# Minnesota’s Public Defender System

**Who is entitled to a public defender?**  
The United States and Minnesota Constitutions both establish the right to an attorney for anyone facing a charge punishable by “loss of liberty.” Minnesota law entitles anyone who is financially unable to obtain counsel to a public defender if he or she is charged with a felony, gross misdemeanor, or misdemeanor; or is appealing from a conviction of a felony or gross misdemeanor and has not already had a direct appeal of the conviction.

**Are juveniles entitled to a public defender?**  
In most cases juveniles are entitled to a public defender. However, juveniles do not generally have the right to the appointment of a public defender for juvenile petty offenses (e.g., minor alcohol or controlled substance offenses, truancy, minor traffic offenses, etc.).

In CHIPS (Children in Need of Protection or Services) and TPR (Termination of Parental Rights) cases, juveniles have the right to an attorney by state statute. However, the right to counsel is different than the right to a public defender. Only juveniles who are ten years of age or older have the right to be represented by a public defender in child protection cases.

**Who is considered “financially unable” to obtain counsel?**  
A defendant is financially unable to obtain counsel if the defendant, or a defendant’s dependent (residing in the same household), receives means-tested governmental benefits, or, considering the defendant’s liquid assets and current income, the defendant would be unable to pay the reasonable costs charged by a private attorney. The burden is on the defendant to show financial inability to pay. The court must inquire into the financial circumstances of the defendant, and the defendant must submit a financial statement under oath. The defendant is under a continuing duty to disclose any change in financial status.

**How do co-pays work?**  
Upon disposition of the case, the defendant must pay a $28 co-payment, unless the court waives the co-payment. The statute does not indicate when a court should exercise its discretion to waive the co-payment. In 2003, the Minnesota Court of Appeals held that a defendant is exempt from the co-payment and the court must waive the co-payment when a defendant is indigent or when the co-payment would cause manifest hardship on a defendant.

**Does the defendant ever have to reimburse the state beyond co-pays?**  
The presiding judge must terminate the appointment of a public defender to any person who subsequently becomes financially able to pay, and the judge may order the person to reimburse the state.

**How is the public defender system funded?**  
In the last decade, the state has assumed the cost of the public defender system from the counties, with the exception of Hennepin County. In the Fourth Judicial District, costs are shared between the state and Hennepin County.
### How is the Minnesota public defender system governed?

Although the State Board of Public Defense is part of the judicial branch of government, it is not under the judicial branch’s administrative control. The State Board of Public Defense consists of seven members: four attorneys appointed by the Supreme Court and three public members appointed by the governor. The board appoints the state public defender for a four-year term, and, with the advice of the state public defender, appoints a chief administrator. The board also appoints a chief public defender in each of the state’s ten judicial districts and a chief appellate public defender.

There are also four legal defense corporations that are funded through grants from the board. The corporations serve primarily minority communities throughout the state.

### What are the duties of the Board of Public Defense?

The board has four main duties:

- It appoints the state public defender and a district chief public defender in each of the ten judicial districts
- It establishes standards for the public defender offices under its jurisdiction
- It establishes procedures for distribution of state funding to the state and district public defenders and to the public defense corporations
- It recommends a budget to the legislature

### What are the duties of the state public defender?

The state public defender supervises the statewide public defender system, proposes standards, proposes policies to implement adopted standards, and provides training for public defense attorneys.

### What are the duties of the chief administrator for the Board of Public Defense?

In addition to attending all board meetings (without voting), the chief administrator enforces all resolutions, rules, regulations, or board orders; presents plans, studies, and reports to the board and the state public defender; and recommends adoption of measures to carry out the board’s powers and duties. Further, the chief administrator keeps track of the financial condition of the public defense system and prepares the annual budget. The chief administrator does not need to be licensed to practice law.

### What are the duties of the chief public defenders?

Chief public defenders supervise the assistant public defenders, staff, and contract attorneys within their districts.

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