

## Chapter PD 6

### PAYMENT FOR STATE PUBLIC DEFENDER REPRESENTATION

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**PD 6.01 Payment for legal representation.** Except as provided in ss. PD 6.02 to 6.055, a person who is responsible for payment for legal representation provided by the state public defender shall contribute to the cost of the legal representation according to the following schedule:

| Type of Case                      | Amount | Type of Case                                   | Amount |
|-----------------------------------|--------|--|--------|
| First Degree Intentional Homicide | \$7500 | Misdemeanor                                    | \$240  |
| Other Class A or B Felony         | \$1200 | Revocation                                     | \$240  |
| Chapter 980 Proceedings           | \$1200 | Juvenile Felony/Termination of Parental Rights | \$480  |
| Other Felony                      | \$480  | Other Juvenile                                 | \$240  |
| Felony Diversion                  | \$240  |  |        |
| Commitment (Chapter 51)           | \$120  | Special Proceeding                             | \$120  |
| Chapter 55                        | \$480  | Paternity                                      | \$240  |
| Appellate/Category I              | \$1200 | Appellate/Category II                          | \$480  |

**History:** Cr. Register, July, 1995, No. 475, eff. 8-1-95; emerg. r. and recr. eff. 8-31-95; r. and recr. Register, February, 1996, No. 482, eff. 3-1-96; CR 04-038: am. Register August 2005 No. 596, eff. 9-1-05; CR 09-068: am. Register May 2010 No. 653, eff. 6-1-10; CR 10-134: am. Register April 2011 No. 664, eff. 6-19-11; **CR 13-049: am. Register January 2014 No. 697, eff. 2-1-14.**

**PD 6.015 Written notice of payment obligation for legal representation.** (1) The state public defender shall provide the following information in writing to all persons subject to payment for legal representation under s. 977.075 (1g), Stats.:

- (a) The optional discount amount in s. PD 6.02.
- (b) The maximum amount the person may be required to pay under the applicable fee schedule in s. PD 6.01.
- (c) The schedule for periodic payments if the person does not pay the optional discount amount.
- (d) The procedure to request a determination of ability to pay.

(2) Written notice is sufficient under this section if mailed to the person's last known address.

**History:** Emerg. cr. eff. 11-20-95; cr. Register, March, 1996, No. 483, eff. 4-1-96; CR 10-134: am. (title), (1) (a), (b), (c) Register April 2011 No. 664, eff. 6-19-11.

**PD 6.02 Discount option.** (1) A client may elect to pay, within 60 days of appointment of counsel by the state public defender, the optional discount amount for representation specified in the following schedule:

| Type of Case                      | Amount | Type of Case                   | Amount |
|-----------------------------------|--------|--------------------------------|--------|
| First Degree Intentional Homicide | \$600  | Misdemeanor                    | \$60   |
| Other Class A or B Felony         | \$120  | Revocation                     | \$60   |
| Chapter 980 Proceedings           | \$120  | Termination of Parental Rights | \$60   |
| Other Felony                      | \$60   | Special Proceeding             | \$30   |

|                  |       |              |      |
|------------------|-------|--------------|------|
| Felony Diversion | \$60  | Paternity    | \$60 |
| Appellate I      | \$120 | Appellate II | \$60 |

(2) If a client pays the optional discount amount under sub. (1), the client is not liable for any additional payment for public defender legal counsel for that case.

(3) The 60 day time period in sub. (1) may be extended for good cause.

**History:** Emerg. cr. eff. 8-31-95; cr. Register, February, 1996, No. 482, eff. 3-1-96; CR 02-031: am. (1), Register July 2002 No. 559, eff. 8-1-02; CR 04-038: am. (1) Register August 2005 No. 596, eff. 9-1-05; CR 09-068: am. (1) Register May 2010 No. 653, eff. 6-1-10; CR 10-134: am. (title), (1), (2), cr. (3) Register April 2011 No. 664, eff. 6-19-11; **CR 13-049: am. (1) Register January 2014 No. 697, eff. 2-1-14.**

**PD 6.025 Determination of ability to pay.** (1) The state public defender shall determine whether persons subject to payment for legal representation have the ability to pay all, or part of, the costs of representation. A person has the ability to pay some amount to these costs if the person has gross income in excess of the federal poverty guidelines, as defined in 42 U.S.C. s. 9902 (2) (2011) or has assets treated under s. PD 3.03 (2) as available to pay the costs of legal representation. The state public defender may defer the determination of ability to pay until after the time period for payment of the optional discount amount specified in s. PD 6.02 has expired.

(2) The state public defender may determine that a person has the ability to pay under any of the following circumstances:

(a) The person has gross income exceeding 115% of the federal poverty guidelines, as defined in 42 U.S.C. s. 9902 (2) (2011) or has assets treated under s. PD 3.03 (2) as available to pay the costs of legal representation.

(b) The person does not notify the state public defender by the date specified in the notice sent to them under s. PD 6.015 that they are unable to pay the specified periodic payments.

(c) The person does not comply with a request of the state public defender for information necessary to verify their financial circumstances.

(3) The state public defender may periodically review a person's ability to pay and may rely upon information obtained from employment and tax records to determine ability to pay. When a person originally unable to pay for legal representation is later determined to have the ability to pay, the state public defender shall send notice of a periodic payment schedule to the person's last known address.

(4) This section does not apply to persons subject to reimbursement under s. PD 6.05 or 6.055.

**History:** Emerg. cr. eff. 11-20-95; cr. Register, March, 1996, No. 483, eff. 4-1-96; CR 04-038: r. (2) (a), renum. (2) (b) to (d) to be (2) (a) to (c) Register August 2005 No. 596, eff. 9-1-05; CR 09-068: cr. (4) Register May 2010 No. 653, eff. 6-1-10; CR 10-134: am (1), (2) (a), (3) Register April 2011 No. 664, eff. 6-19-11; correction in (2) (a) made under s. 13.92 (4) (b) 4., Stats., Register April 2011 No. 664; CR 12-018: am. (1), (2) (a) Register July 2013 No. 691, eff. 8-1-13.

**PD 6.03 Multiple related charges.** (1) If multiple related charges for one client are issued on separate complaints,

the state public defender may waive the reimbursement fee for cases opened under any of the following circumstances:

(a) The multiple complaints allege the issuance of forged or worthless checks on the same account and within a period of three months or less.

(b) The multiple complaints allege offenses arising out of a single incident.

(2) The reimbursement fee for a case opened based on a reissuance of a criminal complaint previously dismissed is waived.

(3) Waiver of reimbursement fees under this section applies both to the reimbursement fee under s. PD 6.01 and the optional discount amount under s. PD 6.02.

**History:** Emerg. cr. eff. 8-31-95; cr. Register, February, 1996, No. 482, eff. 3-1-96; CR 10-134; am. (1) (intro.), (3) Register April 2011 No. 664, eff. 6-19-11.

#### PD 6.04 Multiple appointments on the same case.

When the same case results in multiple state public defender appointments of counsel for a client for any of the following reasons, the client shall not be charged an additional fee for the case:

(1) The case was reassigned for administrative reasons or because of a conflict of interest.

(2) The client requested substitution of counsel.

(3) The client retained a private attorney who withdrew before completion of the case.

(4) The client was granted a new trial after the judgment was vacated on ineffective assistance of counsel grounds.

**History:** Emerg. cr. eff. 8-31-95; cr. Register, February, 1996, No. 482, eff. 3-1-96; cr. (5), Register, June, 1999, No. 522, eff. 7-1-99; CR 10-134; am. (intro.), r. (2), renum. (3), (4), (5) to be (2), (3), (4) and am. Register April 2011 No. 664, eff. 6-19-11.

**PD 6.045 Reimbursement from clients with changed circumstances.** (1) The state public defender may, subject to s. 977.075 (3m), Stats., assess a payment amount in excess of the applicable amount in s. PD 6.01 if the client is responsible for payment under s. 977.075, Stats., and after counsel is appointed by the state public defender, does not meet the financial criteria specified in s. PD 3.03.

(2) In assessing a payment amount under sub. (1), the state public defender shall consider the costs of providing the client with representation and the point in the applicable proceeding at which the client no longer met the financial criteria specified in s. PD 3.03.

**History:** CR 10-134; cr. Register April 2011 No. 664, eff. 6-19-11.

#### PD 6.05 Reimbursement from parents of juveniles.

(1) Pursuant to ss. 48.275 (2) (b) and 938.275 (2) (b), Stats., when the court orders reimbursement by the parent of a juvenile, the amount of the reimbursement shall be the amount specified in the fee schedule in s. PD 6.01, subject to the following:

(a) The parent may request, within 30 days of the reimbursement order, that the state public defender determine whether the parent is indigent. If the parent does not make this request or if the parent is determined not to be indigent, the reimbursement shall be the amount specified in the fee schedule in s. PD 6.01.

(b) If the parent is determined to be partially indigent pursuant to s. PD 3.03 (7), the reimbursement shall not exceed 25% of the amount specified in the applicable schedule in s. PD 6.01. If the parent is determined to be indigent, no reimbursement shall be assessed.

(2) The state public defender shall report to the court that ordered reimbursement the result of the indigency determination and the amount of the reimbursement to be assessed.

(3) If reimbursement by both parents is ordered, the parents are jointly and severally liable for the obligation. The maximum amount for which both parents are obligated is the amount of the reimbursement under s. PD 6.01.

**History:** Emerg. cr. eff. 8-31-95; cr. Register, February, 1996, No. 482, eff. 3-1-96; correction in (1) (intro.) made under s. 13.93 (2m) (b), 7., Stats., Register, October, 1996, No. 490, eff. 11-1-96; am. (1) (b), Register, April, 1997, No. 496, eff. 5-1-97; CR 10-134; am. Register April 2011 No. 664, eff. 6-19-11; correction in (1) (b) made under s. 13.92 (4) (b) 4., Stats., Register April 2011 No. 664.

#### PD 6.055 Reimbursement from persons represented in civil commitment or chapter 55 proceedings.

(1) Except as provided in sub. (2), when the court orders reimbursement under s. 51.605 (1) or 55.107 (1), Stats., from a person for whom the state public defender has appointed an attorney in a proceeding under ch. 51 or 55, Stats., the amount of the reimbursement shall be the amount specified in the schedule in s. PD 6.01 for a commitment, if the case was filed under ch. 51, Stats., or for a ch. 55, Stats., case, whichever is applicable.

(2) Upon the court's request at or after the conclusion of the proceedings, the state public defender shall conduct a determination of indigency and report the results of the determination to the court.

(a) If the state public defender is unable to obtain the necessary financial information or if the person is determined not to be indigent, the reimbursement shall not exceed the amount specified in the applicable schedule in s. PD 6.01.

(b) If the person is determined to be partially indigent as provided in s. PD 3.03 (8), the reimbursement shall not exceed 25% of the amount specified in the applicable schedule in s. PD 6.01.

(c) If the person is determined to be indigent, no reimbursement may be assessed under s. 51.605 or 55.107, Stats.

**History:** CR 09-068; cr. Register May 2010 No. 653, eff. 6-1-10; am. Register April 2011 No. 664, eff. 6-19-11.

#### PD 6.06 Referral to department of administration.

The state public defender shall refer to the department of administration a collection account of a person who has been determined able to pay, has not paid the optional discount amount, has been given a monthly payment schedule and has missed a monthly payment by more than 10 days.

**History:** Emerg. cr. eff. 11-20-95; cr. Register, March, 1996, No. 483, eff. 4-1-96; CR 10-134; am. Register April 2011 No. 664, eff. 6-19-11.

**PD 6.07 Representation regarding payment of attorney fees.** The state public defender shall not provide representation to a person on the issue of the payment amount owed to the state public defender.

**History:** Emerg. cr. eff. 11-20-95; cr. Register, March, 1996, No. 483, eff. 4-1-96; CR 10-134; am. Register April 2011 No. 664, eff. 6-19-11.

**PD 6.08 Reports on status of collections.** The state public defender shall submit quarterly reports to the joint committee on finance and to the department of administration regarding the collection of payments ordered under ss. 48.275 (2), 51.605, 55.107, 757.66, 938.275, 977.06, 977.075, and 977.076, Stats. These reports shall include the amount collected and the amount of accounts receivable referred to the department of administration during each reporting period.

**History:** Emerg. cr. eff. 11-20-95; cr. Register, March, 1996, No. 483, eff. 4-1-96; CR 09-068; am. Register May 2010 No. 653, eff. 6-1-10; correction made under s. 13.92 (4) (b) 7., Stats., Register July 2011 No. 667.