hospitals and nursing homes operated by the Department of Human
 5.3 Services;

5.4 (12) an employee whose principal employment is at the state ceremonial house;

5.5 (13) an employee of the Minnesota Educational Computing Corporation;

5.6 (14) an employee of the State Lottery who is covered by the managerial plan
 5.7 established under section 43A.18, subdivision 3; and

5.8 (15) a judge who has exceeded the service credit limit in section 490.121,
 5.9 subdivision 22.

5.10 Sec. 6. Minnesota Statutes 2006, section 484.54, subdivision 2, is amended to read:

5.11 Subd. 2. **Expense payments.** A judge shall be paid travel and subsistence expenses
 5.12 for travel from the judge's place of residence to and from the judge's permanent chambers
 5.13 only for a period of two years ~~after July 1, 1977, or the date the judge initially assumes~~
 5.14 ~~office, whichever is later~~ as provided by Judicial Council policy.

5.15 Sec. 7. Minnesota Statutes 2006, section 484.83, is amended to read:

5.16 **484.83 REINSTATEMENT OF FORFEITED SUMS.**

5.17 Subdivision 1. **Abandonment of fees.** All sums deposited with the court
 5.18 administrator to cover fees shall be deemed abandoned if the fees are not disbursed or
 5.19 the services covered by the fees are not performed and the person entitled to refund of
 5.20 the fees does not file a written demand for refund with the court administrator within
 5.21 six months from the date of trial, dismissal, or striking of the cause as to jury fees and
 5.22 from the date of deposit as to other fees.

5.23 Subd. 2. **Bail forfeitures.** Any bail not forfeited by court order shall be deemed
 5.24 abandoned and forfeited if the person entitled to refund does not file a written demand
 5.25 for refund with the court administrator within six months from the date when the person
 5.26 became entitled to the refund.

5.27 Subd. 3. **Reinstated forfeited sums.** A district court judge may order any sums
 5.28 forfeited to be reinstated and the commissioner of finance shall then refund accordingly.
 5.29 The commissioner of finance shall reimburse the court administrator if the court
 5.30 administrator refunds the deposit upon a judge's order and obtains a receipt to be used
 5.31 as a voucher.

5.32 Sec. 8. Minnesota Statutes 2006, section 504B.361, subdivision 1, is amended to read:

6.1 Subdivision 1. **Summons and writ.** (a) The state court administrator shall develop a
 6.2 uniform form for the summons and writ of recovery of premises and order to vacate
 6.3 may be substantially in the forms in paragraphs (b) and (c).

6.4 (b)

6.5 ~~FORM OF SUMMONS~~

6.6 ~~State of Minnesota)~~
 6.7 ~~) ss.~~
 6.8 ~~County of)~~

6.9 ~~Whereas,, of, has filed with the undersigned, a judge of county~~
 6.10 ~~stated, a complaint against, of, a copy of which is attached. You~~
 6.11 ~~are hereby summoned to appear before the undersigned on the day of,~~
 6.12 ~~year....., at o'clock ...m., at, to answer and defend against the complaint~~
 6.13 ~~and to further be dealt with according to law.~~

6.14 ~~Dated at, this day of, year~~
 6.15 ~~.....;~~
 6.16 ~~Judge of court.~~

6.17 (c)

6.18 ~~FORM OF WRIT OF RECOVERY OF PREMISES AND ORDER TO VACATE~~

6.19 ~~State of Minnesota)~~
 6.20 ~~) ss.~~
 6.21 ~~County of)~~

6.22 ~~The State of Minnesota, to the Sheriff of the County:~~

6.23 ~~Whereas,, the plaintiff, of, in an eviction action, at a court held~~
 6.24 ~~at, in the county of, on the day of, year~~
 6.25 ~~....., before, a judge of the county, recovered a judgment against,~~
 6.26 ~~the, to have recovery of the following premises (describe here the property~~
 6.27 ~~as in the complaint):~~

6.28 ~~Therefore, you are commanded that, taking with you the force of the county, if~~
 6.29 ~~necessary, you cause to be immediately removed from the premises, and the~~
 6.30 ~~plaintiff to recover the premises. You are also commanded that from the personal property~~
 6.31 ~~of within the county that you seize and sell, the plaintiff be paid~~
 6.32 ~~dollars, as the costs assessed against the defendant, together with 25 cents for this writ.~~
 6.33 ~~You are ordered to return this writ within 30 days.~~

6.34 ~~Dated at, this day of, year~~
 6.35 ~~.....;~~
 6.36 ~~Judge of court.~~

7.1 Sec. 9. Minnesota Statutes 2006, section 518.165, subdivision 1, is amended to read:

7.2 Subdivision 1. **Permissive appointment of guardian ad litem.** In all proceedings
7.3 for child custody or for dissolution or legal separation where custody or parenting time
7.4 with a minor child is in issue, the court may appoint a guardian ad litem from a panel
7.5 established by the court to represent the interests of the child. The guardian ad litem shall
7.6 advise the court with respect to custody, ~~support,~~ and parenting time.

7.7 Sec. 10. Minnesota Statutes 2006, section 518.165, subdivision 2, is amended to read:

7.8 Subd. 2. **Required appointment of guardian ad litem.** In all proceedings for child
7.9 custody or for marriage dissolution or legal separation in which custody or parenting time
7.10 with a minor child is an issue, if the court has reason to believe that the minor child is a
7.11 victim of domestic child abuse or neglect, as those terms are defined in sections 260C.007
7.12 and 626.556, respectively, the court shall appoint a guardian ad litem. The guardian
7.13 ad litem shall represent the interests of the child and advise the court with respect to
7.14 custody, ~~support,~~ and parenting time. If the child is represented by a guardian ad litem in
7.15 any other pending proceeding, the court may appoint that guardian to represent the child
7.16 in the custody or parenting time proceeding. No guardian ad litem need be appointed if
7.17 the alleged domestic child abuse or neglect is before the court on a juvenile dependency
7.18 and neglect petition. Nothing in this subdivision requires the court to appoint a guardian
7.19 ad litem in any proceeding for child custody, marriage dissolution, or legal separation in
7.20 which an allegation of domestic child abuse or neglect has not been made.

7.21 Sec. 11. Minnesota Statutes 2006, section 518A.35, subdivision 3, is amended to read:

7.22 Subd. 3. **Income cap on determining basic support.** (a) The basic support
7.23 obligation for parents with a combined parental income for determining child support in
7.24 excess of the income limit currently in effect under subdivision 2 must be the same dollar
7.25 amount as provided for the parties with a combined parental income for determining child
7.26 support equal to the income in effect under subdivision 2.

7.27 (b) A court may order a basic support obligation in a child support order in an
7.28 amount that exceeds the income limit in subdivision 2 if it finds that a child has a disability
7.29 or other substantial, demonstrated need for the additional support for those reasons set
7.30 forth in section 518A.43 and that the additional support will directly benefit the child.

7.31 ~~(c) The dollar amount for the cap in subdivision 2 must be adjusted on July 1 of~~
7.32 ~~every even-numbered year to reflect cost-of-living changes. The Supreme Court must~~
7.33 ~~select the index for the adjustment from the indices listed in section 518A.75, subdivision~~
7.34 ~~1. The state court administrator must make the changes in the dollar amounts required~~

8.1 ~~by this paragraph available to courts and the public on or before April 30 of the year in~~
8.2 ~~which the amount is to change.~~

8.3 Sec. 12. Minnesota Statutes 2006, section 609.135, subdivision 8, is amended to read:

8.4 Subd. 8. **Fine and surcharge collection.** A defendant's obligation to pay
8.5 court-ordered fines, surcharges, court costs, restitution, and fees shall survive for a period
8.6 of six years from the date of the expiration of the defendant's stayed sentence for the
8.7 offense for which the fines, surcharges, court costs, and fees were imposed, or six years
8.8 from the imposition or due date of the fines, surcharges, court costs, restitution, and fees,
8.9 whichever is later. Nothing in this subdivision extends the period of a defendant's stay of
8.10 sentence imposition or execution.

8.11 Sec. 13. Laws 2001, First Special Session chapter 8, article 4, section 4, is amended to
8.12 read:

8.13 **Sec. 4. DISTRICT COURTS** \$ 118,470,000 \$ 128,842,000

8.14 **Carlton County Extraordinary Expenses.**

8.15 \$300,000 the first year is to reimburse
8.16 Carlton county for extraordinary expenses
8.17 related to homicide trials. This is a onetime
8.18 appropriation.

8.19 **New Judge Units.** \$774,000 the first year
8.20 and \$1,504,000 the second year are for an
8.21 increase in judgeship units, including one
8.22 trial court judge unit beginning October 1,
8.23 2001, in the tenth judicial district, one trial
8.24 court judge unit beginning April 1, 2002, in
8.25 the third judicial district, one trial court judge
8.26 unit beginning July 1, 2002, in the tenth
8.27 judicial district, one trial court judge unit
8.28 beginning January 1, 2003, in the seventh
8.29 judicial district, and one trial court judge
8.30 unit beginning January 1, 2003, in the first
8.31 judicial district. Each judge unit consists of a
8.32 judge, law clerk, and court reporter.

- 9.1 **Alternative Dispute Resolution Programs.**
- 9.2 A portion of this appropriation may be
- 9.3 used for the alternative dispute resolution
- 9.4 programs authorized by article 5, section 18.
- 9.5 **Supplemental Funding for Certain**
- 9.6 **Mandated Costs.** \$4,533,000 the first
- 9.7 year and \$6,032,000 the second year are to
- 9.8 supplement funding for guardians ad litem,
- 9.9 interpreters, rule 20 and civil commitment
- 9.10 examinations, and in forma pauperis costs in
- 9.11 the fifth, seventh, eighth, and ninth judicial
- 9.12 districts.
- 9.13 **Trial Court Infrastructure Staff.** \$684,000
- 9.14 the first year and \$925,000 the second year
- 9.15 are for infrastructure staff.
- 9.16 **Court Effectiveness Initiatives;**
- 9.17 **Community Courts and Screener**
- 9.18 **Collectors.** \$835,000 the first year and
- 9.19 \$765,000 the second year are for court
- 9.20 effectiveness initiatives. Of this amount,
- 9.21 \$125,000 each year is for continued funding
- 9.22 of the community court in the fourth judicial
- 9.23 district and \$125,000 each year is for
- 9.24 continued funding of the community court
- 9.25 in the second judicial district. These are
- 9.26 onetime appropriations.
- 9.27 The second judicial district and fourth
- 9.28 judicial district shall each report quarterly to
- 9.29 the chairs and ranking minority members of
- 9.30 the legislative committees and divisions with
- 9.31 jurisdiction over criminal justice funding on:
- 9.32 (1) how money appropriated for this initiative
- 9.33 was spent; and

10.1 (2) the cooperation of other criminal justice
10.2 agencies and county units of government in
10.3 the community courts' efforts.

10.4 The first report is due on October 1, 2001.

10.5 None of this appropriation may be used
10.6 for the purpose of complying with these
10.7 reporting requirements.

10.8 Of this amount, \$585,000 the first year and
10.9 \$515,000 the second year are for screener
10.10 collector programs.

10.11 ~~The fifth, seventh, and ninth judicial district
10.12 courts shall implement screener collector
10.13 programs to enhance the collection of
10.14 overdue fine revenue by at least ten percent in
10.15 each location serviced by a screener collector.
10.16 By August 15, 2002, and annually thereafter,
10.17 the state court administrator shall report to
10.18 the chairs and ranking minority members
10.19 of the house of representatives and senate
10.20 committees with jurisdiction over criminal
10.21 justice policy and funding issues on the total
10.22 amount of fines collected, the amount of
10.23 overdue fines collected for the two preceding
10.24 fiscal years, and the expenditures associated
10.25 with the screener collector program.~~

10.26 **Ninth District County and Support Pilot**
10.27 **Projects.** Up to \$99,000 each year may
10.28 be used for the ninth judicial district to
10.29 implement the pilot projects on the six-month
10.30 review of child custody, parenting time, and
10.31 support orders, and on the accounting for
10.32 child support by obligees.

10.33 Sec. 14. Laws 2003, First Special Session chapter 2, article 1, section 2, is amended to
10.34 read:

11.1	Sec. 2. SUPREME COURT	\$	38,806,000	\$	36,439,000
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11.2 ~~**Report on Court Fees.** The state court~~
 11.3 ~~administrator shall review and report back~~
 11.4 ~~on the financial consequences of policy~~
 11.5 ~~changes made in the following areas: (1)~~
 11.6 ~~criminal and traffic offender surcharges; (2)~~
 11.7 ~~public defender co-pays; and (3) the use~~
 11.8 ~~of revenue recapture to collect the public~~
 11.9 ~~defender co-pay. The report shall also list~~
 11.10 ~~the local governmental units that employ~~
 11.11 ~~administrative procedures to collect fines~~
 11.12 ~~for ordinance violations. The state court~~
 11.13 ~~administrator must submit the report to the~~
 11.14 ~~chairs and ranking minority members on the~~
 11.15 ~~committees that have jurisdiction over court~~
 11.16 ~~funding by January 15 of each year.~~

11.17 \$5,000 each year is for a contingent account
 11.18 for expenses necessary for the normal
 11.19 operation of the court for which no other
 11.20 reimbursement is provided.

11.21 **Legal Services to Low-Income Clients in**
 11.22 **Family Law Matters.** Of this appropriation,
 11.23 \$877,000 each year is to improve the
 11.24 access of low-income clients to legal
 11.25 representation in family law matters. This
 11.26 appropriation must be distributed under
 11.27 Minnesota Statutes, section 480.242, to
 11.28 the qualified legal services programs
 11.29 described in Minnesota Statutes, section
 11.30 480.242, subdivision 2, paragraph (a). Any
 11.31 unencumbered balance remaining in the first
 11.32 year does not cancel and is available in the
 11.33 second year.

11.34 Of this appropriation, \$355,000 in fiscal
 11.35 year 2005 is for the implementation of

12.1 the Minnesota Child Support Act and is
12.2 contingent upon its enactment. This is a
12.3 onetime appropriation.

12.4 Sec. 15. **REPEALER.**

12.5 Minnesota Statutes 2006, sections 260B.173; 480.175, subdivision 3; and 626A.17,
12.6 subdivision 3, are repealed.