

Eighth Judicial District Protocol Appointment of Public Defenders in Criminal/Juvenile Actions

Defendants charged with criminal violations, parents of juveniles charged in delinquency court, and parents of children named in CHIPS proceedings who qualify to seek the appointment of a public defender for legal representation shall complete an Eighth Judicial District Application for Public Defender. In delinquency matters, the juvenile may also be required to complete an application.

Following completion of the application, the following protocol should be followed:

- I. The judge should review the Application to determine whether a public defender should be appointed. The Eighth Judicial District Order on Application for Public Defender or Eighth Judicial District Order on Application for Public Defender for CHIPS/Delinquency should be completed to record the judge's decision.
 - A. If a public defender is appointed, the top portion of the Order should be completed and signed by the judge. The judge must order the appropriate co-payment which is payable immediately upon appointment of the public defender. The judge may also order reimbursement for public defense services.
 1. In criminal matters, the co-payment should be ordered for the highest charged crime, inclusive of all other charges, at the following rates:
 - Misdemeanor level charges - \$50.00
 - Gross Misdemeanor level charges - \$100.00
 - Felony level charges - \$200.00
 2. In delinquency matters, the parent(s) shall be required to pay a co-payment of \$100.00. If a public defender is appointed for the parent in a CHIPS proceeding, Minnesota law requires a co-payment of \$200.00. The co-payment is a joint and several obligation of the parents.
 3. If the defendant/parent(s) is/are not able to pay the co-payment or any ordered public defender reimbursement for the public defender services immediately upon appointment, a wage assignment shall be completed if the defendant/parent(s) is/are employed, a time payment schedule shall be set up, and revenue recapture may be utilized to collect the money.
 3. The co-payment is due and payable regardless of case outcome.

- B. If the judge needs more information to make a decision on whether to appoint a public defender on the case, the judge will complete and sign the middle portion of the Order. The judge may require wage stubs or copies of tax returns to be filed with the court. The judge may also schedule a hearing to inquire further about eligibility.
 - C. If the judge decides that the defendant/juvenile is not eligible for the appointment of a public defender, the bottom portion of the Order should be completed and signed.
- II. If reimbursement for public defender services has been ordered, the judge may inquire at the time of sentencing/disposition if the public defender has expended at least the amount of time to justify the total reimbursed amount at the statutory rate of \$40/hour.
- A. If the public defender has not expended the minimum amount of time to justify any ordered reimbursement amount at the statutory rate of \$40/hour, the judge may lower the reimbursement amount.
 - B. If the public defender has expended more time on the case and requests the judge to order further reimbursement for public defense services, the public defender must submit a written statement of time expended for the judge's consideration.
- III. The obligation for the co-payment and the reimbursement of public defense services are civil obligations with civil penalties attached to the obligations if payment is not made. Co-payments and reimbursement for public defense services shall not be made a condition of the sentence and no criminal penalties shall be invoked for non-payment.