

Judicial Council of California • Administrative Office of the Courts

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INVITATION TO COMMENT SPR12-21

Title	Action Requested
Juvenile Dependency: Counsel Collections Program	Review and submit comments by June 15, 2012
Proposed Rules, Forms, Standards, or Statutes	Proposed Effective Date
Adopt Juvenile Dependency Counsel Collections Program Guidelines; approve forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, JV-136	January 1, 2013
Proposed by	Contact
Family and Juvenile Law Advisory Committee	Corby Sturges
Hon. Kimberly J. Nystrom-Geist, Cochair	415-865-4507
Hon. Dean T. Stout, Cochair	corby.sturges-t@jud.ca.gov

Executive Summary and Origin

Recent legislation requires the Judicial Council to establish a program to collect the cost of dependency-related legal services from responsible persons who are able to bear that cost. Specifically, section 903.47 of the Welfare and Institutions Code, as added in 2009 by Assembly Bill 131 (Stats. 2009, ch. 413) and amended by Assembly Bill 1229 (Stats. 2010, ch. 569) and Senate Bill 647 (Stats. 2011, ch. 308), requires the Judicial Council to “establish a program to collect reimbursements from the person liable for the costs of counsel appointed to represent parents or minors” under section 903.1 in dependency proceedings. The statute further mandates that the program include a statewide standard for determining a responsible person’s ability to pay reimbursement as well as policies and procedures allowing a court to recover its costs associated with implementing the program. The Dependency Counsel Reimbursement Working Group, which includes representatives of the Family and Juvenile Law Advisory Committee, the Trial Court Budget Working Group, local court administration, and the juvenile dependency bar,¹ considered many alternative methods for implementing the statutory program. After extensive deliberation, the working group determined that program guidelines and optional forms

¹ The DCR working group comprises judges, court executives, and administrators from superior courts in Calaveras, Contra Costa, Inyo, Mendocino, Orange, Riverside, Sacramento, San Bernardino, and Solano counties, as well as juvenile law attorneys from Los Angeles and San Francisco.

The proposals have not been approved by the Judicial Council and are not intended to represent the views of the council, its Rules and Projects Committee, or its Policy Coordination and Liaison Committee. These proposals are circulated for comment purposes only.

would be more appropriate than rules of court or other mandatory structures. The guidelines are intended to give each court the greatest possible flexibility, within the limits imposed by statute, to implement the program in the most cost-effective manner and to tailor the program to local needs and circumstances. Recognizing the burden that this legislative mandate will place on many courts, the Family and Juvenile Law Advisory Committee proposes the adoption of these guidelines and the approval of the optional Judicial Council forms to establish the program with as much flexibility as permitted by statute.

Background

Under section 317 of the Welfare and Institutions Code,² the juvenile court is authorized or, in many circumstances, required to appoint counsel for parents and children in dependency cases.³ The court must appoint counsel for a child unless it finds that the child will not benefit from the appointment. If it “appears to the court that the parent desires counsel but cannot afford and, for that reason, cannot employ counsel,” the court may appoint counsel. If the child has been placed out of the home, however, the court must appoint counsel for a parent who appears unable to afford to hire an attorney, unless the parent submits a knowing and intelligent waiver of counsel.

Liability for cost of legal services. Section 903.1, enacted in 1965 (Stats. 1965, ch. 2006), imposes liability for the cost of legal services provided to a child by court-appointed counsel in all juvenile court proceedings (both dependency and delinquency) on the parent, spouse, or other person responsible for the support of the child.⁴ In *In re Ricky H.* (1970) 2 Cal.3d 513, the Supreme Court upheld the constitutionality of section 903.1, ruling that the cost of legal services for a youth subject to a delinquency proceeding fell within the scope of the responsible person’s common law obligation to supply one’s children with the necessities of life. In distinguishing this obligation from others it had recently struck down, the court also emphasized that legal services were intended to protect the youth’s own legal and constitutional rights and not to protect society generally. The courts have not had occasion to consider the constitutionality of section 903.1 in the context of dependency proceedings, but the *Ricky H.* court’s analysis would seem to apply in this context as well. Legal services are provided to a child in dependency proceedings to protect the child’s legal rights and interests. (See, e.g., § 317(e).)

As amended in 1981 (Stats. 1981, ch. 188, § 1), section 903.1(a) also imposes liability for the cost of legal services in a dependency proceeding provided directly to a responsible person, typically a parent or guardian, on the person receiving those services. Last, section 903.1(b) relieves responsible persons from liability for the cost of legal services in a dependency

² All further unspecified statutory references are to the Welfare and Institutions Code.

³ Section 634 governs appointment of counsel in delinquency cases. Until 1976, section 634 governed the appointment of counsel in all juvenile court matters.

⁴ For the sake of brevity, the guidelines and this invitation to comment will refer to these persons as *responsible persons*.

proceeding if the petition is dismissed at or before the jurisdictional hearing. (See Stats. 1996, ch. 508, § 2.)

Cost determination. Section 218 assigns to the court the responsibility of determining the amount that counsel appointed in juvenile court will receive as compensation for his or her services.⁵ Section 904⁶ also gives to the court the duty of determining the cost of dependency-related legal services referred to by section 903.1. The statute predicates the validity of a court's cost determination either on the court's use of procedures adopted by the Judicial Council or on the Judicial Council's approval of the determination.

Determination of ability to pay. The initial appointment of counsel for a parent or guardian is subject to a judicial determination that the parent is "presently financially unable to afford and cannot for that reason employ counsel." (§ 317(a), (b).) Sections 903.45 and 903.47 also presume that a responsible person's obligation under section 903.1 to reimburse the court for the cost of legal services depends on his or her ability to pay for those services at the close of the dispositional hearing. Sections 903.47(b) and 903.45(a) authorize the court and the county board of supervisors, respectively, to designate a financial evaluation officer to make financial evaluations of a responsible person's liability for reimbursement under, among other provisions, section 903.1. Section 903.45(b)–(d) sets forth procedures that the financial evaluation officer must follow when handling reimbursements.⁷ These procedures include guidelines for (a) notice and order to appear before a financial evaluation officer; (b) criteria on which to base the evaluation; (c) the duties of the financial evaluation officer in the event of a determination that the responsible person is able to pay all or part of the cost; and (d) the rights of the responsible person to dispute the officer's determination, to have a hearing before the court in the event of a dispute, and, following an entry of a judgment of liability but before the judgment's satisfaction, to petition the court to modify or vacate the judgment based on a change in circumstances.

Implementation history

The history of the dependency counsel collections program is closely tied to caseloads and funding levels for appointed counsel in dependency proceedings. When the Legislature mandated the presumptive appointment of counsel for children in dependency cases in Senate Bill 2160 (Stats. 2000, ch. 450), it also directed the Judicial Council to promulgate rules to establish

⁵ Section 317(c) also authorizes the court to "fix the compensation for the services of appointed counsel" for children.

⁶ As amended by Assembly Bill 1700 (Stats. 2001, ch. 824). AB 1700 also amended section 77003 of the Government Code to include the cost of legal services in dependency proceedings within the scope of court operations.

⁷ Section 903.45(b), which *requires* the court in any county in which the board of supervisors has designated a county financial evaluation officer to order a responsible person at the close of the dispositional hearing to appear before the county financial evaluation officer for an evaluation of ability to pay, and section 903.47(b), which *permits* the court to designate its own financial evaluation officer or, with the consent of the county, to designate the county financial evaluation officer to evaluate liability, appear to be in some tension.

caseload standards, training requirements, and appointment guidelines for children’s counsel. The Legislature also determined that the cost of appointed counsel in dependency court was an element of “court operations” (Stats. 2001, ch. 824, § 33) and assigned the court, under procedures adopted by the Judicial Council, the duty of determining that cost. (*Id.*, § 40).

In 2001, the Judicial Council adopted rules requiring appointment of counsel for children at the trial court level in almost all dependency cases and maintaining the existing framework for appointment of parents’ counsel. In addition, Judicial Council staff at the AOC’s Center for Families, Children & the Courts engaged the American Humane Association (AHA) to study caseloads and service delivery of appointed counsel for both parents and children in dependency proceedings. In a June 2004 report, the AHA recommended a maximum caseload per dependency attorney of 141 client cases and suggested that an optimum caseload would be 77 client cases per attorney.

The Judicial Council began testing the feasibility of the standards and recommendations of the report through the Dependency Representation, Administration, Funding, and Training (DRAFT) pilot program, with the goal of improving representation of parents and children in dependency cases as cost-effectively as possible. Ten counties—Imperial, Los Angeles, Marin, Mendocino, San Diego, San Joaquin, San Luis Obispo, Santa Barbara, Santa Cruz, and Stanislaus—initially applied and were chosen to test the recommendations through a centralized dependency counsel administrative model.

The DRAFT program has measured the effect of reduced caseloads and increased compensation for dependency counsel on improved well-being outcomes for children, with the average caseload in DRAFT counties at 191 clients per attorney. The DRAFT counties outperformed non-DRAFT counties in improving key outcomes for children, including decreasing time to family reunification, reducing reentry into the foster care system, decreasing time to establishment of guardianships, and increasing placement of at least some siblings together in the same home. (Judicial Council of Cal., Admin Off. of Cts., *Dependency Counsel Caseload Standards: A Report to the California Legislature* (Apr. 2008).)

As a result of the DRAFT program, the Judicial Council adopted a modified caseload standard of 188 clients per dependency attorney, with one half-time investigator or social worker per attorney. The courts, however, have lacked and continue to lack sufficient funding to implement this recommendation fully. As of July 2008, dependency counsel carried an average caseload of 283 clients. The annual budget allocation of \$103 million did not even cover the costs of court-appointed counsel carrying this caseload. It was estimated that an additional \$57.1 million would be required to implement the caseload standard. Without the prospect of an increase in baseline funding, the Judicial Council and its staff began to seek alternative sources of revenue. Beginning in fiscal year 2008–2009, the council itself has supplemented the baseline allocation

by transferring \$7 million to cover existing program costs. This year, however, the council has reduced its supplement to \$3.5 million. The council forecasts that it will not have the funds to supplement the baseline allocation after the current fiscal year.

In another effort to close the funding gap, Judicial Council staff established a pilot project in San Joaquin and Stanislaus Counties to determine whether responsible persons who received court-appointed legal services in dependency cases were, despite the court's initial determination under section 317, able to pay for legal services themselves.⁸ The project revealed that 7 to 10 percent of responsible persons were able to afford an average of \$850 in gross reimbursement for dependency counsel costs. Extrapolating these figures to all 58 counties, staff estimated that the expansion of the program statewide would result in aggregate annual reimbursements of \$3 million to \$5 million. Staff concluded that, though these reimbursements would not come close to bridging the \$57.1 million shortfall, they could provide a significant portion of the funding needed to offset the reduction in the annual supplement and to begin to reduce caseloads in some locations. The Legislature enacted AB 131 following receipt of these estimates in lieu of increasing the baseline budgetary allocation for court-appointed counsel. In the years since, the Legislature has continued to fund court-appointed dependency counsel at existing levels.

When AB 131 took effect in January 2010, Judicial Council staff at the AOC sent the trial courts a summary of the legislation and a survey designed to capture existing court practices to recoup the cost of appointed counsel in dependency proceedings. In addition, staff invited court executive officers to identify court employees to participate in a working group to develop the reimbursement program. Fifteen individuals representing 11 courts were identified. The Juvenile Dependency Cost Recovery Working Group,⁹ comprising these individuals and council staff, was established in January 2010 to develop the program guidelines. Group members and staff also consulted representatives from the AOC's Finance Division and the Enhanced Collections Unit in the development of the initial draft of the program guidelines.

In June 2010, staff presented a draft of the program guidelines to the Judicial Council. The council approved the guidelines with the understanding that the statutorily required elements of the guidelines were in place and that the working group would continue meeting to finalize all other aspects of the guidelines. In September 2010, the Juvenile Dependency Counsel Collections Program (JDCCP) Guidelines were circulated to trial court presiding judges and court executive officers, with a request that they be distributed to appropriate court staff for review and feedback. The working group then modified the guidelines in response to comments received and distributed a "final" version to the trial courts in November 2010.

⁸ The pilot project ran from October 2005 to April 2008.

⁹ The Juvenile Dependency Cost Recovery Working Group was a predecessor of the current Dependency Counsel Reimbursement Working Group.

Following the distribution of these “final” guidelines, staff received feedback from trial courts objecting to the structure and content of the guidelines, calling for a more thorough legal review, and suggesting that the council establish the program through the rules and forms process rather than through internal guidelines. Judicial officers raised specific concerns regarding the consistency of the guidelines with statute and a perceived lack of transparency in the development of the guidelines. Court executive officers struggled with the difficulties involved in implementing the program under the guidelines.

After consulting the Court-Appointed Counsel (CAC) Subcommittee of the Trial Court Budget Working Group, a second working group was convened to develop a proposal for rules and forms to govern the reimbursement program. This group included members of the CAC Subcommittee, interested judges and court executive officers, and council staff. At its first teleconference in February 2011, the working group reviewed the guidelines to determine which elements were appropriate for inclusion in a rule. Based on this meeting, staff drafted proposed rules and forms for the group to review. At its second teleconference at the end of May 2011, the working group expressed reservations regarding the suitability of the rules and forms process for the reimbursement program, the authority of the Judicial Council to impose mandates on the trial courts through rules of court, and, at a very general level, the content of the proposed rules themselves and the language used to express that content. Both staff and group members consulted with the council’s Rules and Projects (RUPRO) Committee, then chaired by Justice Douglas P. Miller of the Fourth Appellate District of the Court of Appeal. At Justice Miller’s request, the second working group was expanded to include members of both the CAC Subcommittee and the Family and Juvenile Law Advisory Committee. The new Dependency Counsel Reimbursement (DCR) Working Group was tasked with reviewing the available options for establishing the required reimbursement program and, if appropriate, recommending a course of action to the Judicial Council.

The Proposal

As added by Assembly Bill 131 (Stats. 2009, ch. 413) and amended by Assembly Bill 1229 (Stats. 2010, ch. 569) and Senate Bill 647 (Stats. 2011, ch. 308), section 903.47 requires the Judicial Council to “establish a program to collect reimbursements from the person liable for the costs of counsel appointed to represent parents or minors” under section 903.1 in dependency proceedings. The statute specifies that the council, as part of the program, must: (1) “[a]dopt a statewide standard for determining [a responsible person’s] ability to pay reimbursements for counsel, which [standard] shall at a minimum include [(a)] the family’s income, [(b)] its necessary obligations, [(c)] the number of individuals dependent on this income, and [(d)] the cost-effectiveness of the program”; and (2) “[a]dopt policies and procedures allowing a court to recover from the money collected the costs associated with implementing the reimbursements program,” defined as “the court costs of assessing a parent’s ability to pay for court-appointed counsel and the costs to collect delinquent reimbursements.” In turn, these policies and procedures must “at a minimum [a] limit the amount of money a court may recover to a

reasonable proportion of the reimbursements collected and [b] provide the terms and conditions under which a court may use a third party to collect delinquent reimbursements.”

AB 131 also established requirements for the processing and use of the reimbursements collected under the program. The bill added subdivision (c) to section 903.1 to mandate that fees received by the courts under section 903.1 be “transmitted to the Administrative Office of the Courts in the same manner as prescribed in Section 68085.1 of the Government Code.” Section 903.1(c), in conjunction with section 903.47(a)(2), requires the AOC to deposit the fees received under section 903.1 into the Trial Court Trust Fund as required by section 68085.1 of the Government Code. Section 903.47(a)(2) goes on to mandate that, “[e]xcept as otherwise authorized by law, the money collected under this program shall be utilized to reduce caseloads, for attorneys appointed by the court, to the caseload standard approved by the Judicial Council. Priority shall be given to those courts with the highest attorney caseloads that also demonstrate the ability to immediately improve outcomes for parents and children as a result of lower attorney caseloads.”¹⁰

In sum, 2009 saw the Legislature effect three significant changes in the administration of reimbursement for the cost of court-appointed legal services in dependency proceedings:

1. It required the Judicial Council to establish a program to collect reimbursements from responsible persons.
2. It mandated that the council establish a statewide standard for determining a responsible person’s ability to pay reimbursement.
3. It required the trial courts to transfer any reimbursements collected to the Administrative Office of the Courts for deposit in the Trial Court Trust Fund and redistribution to the trial courts to reduce the caseloads of court-appointed counsel.

The complex statutory scheme to which these requirements were added has made implementation all the more challenging. In its review of the available options for the reimbursement program, the working group has taken account of local courts’ need for flexibility in implementing the program, the limits imposed by statute, and the need to maintain or possibly augment the funding available for court-appointed dependency counsel. These considerations impacted both the formal structure and the substantive content of the proposed framework.

Program framework. When the current working group began reviewing the program in September 2011, it first evaluated options for the structure of the program. Among the alternatives the group considered are (1) taking no action and leaving the existing, informal

¹⁰ This proposal does not address the distribution of collected funds. The Family and Juvenile Law Advisory Committee recognizes that the statutory requirement raises difficult issues and anticipates working closely with stakeholders, including the Trial Court Budget Working Group, to make recommendations regarding the fair and efficient implementation of the requirement.

program guidelines and form templates in place; (2) revising the guidelines and form templates consistent with the group's legal and policy determinations, but recommending no change in their formal status; (3) revising the program framework as suggested in option 2 and recommending that the Judicial Council formally establish the reimbursement program through the approval of the completed guidelines and form templates as judicial branch policies and procedures; (4) developing a rules and forms proposal using the revised guidelines as a basis for the proposed rules and recommending adoption or approval of mandatory or optional Judicial Council forms; and (5) combining different elements of these options into a distinct proposal.

The committee endorses the working group's conclusion that the most suitable program framework would be:

- A set of guidelines circulated for comment and adopted by the Judicial Council, and
- An accompanying set of optional Judicial Council forms for local courts to use as published as models for creating their own local forms.

Cost determination. With a suitable framework in place, the group next tackled several substantive issues regarding the content of the program guidelines and forms. The group needed to determine one or more methods that courts could use to determine their cost of legal services in dependency under section 904. Although not a legally required element of the reimbursement program, the determination of cost sets an upper limit on the amount that a court may assess a responsible person for reimbursement. The committee recommends that a court be able to adopt one of three methods: determining the actual cost allocable to individual clients; determining cost using a cost model designed to produce the most accurate possible cost estimate without exceeding actual costs; or using a flat rate fee structure. These methods are outlined in section 5.0 of the guidelines.

Program administration. The group next addressed the administration of the program proper. The statute requires the Judicial Council to set a statewide standard for determining a responsible person's ability to repay the costs of legal services and lists four factors that must be included in the standard: the family's income, the family's necessary obligations, the number of individuals depending on the family income, and the cost-effectiveness of the program.

Standard for determining ability to pay. The working group recommended a two-tiered standard elaborated in section 6.4 of the guidelines. In the first tier, a responsible person who meets the standards for a civil fee waiver under Government Code section 68632 would be presumed unable to pay and eligible for a waiver of liability. A local court could make a policy determination whether circumstances in its jurisdiction warranted further inquiry into the financial condition of a person who met these threshold requirements. If the court determined that further inquiry would not be warranted or cost-effective, the inquiry would end at this point.

For a person who does not qualify for a presumptive waiver of liability or whose court has determined that further inquiry is warranted irrespective of eligibility for a waiver, the second

tier would come into play. A designated financial evaluation officer would engage in a detailed analysis of the person's financial condition, balancing the responsible person's household income with the household's needs and obligations and the number of individuals dependent on that income. In the case of a person initially presumed unable to pay, the second-tier inquiry could either confirm the presumption or rebut the presumption and result in a recommendation to require the person to pay all or part of the cost of legal services.

Cost recovery and third party policies and procedures. The recommended guidelines also include the required policies and procedures allowing the courts to recover the costs of implementing the reimbursements program. These policies and procedures limit the money recovered to a reasonable proportion of the reimbursements received. The working group decided to leave this statutory standard unmodified to give local courts the flexibility they need to implement the program while minimizing the impact of start-up costs. The guidelines sketch terms and conditions under which a court may use a third party to collect reimbursements, but try to leave the court as much flexibility as possible. They also include provisions under which the Administrative Office of the Courts could take on the burden of contracting with third parties on behalf of local courts.

Optional forms. The working group also recommends a set of optional Judicial Council forms. These forms would give courts a consistent and simple way to inform responsible persons of their rights and responsibilities in the process, refer responsible persons for financial evaluation, provide notice and information to parents and other responsible persons, and gather financial information from responsible persons.

This set of forms would provide separate forms for:

- The financial evaluation officer to make a recommendation to the court regarding a person's ability to pay reimbursement;
- The responsible person to agree or disagree with the recommendation; and
- The court to issue an order of reimbursement.

By making the forms optional, the working group has tried to accommodate both those courts that lack the resources to develop their own local forms and those courts that need to tailor forms to their local needs and circumstances.

In an effort to give courts the option of reducing the number of forms they use, the working group also recommends circulating, as an alternative, a single form that would combine:

- The financial evaluation officer's recommendation,
- The responsible person's response, and
- The court order.

It is not clear whether this combined form, which would need to travel from the financial evaluation officer to the responsible person, then on to the court, would be compatible with all

electronic case management systems across the state. The working group does, however, recommend circulating it for comment to determine its usefulness.

Alternatives Considered

The previous section discusses at some length the alternatives considered by the working group and the advisory committee when developing the program.

Implementation Requirements, Costs, and Operational Impacts

This proposal is likely to have significant short-term and ongoing implementation costs; these are inherent in the statutory requirements. The committee hopes that these costs can be largely, if not completely, offset by courts' recovery of a reasonable proportion of the funds collected through the program. Courts will need to employ or contract for a financial evaluation officer. They will also need to address liability for the cost of legal services at the dispositional hearing, thus extending the length of that hearing in many cases. Procedures are required for receiving, handling, and depositing any funds collected. These procedures may overlap with existing procedures for collecting court fees, but additional procedures may be necessary. All of these duties will require staff time and resources if performed in house. Courts that contract with the county or a third party to provide dependency counsel collection services will incur the costs of those contracts. Court-appointed parents' counsel would see an indeterminate increase in workload if required to represent their clients at hearings on disputes over ability to pay.

Request for Specific Comments

In addition to comments on the proposal as a whole, the advisory committee is interested in comments on the following:

- Does the proposal appropriately address the stated purpose?
- Should the proposed guidelines be included as an appendix to the California Rules of Court and be referenced in rule 1.4(d), be included in the standards of judicial administration, or located somewhere else?
- Do the proposed guidelines and optional forms make the implementation of the program more difficult or costly than necessary under the terms of the statute?
- If so, are there ways, within the limits imposed by statute, to modify the guidelines or forms to reduce the difficulty or cost of implementation?

The advisory committee also seeks comments from *courts* on the following cost and implementation matters:

- Will the proposal provide cost savings? If so, please quantify.
- What are the implementation requirements for courts? For example, training staff (please identify position and expected hours of training), revising processes and procedures (please describe), changing docket codes in case management system, or modifying case management system.
- Would two months from Judicial Council approval of this proposal until its effective date provide sufficient time for implementation?
- How well would this proposal work in courts of different sizes?

Attachments and Links

1. Proposed JDCCP guidelines, at pages 12–31
2. Proposed optional forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, JV-136, at pages 32–43
3. Assembly Bill 131 (Stats. 2009, ch. 413), www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0101-0150/ab_131_bill_20091011_chaptered.pdf

Title: Juvenile Dependency Counsel Collections Program (JDCCP) Guidelines

Contact: Administrative Office of the Courts, Center for Families, Children & the Courts
Melanie Jones, Senior Court Services Analyst

Policy Statement: These guidelines establish uniform policies and procedures for the administration of the Juvenile Dependency Counsel Collections Program (JDCCP) required by section 903.47 of the Welfare and Institutions Code (added by Assembly Bill 131; Stats. 2009, ch. 413).

1 **1.0 Legal Authority**

2 Welfare and Institutions Code¹ section 903.47 requires the Judicial Council to “establish a
3 program to collect reimbursements from the person liable for the costs of counsel
4 appointed to represent parents or minors pursuant to Section 903.1 in dependency
5 proceedings.” (Welf. & Inst. Code, § 903.47(a).) As part of that program, the council must
6 “[a]dopt a statewide standard for determining [a responsible person’s] ability to pay
7 reimbursements for counsel.” This standard must “at a minimum include the family’s
8 income, their necessary obligations, the number of people dependent on this income, and
9 the cost-effectiveness of the program.” (*Ibid.*) The council must also “[a]dopt policies and
10 procedures allowing a court to recover from the money collected the costs associated with
11 implementing the reimbursements program.”² These policies and procedures must, in turn,
12 at least “limit the amount of money a court may recover to a reasonable proportion of the
13 reimbursements collected and provide the terms and conditions under which a court may
14 use a third party to collect reimbursements.” (*Ibid.*)

15
16 Section 903.1 imposes liability on specified persons and estates for the cost of legal
17 services provided to the child and directly to such a person in dependency proceedings.
18 These responsible persons are jointly and severally liable for the cost of the child’s
19 representation.³ If the petition is dismissed at or before the jurisdictional hearing, though,
20 no liability attaches.

21
22 Section 904 authorizes the trial court to determine the cost of dependency-related legal
23 services using methods or procedures approved by the Judicial Council.

24
25 Under section 903.47(b), the court may designate a court employee or, with the agreement
26 of the county, a county employee to be the financial evaluation officer (FEO). The court
27 refers any responsible person to the designated FEO at the close of the dispositional
28 hearing under section 903.45(b). The FEO, regardless whether he or she is a court or
29 county employee, then determines the responsible person’s ability to pay all or part of the
30 cost of dependency-related legal services under the procedures and within the limits set by
31 section 903.45(b). The statutory scheme, particularly sections 901 and 903, prohibits the
32 assessed amount from exceeding the actual cost of the legal services.

33
34 **2.0 Effective Date**

35 These guidelines are effective for all dependency proceedings in which the dispositional
36 hearing begins on or after January 1, 2013.

37

¹ All subsequent statutory references are to the Welfare and Institutions Code unless otherwise specified.

² The statute defines *costs associated with implementing the reimbursements program* as the court costs of assessing a parent’s ability to pay for court-appointed counsel and the costs to collect delinquent reimbursements.

³ Section 903.1(a) can also be read to impose joint and several liability on responsible persons for the cost of dependency-related legal services provided directly to a responsible person. It is not clear that this was the Legislature’s intent.

1 **3.0 Responsible Person**

2 *Responsible person*, as used in these guidelines, refers to the father, mother, spouse, or any
3 other person liable for the support of a child; the estate of that person; or the estate of the
4 child, as made liable under section 903.1(a) for the cost of dependency-related legal
5 services rendered to the child or directly to the person.
6

7 **4.0 No Liability**

8 Under section 903.1(b), a responsible person is not liable for, and the court will not seek
9 reimbursement of, the cost of legal services under section 903.1(a) if the dependency
10 petition is dismissed at or before the jurisdictional hearing.
11

12 **5.0 Determination of Cost of Legal Services**

13 The court will determine the cost of dependency-related legal services. In doing so, the
14 court may adopt *one* of the following three methods approved by the Judicial Council. In
15 no event will the court seek reimbursement of an amount that exceeds the actual cost of
16 legal services already provided to the child and the responsible person in the proceeding.
17

18 **5.1 Actual Cost**

19 The court may determine the actual cost of the legal services provided to a child or
20 responsible person in a dependency proceeding. The court should base its
21 determination on the actual cost incurred per event in the proceeding, per hour billed,
22 or per client represented.
23

24 **5.2 Cost Model**

25 The court may determine the cost of legal services provided to a child or responsible
26 person in a dependency proceeding by applying the Uniform Regional Cost Model
27 illustrated in Attachment A to these guidelines. Use of the Cost Model as described
28 in this section will ensure that the court seeks reimbursement of an amount that most
29 closely approximates, but does not exceed, the actual cost incurred by the court.
30

31 **5.2.1 Time Allocated to Each Event per Attorney**

32 The court will calculate the time allocated to each event in a local dependency
33 proceeding by
34

35 **5.2.1.1** Dividing the normative caseload of 141 clients per attorney by the
36 actual caseload reported by the dependency attorneys in the county in
37 which the court sits and then
38

39 **5.2.1.2** Multiplying the result by the number of hours allocated to the type of
40 event in question by the Dependency Counsel Caseload Study.⁴
41

⁴ See Center for Families, Children & Cts., Admin. Off. of Cts. Rep., *Court-Appointed Counsel: Caseload Standards, Service Delivery Models, and Contract Administration*, p. 3 & appen. (June 2004)

1 **5.2.2 Cost of Each Event per Attorney**

2 The court will then calculate the cost of each type of event by multiplying the
3 time allocated to the event by

5 **5.2.2.1** The actual hourly rate billed to the court for the provision of
6 dependency-related legal services, or

7 **5.2.2.2** The lowest actual hourly rate billed for dependency-related legal
8 services in the region⁵ in which the court is located as reported in the
9 most recent survey of those rates, or

10 **5.2.2.3** The approved hourly rate for the region in which the court is located as
11 provided in the Caseload Funding Model approved by the Judicial
12 Council in 2007.⁶

14 **5.2.3 Cost of Proceeding per Attorney**

15 The court will then calculate the cost of the services provided by an attorney in
16 a dependency proceeding by adding the costs of each event that has occurred in
17 the proceeding at issue.

19 **5.3 Flat Rate Fee Structure**

20 The court may adopt a flat rate fee structure for the cost of legal services in a
21 dependency proceeding as long as the fees charged do not exceed the actual cost of
22 the services provided up to and including the date of the determination and
23 assessment.

25 **5.4 Periodic Determination**

26 The court may update its determination of the cost of legal services on an annual
27 basis, on the conclusion of the proceedings in the juvenile court, or on the cessation
28 of representation of the child or responsible person.

30 **6.0 Determination of Ability to Pay; Financial Evaluation Officer; Statewide Standard**

32 **6.1 Referral for Financial Evaluation**

33 At the close of the dispositional hearing, the court will order any responsible person
34 present at the hearing to appear before a designated financial evaluation officer
35 (FEO) for a financial evaluation and a determination of the responsible person's
36 ability to pay reimbursement of all or part of the cost of legal services as determined
37 under section 5.0 of these guidelines for which he or she is liable under section
38 903.1(a).

⁵ California trial courts are grouped into four regions based on parity in the cost of living, attorney salary, and other factors among counties in a given region. See Center for Families, Children & Cts., Admin. Off. of Cts. Rep., *DRAFT Pilot Program and Court-Appointed Counsel*, pp. 7–8 (Oct. 2007).

⁶ See *id.* at pp. 7–10 (Oct. 2007).

1 **6.1.1 Responsible Person Not Present at Dispositional Hearing**

2 If a responsible person is not present at the dispositional hearing, the court will
3 issue a citation for him or her to appear before a FEO for determination of his
4 or her ability to pay reimbursement of all or part of the cost of legal services as
5 determined under section 5.0 of these guidelines for which he or she is liable
6 under section 903.1(a).

7
8 **6.1.2 Failure to Appear for Financial Evaluation**

9 If a responsible person, ordered to appear for financial evaluation, has received
10 proper notice and fails to appear as ordered, the FEO will recommend that the
11 court order the responsible person to pay the full cost of legal services as
12 determined under section 5.0 of these guidelines.

13
14 **6.1.3 Proper Notice**

15 Proper notice to a responsible person will contain notice of all of the following:

- 16
17 (a) His or her right to a statement of the costs as soon as it is available;
18 (b) His or her procedural rights under section 27755 of the Government
19 Code;
20 (c) The time limit within which his or her appearance is required; and
21 (d) A warning that if he or she fails to appear before the financial evaluation
22 officer, the officer will recommend that the court order him or her to pay
23 the full cost of legal services.
24

25 **6.2 Financial Evaluation Officer**

26 The court may either:

- 27
28 (a) Designate a court FEO to determine responsible persons' ability to reimburse
29 the cost of legal services; or
30
31 (b) With the consent of and under terms agreed to by the county, designate a
32 county FEO to determine responsible persons' ability to reimburse the cost of
33 legal services.
34

35 **6.3 Authority of Financial Evaluation Officer**

36 The designated FEO will conduct the evaluation under the procedures outlined in
37 section 903.45(b), (c), and (d). The FEO may determine a referred responsible
38 person's ability to pay all or part of the cost of legal services for which he or she is
39 liable, negotiate a plan for reimbursement over a set period of time based on the
40 responsible person's financial condition, enter into an agreement with the
41 responsible person regarding the amount to be reimbursed and the terms of
42 reimbursement, petition the court for an order of reimbursement according to the
43 terms agreed to with the responsible person, and refer the responsible person back to
44 court for a hearing in the event of a lack of agreement.
45

1 **6.4 Standard for Determining Ability to Pay**

2 The FEO will determine the responsible person’s ability to reimburse the cost of
3 legal services using the following standard:
4

5 **6.4.1 Presumptive Inability to Pay; Waiver**

6 If a responsible person receives qualifying public benefits or has a household
7 income 125 percent or less of the threshold established by the federal poverty
8 guidelines in effect at the time of the inquiry, then he or she is presumed to be
9 unable to pay reimbursement and is eligible for a waiver of liability.
10

11 **6.4.1.1 Qualifying public benefits** include benefits under any of the programs
12 listed in Government Code section 68632(a).
13

14 **6.4.2 Further Inquiry**

15 If the court has concluded as a matter of policy that further inquiry into the
16 financial condition of person presumed eligible for a waiver would not be
17 warranted or cost-effective, the inquiry may end at this point. If the court has
18 concluded as a matter of policy that further inquiry into the financial condition
19 of a person presumed eligible for a waiver is warranted, the FEO may proceed
20 to a detailed evaluation under section 6.4.3.
21

22 **6.4.3 Responsible Person’s Financial Condition**

23 The FEO may, at any time following the close of the dispositional hearing,
24 make a detailed evaluation of a referred responsible person’s financial
25 condition at that time under section 903.45(b). Based on any relevant
26 information submitted by the responsible person, including but not limited to a
27 completed copy of *Juvenile Law—Financial Declaration* (form JV-132) or the
28 equivalent local form, the FEO will evaluate the responsible person’s
29 household income, household needs and obligations (including other court-
30 ordered obligations), and the number of persons dependent on the household
31 income, and will determine the person’s ability pay all or part of the cost of
32 legal services without using funds that would normally be used to pay for the
33 common necessities of life.
34

35 **6.5 Circumstances Requiring No Petition or Order for Reimbursement**

36 Under section 903.45(b), the FEO will not petition the court to order reimbursement
37 of the cost of legal services, and the court will not so order, if the responsible person
38 has been reunified with the child(ren) under a court order and reimbursement would
39 harm his or her ability to support the child(ren).
40

41 **6.6 Amount Assessed**

42 The FEO may, consistent with the responsible person’s ability to pay, assess any
43 amount up to the full cost determined under section 5.0 of these guidelines, and may

1 recommend reimbursement in a single lump sum or in multiple installments over a
2 set period of time.
3

4 **6.7 Agreement; Petition**

5 If the responsible person agrees in writing to the FEO's written determination of the
6 amount the responsible person is able to reimburse and the terms of reimbursement,
7 the FEO will petition the court for an order requiring the responsible person to
8 reimburse the court in a manner reasonable and compatible with the responsible
9 person's financial condition.
10

11 **6.8 Dispute; Hearing**

12 If the responsible person disputes his or her liability for the cost of legal services, the
13 amount of that cost, the FEO's determination of his or her ability to reimburse all or
14 part of that cost, or the terms of reimbursement, the FEO will refer the matter back to
15 the court for a hearing.
16

17 **7.0 Judicial Proceeding Following Determination of Ability to Reimburse Cost**

18 When the FEO has made a determination of the responsible person's ability to reimburse
19 all or part of the cost of legal services, the FEO will return the matter to the juvenile court
20 as follows.
21

22 **7.1 Agreement; Order**

23 If the responsible person agrees to reimburse the court as recommended by the FEO,
24 the FEO will prepare an agreement to be signed by the responsible person. The
25 agreement will reflect the amount agreed to be reimbursed and the terms under
26 which reimbursement will be paid. The court may order the responsible person to
27 pay reimbursement under those terms without further notice to the responsible
28 person.
29

30 **7.2 Dispute; Hearing**

31 If the responsible person does not agree with the FEO's determination with respect to
32 liability, ability to pay, amount, or terms of reimbursement, the matter will be
33 deemed in dispute and the FEO will refer the matter to the court to be set for a
34 hearing as required by section 903.45.
35

36 **7.3 Judicial Determination**

37 If, at the conclusion of the hearing, the court determines that the responsible person
38 is able to reimburse all or part of the cost of legal services in the proceeding,
39 including the cost of any attorney appointed to represent the responsible person at the
40 hearing, the court will set the amount to be reimbursed and order the responsible
41 person to pay that amount to the court in a manner that the court believes reasonable
42 and compatible with the responsible person's financial condition.
43

44 **7.4 Exclusions**

1 The court will not order the responsible person to reimburse the cost of legal services
2 if:

3
4 (a) The responsible person is currently receiving reunification services and the
5 court finds that reimbursement would pose a barrier to reunification because:

6
7 (1) It would limit his or her ability to comply with the requirements of the
8 reunification plan; or

9
10 (2) It would harm the responsible person's current or future ability to meet
11 the needs of the child; or

12
13 (b) The court finds that reimbursement would be unjust under the circumstances of
14 the case.

15 16 **8.0 Reevaluation of Ability to Pay**

17 At any time before reimbursement is complete, a responsible person may petition the court
18 for a modification of the reimbursement order on the ground of a change in circumstances
19 affecting his or her ability to pay reimbursement.

20 21 **9.0 Frequency of Determination of Ability to Pay and Assessment**

22 The initial evaluation and determination of a responsible person's ability to pay
23 reimbursement will be conducted at the conclusion of the dispositional hearing. The court
24 may order a reevaluation of a responsible person's financial condition on an annual basis,
25 on the conclusion of the proceedings in the juvenile court, or on the cessation of
26 representation of the child or that person. If, at the reevaluation, the FEO determines that
27 the responsible person is then able to pay all or part of the cost of legal services, the FEO
28 may, consistent with the responsible person's ability to pay, assess an amount up to the full
29 cost determined under section 5.0 of these guidelines of any legal services provided to the
30 child or that person and may recommend reimbursement in a single lump sum or in
31 multiple installments over a set period of time.

32 33 **10.0 Collection Services**

34 35 **10.1 Court-Based Collection Services**

36 To the extent applicable and consistent with sections 903.1 and 903.47, courts should
37 administer the collection, processing, and distribution of court-ordered
38 reimbursement of the cost of dependency-related legal services under the procedures
39 in policies FIN 10.01 and FIN 10.02 of the *Trial Court Financial Policies and*
40 *Procedures Manual*.

41 42 **10.2 Outside Collection Services Providers**

1 When appropriate and consistent with policy FIN 10.01, a court may use an outside
2 collection services provider.

3
4 **10.2.1 Collection Services Provided by County**

5 If collection services are provided by the county, the agreement should be
6 formalized by a memorandum of understanding (MOU) between the court and
7 county. AOC staff will provide a sample MOU on request. A copy of the
8 signed MOU must be sent to jdccp@jud.ca.gov.

9
10 **10.2.2 Collection Services Provided by Private Vendor**

11 A court that uses a private collection services vendor should use a vendor that
12 has entered into a master agreement with the AOC to provide comprehensive
13 collection services. A court that uses a private collections vendor will complete
14 a participation agreement and send it to the AOC via e-mail to
15 jdccp@jud.ca.gov.

16
17 **10.2.3 Court Option for AOC Agreement with Collection Services Provider**

18 At a court's request, the AOC may directly enter into an MOU with the county
19 or an agreement with a private collection services vendor for dependency
20 counsel reimbursement collection services.

21
22 **11.0 Recovery of Cost of Program Implementation**

23 Courts may recover the cost of implementing the reimbursements program. Recoverable
24 costs are limited by statute to the cost of assessing responsible persons' ability to pay for
25 court-appointed counsel and the costs to collect delinquent reimbursements. Any program
26 costs recovered by the court must be reported via e-mail on the Cost Recovery Template
27 provided as Attachment B.

28
29 **11.1 Limit on Recovery**

30 Under section 903.47(a)(1)(B), recovered costs may not exceed a reasonable
31 proportion of the reimbursements collected.

32
33 **12.0 Remittance and Reporting of Collected Revenue**

34 Courts will remit collected revenue, less costs recoverable under section 903.47(a)(1)(B),
35 to the AOC as in the same manner as required by section 68085.1 of the Government
36 Code and will report this revenue on row 130 of Form TC 145. The AOC will deposit the
37 revenue received under these guidelines into the Trial Court Trust Fund.

38
39 **12.1 AOC Collections Agreement Option**

40 Where the AOC has entered into an MOU or agreement with a county or a private
41 collection services vendor under section 10.2.3 of these guidelines, funds will be
42 remitted directly to the AOC under the terms of the MOU or the agreement.

1 **13.0 Program Data Reporting**

2 Each court will report collections program data to the AOC to:

- 3
- 4 (a) Ensure implementation of the Legislature’s intent by:
 - 5 (1) Determining the cost-effectiveness of the program; and
 - 6 (2) Ensuring that efforts to collect reimbursement do not negatively impact
 - 7 reunification.
 - 8 (b) Ensure accurate reporting of reimbursements received.
 - 9 (c) Provide a basis for projecting the amount of future reimbursements.
 - 10 (d) Evaluate the effectiveness of the reimbursement program at both statewide and local
 - 11 levels.
- 12

13 **13.1 Ongoing Reporting Requirement**

14 All courts will report collections annually on or before September 1, beginning
15 September 1, 2013. Completed reports will be sent via e-mail to jdccp@jud.ca.gov.
16 The first report will cover the period from January 1 to June 30, 2013. Thereafter
17 reports will reflect data from the entire preceding fiscal year.

18

19 **13.2.1 Collections Data**

20 To the extent feasible in light of each court’s current practices and
21 resources, data should be collected in the following categories:

22

- 23 (a) Total number of responsible persons evaluated.
 - 24 (b) Total number of responsible persons not ordered to pay due to
25 impact on reunification.
 - 26 (c) Total number of responsible persons not ordered to pay based on
27 other financial hardship.
 - 28 (d) Number of responsible persons with open collections, start of fiscal
29 year.
 - 30 (e) Dollar amount of open collections, start of fiscal year.
 - 31 (f) Number of responsible persons added in fiscal year.
 - 32 (g) Dollar amount added in fiscal year.
 - 33 (h) Total amount collected in fiscal year.
 - 34 (i) Total responsible persons fully paid/ closed in fiscal year.
 - 35 (j) Number of responsible person accounts closed in fiscal year.
 - 36 (k) Number of responsible persons with open collections, end of fiscal
37 year.
 - 38 (l) Dollar amount of open collections, end of fiscal year.
- 39

40 **14.0 Technical Assistance**

41 AOC staff to the Judicial Council will provide technical assistance on request for courts
42 that do not have a dependency counsel reimbursement program in place or that would like
43 to coordinate with other courts in establishing a regional reimbursement program.

1 Technical assistance may be requested by sending an e-mail to jdccp@jud.ca.gov.

2 Technical assistance may include, but is not limited to:

3

4 (a) Helping a court establish a reimbursement program within its current administrative
5 structure.

6 (b) Coordinating a regional reimbursement program among several courts.

7 (c) Working with current collection services providers who have entered into master
8 agreements with the AOC to ensure compliance with the JDCCP reporting
9 requirements.

Region 1	Region 2	Region 3	Region 4
Butte	Alpine	Alameda	Contra Costa
Colusa	Amador	Los Angeles	Marin
Del Norte	Calaveras	Monterey	San Francisco
Fresno	El Dorado	Napa	San Mateo
Humboldt	Glenn	Orange	Santa Clara
Imperial	Inyo	Placer	
Kings	Kern	Riverside	
Lassen	Lake	San Diego	
Mariposa	Madera	Santa Barbara	
Merced	Mendocino	Santa Cruz	
Modoc	Mono	Solano	
Plumas	Nevada	Sonoma	
Shasta	Sacramento	Ventura	
Sierra	San Benito		
Siskiyou	San Bernardino		
Tehama	San Joaquin		
Trinity	San Luis Obispo		
Tulare	Stanislaus		
	Sutter		
	Tuolumne		
	Yolo		
	Yuba		

Hourly Rate \$65

<u>Hearing/Event</u>	<u>Hours per Event</u>	<u>Cost per event</u>
Detention	3.5	\$228
Disposition	5.35	\$348
6 month review	3.17	\$206
12 month review	2.26	\$147
18 month review	0.95	\$62
.26 hearing	4.67	\$304
First PPH	0.57	\$37
Second PPH	0.57	\$37
Third PPH	0.57	\$37
39.1B writ	13.22	\$859

Hourly Rate \$75

<u>Hearing/Event</u>	<u>Hours per Event</u>	<u>Cost per event</u>
Detention	3.5	\$263
Disposition	5.35	\$401
6 month review	3.17	\$238
12 month review	2.26	\$170
18 month review	0.95	\$71
.26 hearing	4.67	\$350
First PPH	0.57	\$43
Second PPH	0.57	\$43
Third PPH	0.57	\$43
39.1B writ	13.22	\$992

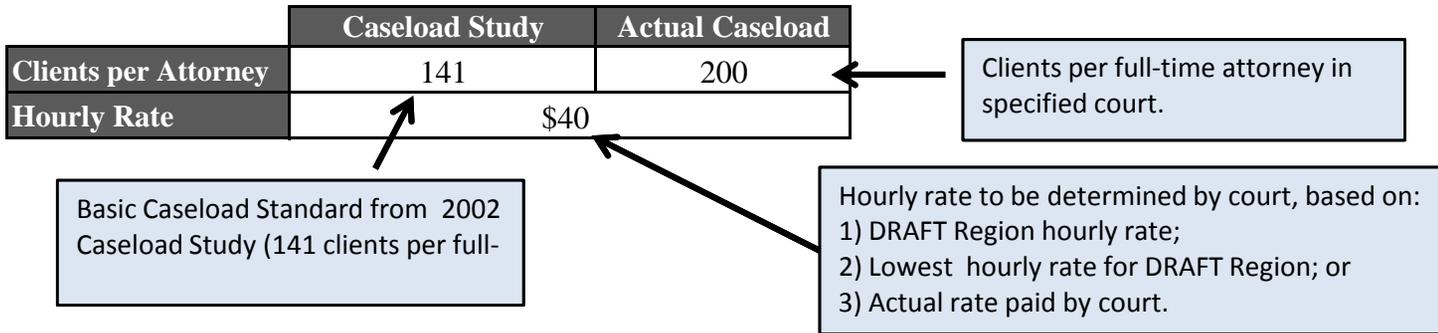
Hourly Rate \$86

<u>Hearing/Event</u>	<u>Hours per Event</u>	<u>Cost per event</u>
Detention	3.5	\$301
Disposition	5.35	\$460
6 month review	3.17	\$273
12 month review	2.26	\$194
18 month review	0.95	\$82
.26 hearing	4.67	\$402
First PPH	0.57	\$49
Second PPH	0.57	\$49
Third PPH	0.57	\$49
39.1B writ	13.22	\$1,137

Hourly Rate \$97

<u>Hearing/Event</u>	<u>Hours per Event</u>	<u>Cost per event</u>
Detention	3.5	\$340
Disposition	5.35	\$519
6 month review	3.17	\$307
12 month review	2.26	\$219
18 month review	0.95	\$92
.26 hearing	4.67	\$453
First PPH	0.57	\$55
Second PPH	0.57	\$55
Third PPH	0.57	\$55
39.1B writ	13.22	\$1,282

Uniform Cost Model Implementation



Hearing	Caseload Study Hours	Adjusted Hours	Cost per Hearing
Detention	3.50	2.47	\$99
Disposition	5.35	3.77	\$151
6 month review	3.17	2.23	\$89
12 month review	2.26	1.59	\$64
18 month review	0.95	0.67	\$27
366.26 hearing	4.67	3.29	\$132
First PPH	0.57	0.40	\$16
Second PPH	0.57	0.40	\$16
Third PPH	0.57	0.40	\$16
Extraordinary writ	13.22	9.32	\$373

The numbers in this column show the time for each event, including out of court work prior to the hearing, found in the Basic Caseload Standard (141 clients per FTE attorney) from the 2002 Caseload Study.

The numbers in this column show the adjusted time for each event, based on Actual Caseload.

This column shows the cost per event. (Cost = Adjusted Hours x Hourly Rate).

Option 1: Flat Fee
 This fee is based on the cost of services provided in first year of the case. This figure includes the detention, disposition and 6-month review hearings.

Option 2: Interval Fees
 The court may assess additional fees at subsequent hearings.

Cost Recovery Template
 Cost Recovery Costs
 Juvenile Dependency Counsel Collections Program

Attachment B

Contact Information for Person Completing Form

Fiscal Year

Name: _____

Phone: _____

Email: _____

COURT STAFF COST					
Position Classification	Position (FTE)	Montly Salary	Months	Benefits	FY 2010-11 Total Salary and Benefits
<i>(Sample) Clerk</i>	<i>0.30</i>	<i>\$2,300</i>	<i>9</i>	<i>\$805</i>	<i>\$7,015</i>
					\$0
					\$0
					\$0
					\$0
					\$0
					\$0
Totals ----->	-				\$0

Court Operating Expenses	Amount
Printed forms	
Telecommunications	
Postage	
Other (specify below)	
Totals ----->	\$ -

Cost Recovery Template
 Cost Recovery Costs
 Juvenile Dependency Counsel Collections Program

COUNTY COLLECTIONS			
Reimbursement of Cost			
Fee Basis	Monthly Fixed Costs	Months	FY 2010-11 Total Cost
<i>Cost of Positions</i>	500	9	\$ 4,500
			\$0
			\$0
Totals ----->			\$0

COUNTY AND PRIVATE COLLECTIONS			
Commission			
Collection Vendor	Rate	Total Amt. Collected	FY 2010-11 Total Commission
<i>(Sample) Access Capital Services</i>	20%	100,000	\$ 20,000
			\$0
			\$0
Totals ----->			\$0

GRAND TOTAL COST RECOVERY \$ -

Paying for Court-Appointed Lawyers

If the court appoints a lawyer for you or your child:

- The court will pay for your lawyer and the child’s lawyer;
and
- The court will ask you for information about your income and expenses to decide whether you can repay some or all of the cost of the lawyers.

Order for Financial Evaluation

- The court will order you to meet with a financial evaluation officer, who will review the information you give and figure out whether you can pay.
- The court will tell you **when** and **where** to go for your financial evaluation meeting.
- The court will not ask you to pay for any appointed lawyer if the judge dismisses the petition.
- **If you do not go to your financial evaluation, the financial evaluation officer will ask the court to order you to pay the full cost of the appointed lawyers.**

What Happens at the Financial Evaluation?

- Bring **all** the information you have about your income and expenses with you. If you did not already fill out a financial declaration form, the financial evaluation officer will probably ask you to do that.
- Tell the financial evaluation officer if you receive public assistance. You may not have to pay the cost of the lawyers if your income is very low.
- Tell the financial evaluation officer if you **are reunifying** with your child or **have reunified** with your child **and** if payment would make it too hard for you to support your child.
- Ask the financial evaluation officer whether you might be allowed to pay less than the full cost or to pay a part of the cost every month in installments.
- **If the financial evaluation officer decides that you *can* pay** all or part of the cost of the lawyers, he or she will make a recommendation to the court. The financial evaluation officer will tell you what he or she plans to recommend.
- **If the financial evaluation officer decides that you *cannot* pay**, he or she will not make a recommendation to the court.

If you AGREE with the recommendation:

- You will be asked to fill out and sign a form telling the court that you agree.
- The financial evaluation officer will recommend that the court order you to pay the agreed amount under any payment plan or other agreed terms.

If you DISAGREE with the recommendation:

- The financial evaluation officer will send the matter back to the court for a hearing.
- At the hearing, you will be able to:
 - Tell your side of the story in person.
 - Have your lawyer with you.

Court Order for Payment

- **If the court decides that you *can* pay** all or part of the cost of the lawyers, the court will tell you how much you need to pay and when you need to pay it, and order you to pay that amount to the court in a way that the court thinks is fair.
- **If the court decides that you *cannot* afford to pay**, the court will not order you to pay.
- If you are reunifying with your child **and** the court finds that making you pay would make it too hard to get your child back or to support your child, the court will **not** order you to pay.
- If the court decides that making you pay for the lawyers would not be fair in your case, the court will **not** order you to pay.

Reevaluation

- Anytime before you have finished repaying, **you can ask the court to change its order** if something happens that makes it harder for you to pay.
- If your case continues after the dispositional hearing, the court can order you to appear again for another financial evaluation.
- If the court does order another financial evaluation, you will have to do the same things and provide the same information as you did at the first evaluation.

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILDREN'S NAMES:	
ORDER TO APPEAR FOR FINANCIAL EVALUATION	CASE NUMBER:
<input type="checkbox"/> Disposition <input type="checkbox"/> 12-Month Review <input type="checkbox"/> 1st Postpermanency <input type="checkbox"/> 3rd Postpermanency <input type="checkbox"/> Writ	

1. To (*name*):
 The court has determined that you are a person liable under Welfare and Institutions Code section 903.1 for the support of the child(ren) named above. You must appear before (*name of financial evaluation officer*):
 at (*address*):

 _____ between the hours of _____ and _____,
 Monday through Friday, on or before (*date*): _____ for an evaluation of your ability to repay all or part of the cost of legal services provided to the child(ren) or directly to you in the child(ren)'s dependency proceeding. You may call (*telephone number*): _____ to make an appointment with the financial evaluation officer.

2. You must bring with you to the financial evaluation:
 - A completed copy of the *Financial Declaration* form;
 - Documentation—including pay stubs, bank statements, proof of public assistance, and any other records—of any household income or asset listed on your *Financial Declaration* form; and
 - Documentation—including rental agreements, mortgage or credit card statements, utility bills, records of car or insurance payments, and any other records—of household expenses.

Notice

A. You have the right to a written statement of the cost of legal services for which you are liable as soon as it is available.

B. You have the right to dispute the financial evaluation officer's determination of your ability to pay all or part of that cost.

C. You have the right, in the event of a dispute, to a hearing before the juvenile court to determine your liability for the cost, the amount of the cost, your ability to pay the cost, or the terms of payment.

D. You have the right, in the event of a hearing:

1. To be heard in person, to present witnesses and other evidence, and to confront and cross-examine adverse witnesses;
2. To examine the evidence presented against you;
3. To be represented by counsel and, when unable to afford counsel, to have counsel appointed;
4. To receive a written statement of the court's findings and orders.

E. **WARNING:** If you do not appear for the financial evaluation within the time limit set in item 1, the financial evaluation officer will recommend to the court that it order you to repay the full cost of any legal services provided in this case directly to you or to the child(ren) named above.

Date: _____

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): _____ TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY DRAFT Not approved by the Judicial Council
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILDREN'S NAMES:	
JUVENILE LAW—FINANCIAL DECLARATION	CASE NUMBER:

1. Personal Information:

Name:		Social Security Number:	
Other names used:			
Relationship to Child: <input type="checkbox"/> Mother <input type="checkbox"/> Father <input type="checkbox"/> Other Responsible Person (specify):		I.D. or Driver's License:	
Address:		Date of Birth:	Age:
City:	Zip:	Phone:	Alternate Phone:
Marital Status: <input type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Domestic partner <input type="checkbox"/> Separated <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed			
Name of Spouse/Partner:		Number of dependents living with you:	
Names and ages of dependents:			

2. I receive (check all that apply): Medi-Cal food stamps SSI SSP
 County Relief/General Assistance IHSS (In-Home Supportive Services) CalWORKS or Tribal TANF (Temporary Assistance to Needy Families) CAPI (Case Assistance Program for Aged, Blind, and Disabled)

3. My gross monthly household income (before deductions for taxes) is less than the amount listed below:

Family Size	Family Income	Family Size	Family Income	Family Size	Family Income	If more than 6 people in family, add \$412.50 for each extra person.
1	\$1,163.55	3	\$1,988.55	5	\$2,813.55	
2	\$1,576.05	4	\$2,401.05	6	\$3,226.05	

4. I have been reunified with my child(ren) under a court order.

5. I am receiving court-ordered reunification services.

CHILDREN'S NAMES: RESPONSIBLE PERSON'S NAME:	CASE NUMBER:
---	--------------

6. Employment:

Your Employment				Spouse/Partner Employment			
Employer:				Employer:			
Address:				Address:			
City and Zip Code:		Phone:		City and Zip Code:		Phone:	
Type of Job:				Type of Job:			
How long employed:	Working now?	Monthly salary:	Take home pay:	How long employed:	Working now?	Monthly salary:	Take home pay:
If not now employed, who was last employer? <i>(Name, Address, City, and Zip Code)</i>				If not now employed, who was last employer? <i>(Name, Address, City, and Zip Code)</i>			
Phone number of last employer:				Phone number of last employer:			

7. Other Income and Assets:

<p style="text-align: center;">Other Income</p> <p>Unemployment and Disability \$</p> <p>Social Security/SSI/SSP \$</p> <p>CalWORKS/Tribal TANF..... \$</p> <p>General Assistance \$</p> <p>Workers' Compensation \$</p> <p>Child Support Payments \$</p> <p>Foster Care Payments \$</p> <p>Other Income \$</p> <p style="text-align: right;">Total \$</p>	<p style="text-align: center;">What do you own?</p> <p>Cash \$</p> <p>Real Property/Equity \$</p> <p>Cars and Other Vehicles \$</p> <p>Life Insurance \$</p> <p>Bank Accounts (list below) \$</p> <p>Stocks and Bonds \$</p> <p>Business Interest \$</p> <p>Other Assets \$</p> <p style="text-align: right;">Total \$</p> <p>Name and branch of bank:</p> <p>Account numbers:</p>
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CHILDREN'S NAMES: RESPONSIBLE PERSON'S NAME:	CASE NUMBER:
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8. Expenses:

Monthly household expenses	Monthly cost of services required by your reunification plan
Rent or Mortgage Payment \$	Parenting Classes \$
Car Payment \$	Substance Abuse Treatment \$
Gas and Car Insurance \$	Therapy/Counseling \$
Public Transportation \$	Medical Care/Medications \$
Utilities (gas, electric, phone, water, etc) \$	Domestic Violence Counseling \$
Food \$	Batterers' Intervention \$
Clothing and Laundry \$	Victim Support \$
Child Care \$	Regional Center Programs \$
Child Support Payments \$	Transportation \$
Medical Payments \$	In-Home Services \$
Other Necessary Monthly Expenses \$	Other \$
Total \$	Total \$

9. Loan/Expense Payments:

Name of lender and type of loan/expense	Monthly payment	Balance owed
	\$	\$
	\$	\$
	\$	\$
	\$	\$

I declare under penalty of perjury under the laws of the State of California that the above information is true and correct.

Date:

(TYPE OR PRINT NAME)	(SIGNATURE OF DECLARANT)
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FOR FINANCIAL EVALUATION OFFICER USE ONLY			
TOTAL INCOME	\$	COST OF LEGAL SERVICES	\$
TOTAL EXPENSES	\$	MONTHLY PAYMENT	\$
NET DISPOSABLE INCOME	\$	TOTAL COST ASSESSED	\$
The above-named responsible person is presumed unable to pay reimbursement for the cost of legal services in this proceeding and is eligible for a waiver of liability because he or she <input type="checkbox"/> receives qualifying public benefits <input type="checkbox"/> his or her household income falls below 125% of the current federal poverty guidelines <input type="checkbox"/> has been reunified with the child(ren) under a court order and payment of reimbursement would harm his or her ability to support the child(ren).			
(SIGNATURE OF FINANCIAL EVALUATION OFFICER)		Date: _____	

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): <hr/> TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <h2 style="margin: 0;">Draft Not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILDREN'S NAMES:	
RECOMMENDATION REGARDING ABILITY TO REPAY COST OF LEGAL SERVICES	CASE NUMBER:

On (date): _____ (name): _____, a person responsible for the support of the child(ren) named above (the responsible person), was ordered to report for an evaluation to determine his or her ability to reimburse the court's cost of legal services provided directly to him or her or to the child(ren) named above in the case above.

The responsible person:

1. has been reunified with the child(ren) under a court order. Repayment would harm his or her ability to support the child(ren). I do not, therefore, petition the court for an order of repayment.
2. did not appear as ordered. As required by law, I recommend and petition that the court order that person to repay the full cost of legal services, in the amount of \$ _____
3. did appear as ordered. Based on an interview concerning his or her financial condition and an analysis of his or her financial declaration and supporting documentation, I find that the responsible person:
 - a. **is unable** to repay the costs of the legal services in this case.
 - b. **is able** to repay the cost of legal services provided directly to him or her in the amount of \$ _____ and _____
 - c. **is able** to repay the cost of legal services provided to the child(ren) named above in the amount of \$ _____ and _____
 - (1) has agreed to repayment on the terms set forth on the accompanying *Response to Recommendation Regarding Ability to Repay Costs of Legal Services*. I petition the court to order repayment on these terms.
 - (2) disputes this assessment of his or her ability to repay the assessed costs and has requested a hearing.

<input type="checkbox"/> A hearing is scheduled: Date: _____ Time: _____ Dept./Room: _____ <input type="checkbox"/> at Court address above <input type="checkbox"/> other (specify address): _____
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The responsible person is ordered to appear at the above time and place without further notice.

Date: _____

(NAME OF FINANCIAL EVALUATION OFFICER)

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(SIGNATURE OF FINANCIAL EVALUATION OFFICER)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <h2 style="margin: 0;">Draft</h2> <h2 style="margin: 0;">Not approved by the</h2> <h2 style="margin: 0;">Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILDREN'S NAMES:	
RESPONSE TO RECOMMENDATION REGARDING ABILITY TO REPAY COST OF LEGAL SERVICES	CASE NUMBER:

I, (name): _____ am a person responsible for the support of the child(ren) named above.

1. I agree to repay the court for the cost of my legal services in the amount of \$ _____, as recommended by the financial evaluation officer on the accompanying *Recommendation Regarding Ability to Repay Costs of Legal Services*.
2. I further agree to repay the court for the cost of legal services provided to the child(ren) in this case in the amount of \$ _____, as recommended by the financial evaluation officer on the accompanying *Recommendation Regarding Ability to Repay Cost of Legal Services*.
3. I promise to pay \$ _____ per month on the _____ day of each month, beginning on _____ until the agreed amount is paid in full.
 - a. I waive my right to a hearing on the recommendation and understand that the court will order me to pay the agreed amount under the terms above.
 - b. I understand that if I default on these payment terms, the entire balance will become immediately due and payable on demand.
4. I dispute the recommendation of the financial evaluation officer regarding my ability to pay and I have requested a hearing before the court to review that recommendation.
 - a. I understand that a hearing has been scheduled on:

Hearing date: _____ Time: _____ Dept./Room: _____
 at Court address above other (specify address): _____
 - b. I further understand that if I do not appear at this hearing and do not pay in full the assessed costs for legal services, the court may enter a judgment against me based on the financial evaluation officer's recommendation without further notice or order.
 - c. I understand that I am entitled to the following at the hearing:
 - The opportunity to be heard in person;
 - The opportunity to present witnesses and written evidence;
 - The opportunity to confront and cross-examine witnesses brought against me;
 - Disclosure of the evidence against me;
 - A written statement of the findings of the court; and
 - To be represented by an attorney and, if I cannot afford an attorney, to have an attorney appointed to represent me.
5. I understand that, at any time prior to full payment of the amount ordered by the court, I may petition the court to modify or vacate its previous judgment on the grounds of a change in circumstances with regard to my ability to pay the judgment.

I declare under penalty of perjury under the laws of the State of California that the above information is true and correct.

Date: _____



(SIGNATURE OF RESPONSIBLE PERSON)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address): TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	FOR COURT USE ONLY <h2>Draft Not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILDREN'S NAMES:	
ORDER FOR REPAYMENT OF COST OF LEGAL SERVICES	CASE NUMBER:

To (name): _____, a person responsible for the support of the child(ren) named above (the responsible person).

1. The court orders the responsible person to repay to the court the cost of legal services rendered directly to him or her in this case in the amount of \$ _____
2. The court orders the responsible person to repay to the court the cost of legal services rendered to the child(ren) named above in this case in the amount of \$ _____
3. The court orders the responsible person to pay the court \$ _____ per month on the _____ day of each month, beginning on _____ until the agreed amount is paid in full.
4. The court finds that the responsible person is **unable** to repay the cost of legal services rendered directly to him or her or to the child(ren) named above in the case above and is not ordered to repay these costs.
5. Notwithstanding any determination of his or her ability to pay, the court does not order the responsible person to repay that cost for the following reason:
 - a. He or she is receiving reunification services, and repayment will pose a barrier to reunification because it will limit his or her ability to comply with the requirements of the reunification plan or harm his or her ability to support the child(ren); or
 - b. Requiring repayment would be unjust under the circumstances of the case.

This order is based on (check all that apply):

6. The court's review of the financial evaluation officer's recommendation as set forth on *Recommendation Regarding Ability to Repay Costs of Legal Services*.
7. The court's review of the responsible person's agreement and waiver as set forth on *Response to Recommendation Regarding Ability to Repay Costs of Legal Services*.
8. The court's review of the evidence presented at a contested hearing held on (date): _____

Date: _____

JUDICIAL OFFICER

ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, State Bar number, and address</i>): <hr/> TELEPHONE NO.: _____ FAX NO. (<i>Optional</i>): _____ E-MAIL ADDRESS (<i>Optional</i>): _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY <h2 style="margin: 0;">Draft Not approved by the Judicial Council</h2>
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILDREN'S NAMES:	
JUVENILE LAW—COST OF APPOINTED COUNSEL: REIMBURSEMENT RECOMMENDATION/RESPONSE/ORDER	CASE NUMBER:

REIMBURSEMENT RECOMMENDATION OF FINANCIAL EVALUATION OFFICER

On (*date*): _____ (*name*): _____, a person responsible for the support of the child(ren) named above (the responsible person), was ordered to report for an evaluation to determine his or her ability to reimburse the court's cost of legal services provided directly to him or her or to the child(ren) named above in the case above.

The responsible person:

1. has been reunified with the child(ren) under a court order. Repayment would harm his or her ability to support the child(ren). I do not, therefore, petition the court for an order of repayment.
2. did not appear as ordered. As required by law, I recommend and petition that the court order that person to repay the full cost of legal services, in the amount of \$ _____
3. did appear as ordered. Based on an interview concerning his or her financial condition and an analysis of his or her financial declaration and supporting documentation, I find that the responsible person:
 - a. **is unable** to repay the costs of the legal services in this case.
 - b. **is able** to repay the cost of legal services provided directly to him or her in the amount of \$ _____ and _____
 - c. **is able** to repay the cost of legal services provided to the child(ren) named above in the amount of \$ _____

The responsible person:

4. has agreed to repayment on the terms set forth above. I petition the court to order repayment on these terms.
5. disputes this assessment of his or her ability to repay the assessed costs and has requested a hearing.
 - A hearing is scheduled:

Date: _____	Time: _____	Dept./Room: _____	<input type="checkbox"/> at Court address above
<input type="checkbox"/> other (<i>specify address</i>): _____			

The responsible person is ordered to appear at the above time and place without further notice.

Date: _____

(NAME OF FINANCIAL EVALUATION OFFICER)	(SIGNATURE OF FINANCIAL EVALUATION OFFICER)
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CHILDREN'S NAMES: 	CASE NUMBER:
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RESPONSIBLE PERSON'S RESPONSE

I (*name*): _____ am a responsible person in this case. After a financial evaluation to determine my ability to pay:

- 6. I agree to repay the court for the cost of my legal services in the amount of \$ _____, as recommended by the financial evaluation officer above.
- 7. I further agree to repay the court for the cost of legal services provided to the child(ren) in this case in the amount of \$ _____, as recommended by the financial evaluation officer above.
- 8. I promise to pay \$ _____ per month on the _____ day of each month, beginning on _____ until the agreed amount is paid in full.
 - a. I waive my right to a hearing on the recommendation and understand that the court will order me to pay the agreed amount under the terms above.
 - b. I understand that if I default on these payment terms, the entire balance will become immediately due and payable.

9. I dispute the recommendation of the financial evaluation officer regarding my ability to pay and I have requested a hearing before the court to review that recommendation.

a. I understand that a hearing has been scheduled on:

Date:	Time:	Dept./Room:	<input type="checkbox"/> at Court address above
<input type="checkbox"/> other (<i>specify address</i>):			

b. I further understand that if I do not appear at this hearing and do not pay in full the assessed costs for legal services, the court may enter a judgment against me based on the financial evaluation officer's recommendation without further notice or order.

c. I understand that I am entitled to the following at the hearing:

- The opportunity to be heard in person;
- The opportunity to present witnesses and written evidence;
- The opportunity to confront and cross-examine witnesses brought against me;
- Disclosure of the evidence against me;
- A written statement of the findings of the court; and
- To be represented by an attorney and, if I cannot afford an attorney, to have an attorney appointed to represent me.

10. I understand that, at any time prior to full payment of the amount ordered by the court, I may petition the court to modify or vacate its previous judgment on the grounds of a change in circumstances with regard to my ability to pay the judgment.

I declare under penalty of perjury under the laws of the State of California that the above information is true and correct.

Date: _____



(SIGNATURE OF RESPONSIBLE PERSON)

CHILDREN'S NAMES: _____	CASE NUMBER: _____
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COURT ORDER

To, *(name)*: _____, the responsible person.

- 11. The court orders the responsible person to repay to the court the cost of legal services rendered directly to him or her in this case in the amount of \$ _____
- 12. The court the responsible person to repay to the court the cost of legal services rendered to the child(ren) named above in this case in the amount of \$ _____
- 13. The responsible person to pay the court \$ _____ per month on the _____ day of each month, beginning on _____ until the agreed amount is paid in full.
- 14. The court finds that the responsible person is **unable** to repay the cost of legal services rendered in this case directly to him or her or to the child(ren) named above and is not order to repay any costs.
- 15. Notwithstanding any determination of his or her ability to pay, the court does not order the responsible person to repay that cost for the following reason:
 - a. He or she is receiving reunification services, and repayment will pose a barrier to reunification because it will limit his or her ability to comply with the requirements of the reunification plan or harm his or her ability to support the child(ren); or
 - b. Requiring repayment would be unjust under the circumstances of the case.

This order is based on *(check all that apply)*:

- 16. The court's review of the financial evaluation officer's recommendation as set forth on *Recommendation Regarding Ability to Repay Costs of Legal Services*.
- 17. The court's review of the responsible person's agreement and waiver as set forth on *Response to Recommendation Regarding Ability to Repay Costs of Legal Services*.
- 18. The court's review of the evidence presented at a contested hearing held on *(date)*: _____

Date: _____

JUDICIAL OFFICER