

GUIDELINES FOR ASSESSMENT AND

COLLECTION OF COSTS FOR COURT-RELATED SERVICES

1. Policy and Authority. Based on ability to pay, it shall be the policy of the Imperial County Court System to assess sums representing costs for legal services, probation related services and court-appointed investigations, as hereinafter set forth. Specifically, assessments shall be made to individuals for services as follows:
  - (a) adult defendants for costs of legal services provided by court-appointed counsel (Penal Code Section 987.8);
  - (b) convicted defendants for services rendered by the Probation Department as referenced by Penal Code Section 1203.1b;
  - (c) parents or other persons responsible for the support of minors for legal services provided in either juvenile delinquency or dependency proceedings (Welfare & Institutions Code Section 903.1)<sup>1</sup>; and (d) parents (or other persons seeking custody or visitation) in family law matters where the Court directs the Probation Department (or other court-appointed investigator) to conduct custody/visitation evaluation or supervision (Family Code Section 3112).<sup>2</sup>
2. Costs for Services. In each case where the Court determines ability to pay, the Court shall make an order requiring the appropriate person or persons to pay for all or part of the costs incurred for services referenced under 1 above, as further discussed below. To assist the Court with respect to determination of amounts to be assessed, the Public Defender, other court-appointed counsel and Probation Department shall provide information as set forth below:
  - (a) Public Defender and Other Court-Appointed Counsel. The Public Defender and other attorneys who provide criminal defense services, or services in Juvenile Court, by Court appointment, shall annually establish an hourly fee which shall represent the average hourly cost of providing such services. (Government Code Section 27712).<sup>3</sup> Said counsel shall keep a record of the time devoted on a case by case basis so as to be able to advise the Court and Probation Department of the amount of time devoted to a case as of the time of disposition.
  - (b) Probation Department. As required by Penal Code Section 1203.1b, the Probation Department shall develop a payment schedule for reimbursement for the costs of preplea or presentence investigations based on income. The Probation Department shall likewise submit information relating to the bases of its charges for other services referenced by Section 1203.1b and for civil custody and/or visitation related services as referenced in 1(d) above. Charges imposed for services rendered by the Probation Department shall not exceed the actual average cost thereof.

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<sup>1</sup>In addition to assessments for costs incurred in providing legal services to minors in dependency proceedings, assessments shall be made for legal services provided in such proceedings to other family members as authorized by Section 903.1 of the Welfare & Institutions Code.

<sup>2</sup>Assessments may be in addition to those made for costs of mediation.

<sup>3</sup>Hourly rates established for legal services provided in Juvenile Court proceedings shall be submitted to the Board of Supervisors for approval so as to comply with Section 904 of the Welfare & Institutions Code.

3. Determination of Ability to Pay; Recommendation by Probation. Every court order which requires a defendant (parent or other responsible person) to reimburse the County for all or a portion of costs for services incurred, shall be based on ability to pay. In determining ability to pay, the following procedures shall be followed:
- (a) Financial Disclosure. Completion of financial disclosure forms shall be required as follows:
    - (1) Each adult defendant who requests appointment of either the Public Defender or other court-appointed counsel shall be required to complete a financial disclosure statement as authorized by Penal Code Section 987(c).<sup>4</sup>
    - (2) Parents (or other responsible persons) shall be required to complete financial disclosure statements in cases involving minors in juvenile delinquency or dependency cases in Juvenile Court.
    - (3) Parents (or other persons seeking custody or visitation) in family law disputes shall be required to provide income and expense statements as required by the Family Code. (Applications for fee waivers may also be submitted as authorized by law.)
  - (b) Interview and Evaluation By Probation. In every case where the Court intends to issue an order requiring a defendant (or parent or other responsible person) to pay costs incurred for services rendered as referenced under 1 above, the Court may require the defendant (parent or other responsible person) to be interviewed by a representative from the Probation Department concerning his or her ability to pay for costs of services. The Court may also direct the responsible person) to make payments.<sup>5</sup>
  - (c) Recommendation by Probation. Upon request by the Court, the Probation Department shall in writing recommend the amount of payment and the manner in which payments shall be made to the County, based upon the defendant's (or parent's or other responsible person's) ability to pay. The Probation Department's recommendation shall contain a summary of the facts upon which it is based; and, it shall take into account, without limitation, the amount of any fine imposed and the amount of any restitution ordered paid.
  - (d) Right to Hearing. A copy of the written recommendation of the Probation Department, if any, shall be provided to the defendant (or parent or other responsible person) and to court-appointed counsel. The defendant (or parent or other responsible person) shall be advised the recommendation is not final until ordered by the Court and that the defendant (or parent or other responsible person) is entitled to a hearing if in disagreement with the recommendation.

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<sup>4</sup>A defendant who is bound-over after having been provided court-appointed counsel by the Municipal Court may be required to complete a new or supplemental financial disclosure statement on requesting court-appointed counsel by the Superior Court.

<sup>5</sup>So as to comply with Welfare & Institutions Code Section 903.45, request shall be made of the Board of Supervisors to designate the Chief Probation Officer as county financial evaluation officer pursuant to Section 27750 of the Government Code. (Refer also to Welfare & Institutions Code Section 903.45.)

4. Order For Payment; Hearing.
  - (a) When a defendant (parent or other responsible person) agrees with the recommendation of the Probation Department, the Probation Department shall prepare a proposed order, containing the written consent of the defendant (or parent or other responsible person); and, shall submit the same to the Court for signature.<sup>6</sup>
  - (b) If the defendant (parent or other responsible person) does not agree with the recommendation of the Probation Department, a hearing shall be scheduled before the Court to determine the amount of payment, if any, and the manner in which payments shall be made. The following rules shall apply to the hearing:
    - (1) The defendant (parent or other responsible person) shall be entitled to the opportunity to be heard in person, to disclosure of evidence against him or her, to present witnesses and other documentary evidence and to confront and cross-examine the representative of the Probation Department, who prepared the recommendation, and any other adverse witnesses.
    - (2) At the hearing, if the Court determines the defendant (parent or other responsible person) has the ability to pay all or part of the costs, the Court shall set the amount to be reimbursed and order the defendant (or parent or other responsible person) to pay that sum to the County in the manner in which the Court believes reasonable and compatible with his or her financial ability.<sup>7</sup>
5. Collections. The Probation Department (with the assistance of the office of County Counsel) shall be responsible for collecting sums ordered paid pursuant to these guidelines. Subject to approval by the Board of Supervisors, collection procedures may be developed which involve utilization of outside collection agencies.

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<sup>6</sup>It is the Court's intention the order when so signed and entered shall have the force and effect of a judgment.

<sup>7</sup>When the Court determines that the defendant's (parent's or other responsible person's) ability to pay is different from the recommendation of the Probation Department, the Court shall state on the record the reason for its order.

With the consent of the defendant (parent or other responsible person), the Court may at the hearing direct the Probation Officer and defendant (parent or other responsible person) to further meet to work out a schedule for making payments to satisfy the amount ordered for payment by the Court. (The order when signed and entered shall have the force of a judgment.)