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**Standing Order re: Public Defender Co-Payment upon filing of Dismissal<sup>1</sup>**

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**WHEREAS**, Minn. Stat. §611.17(c), requires anyone who “receive[s] public defender services” to pay a co-payment “[u]pon disposition of the case,” unless the co-payment is reduced or waived by the court;

**WHEREAS**, dismissal is a disposition triggering the provisions of Minn. Stat. §611.17(c);

**WHEREAS**, Minn. R. Crim. Pro. 30.01 authorizes prosecutors to dismiss most cases outright<sup>2</sup> without any intervention from a judicial officer;

**WHEREAS**, upon filing of a written dismissal, there is not an efficient mechanism to allow judicial officers to address the public defender co-payment;

**WHEREAS**, upon filing of a written dismissal, there is not a meaningful opportunity for defense counsel to address whether the co-payment would create a manifest hardship for the defendant;

**WHEREAS**, the right to counsel requires at least a possibility of relief from public defender co-payments for defendants who are indigent or to whom payment would pose a manifest hardship, see *State v. Tennin*, 674 N. W. 2d 403 (Minn. 2004), relying on *Fuller v. Oregon* 417 U.S. 40 (1974);

**WHEREAS**, it is contrary to the interests of justice to require the public defender co-payment from a person unless there has been an opportunity for a judicial officer to determine whether or not the person is indigent or would suffer manifest hardship from the payment;

<sup>1</sup> The Minnesota Judicial Branch has republished this order to make it digitally accessible. There were no substantive changes. This order was previously signed by Chief Judge Leonardo Castro on September 15, 2020, and this order is effective on that date.

<sup>2</sup> Any charges brought by indictment can only be dismissed with the court’s approval. Minn. R. Crim. Pro. 30.01

**It Is Hereby Ordered:**

1. Court administration in the Second Judicial District shall waive the public defender co-payment in all criminal cases dismissed in writing, unless otherwise directed by a judicial officer.

February 19, 2025

By the Court:

Sara Grewing  
Chief Judge of District Court