

TREASURY — GENERAL

(a)

OFFICE OF THE PUBLIC DEFENDER

Fees for Service

Adopted New Rules: N.J.A.C. 17:39-3

Proposed: April 21, 2014, at 46 N.J.R. 687(a).

Notice of Proposed Substantial Changes upon Adoption to Proposed

New Rules: August 4, 2014, at 46 N.J.R. 1736(a).

Adopted: October 7, 2014, by Joseph E. Krakora, Public Defender.

Filed: November 6, 2014, as R.2014 d.185, with **substantial changes** to proposal after additional notice and public comment, pursuant to N.J.S.A. 52:14B-10, and with **non-substantial changes** not requiring additional public notice and comment (see N.J.A.C. 1:30-6.3).

Authority: N.J.S.A. 2A:158A-7(j), 16, and 19.

Effective Date: December 1, 2014.

Expiration Date: December 1, 2021.

Summary of Public Comment and Agency Response:

1. Comments Received During Initial Comment Period Giving Rise to Substantial Changes in Proposal upon Adoption
No public comments were received.

2. Comments Received During Initial Comment Period, Not Giving Rise to Changes in the Rule Proposal
No public comments were received.

3. Comments Received upon Publication of Notice of Proposed Substantial Changes upon Adoption to Proposed New N.J.A.C. 17:39-3
No public comments were received.

Summary of Agency-Initiated Change:

Upon discussion with staff, the Public Defender has made the following two changes throughout the new rules:

1. At N.J.A.C. 17:39-3.1(b)1i and ii and (b)2i and ii, a change to the lead-in text is made to clarify that the degree of crime indicated is for the client is initially charged with, not the final charge as of the ultimate disposition. This change simply provides that the fee is based on the initial charges against the clients; and

2. At N.J.A.C. 17:39-3.1(b)1i(1) and (2) and (b)1ii(1) and (2), (b)2i(1) and (b)2ii(1), and (b)3i, substitution of the word “disposition” for “plea.” This change simply provides additional clarification that the new rules will affect all types of case resolutions, not just pleas.

Federal Standards Statement

A Federal standards analysis is not required because there are no Federal requirements applicable to the subject matter of the adopted new rules.

Full text of the adopted new rules follows (additions to proposal indicated in boldface with asterisks ***thus***; deletions from proposal indicated in brackets with asterisks ***[thus]***):

CHAPTER ***[17]* *39***

OFFICE OF THE PUBLIC DEFENDER

SUBCHAPTER 1.-2. (RESERVED)

SUBCHAPTER 3. FEES FOR SERVICE

17:39-3.1 Office of the Public Defender fees

(a) Pursuant to N.J.S.A. 2A:158A-7(j), 16, and 19, the Office of the Public Defender (OPD) will charge its clients for the cost of attorney services, investigation, expert witnesses, and other actual costs of representation.

(b) In all cases, the Office of the Public Defender will charge its clients a flat fee based on the case type and/or degree of crime. These rates will apply to all attorney and investigator services, including any

litigation (experts and transcripts) expenses, provided by the OPD to provide representation to its clients pursuant to N.J.S.A. 2A:158A-7(d). As used in this subsection, “day” shall mean any court day during which any portion of the trial takes place to include jury selection at the front end and deliberations at the back end. The billing rates used in criminal cases are as follows:

1. Criminal Court (Adult):

i. ***[For]* *Clients charged with*** 1st and 2nd degree crimes:

(1) Pre-indictment ***[plea]* *disposition***: \$250.00;

(2) Post-indictment ***[plea]* *disposition***: \$500.00;

(3) Trial (up to five days): \$750.00; and

(4) Trial (every three days beyond initial five): \$500.00; and

ii. ***[For]* *Clients charged with*** 3rd and 4th degree crimes:

(1) Pre-indictment ***[plea]* *disposition***: \$150.00;

(2) Post-indictment ***[plea]* *disposition***: \$250.00;

(3) Trial (up to five days): \$500.00; and

(4) Trial (every three days beyond initial five): \$500.00;

2. Family Court (Juvenile Delinquency):

i. ***[For]* *Clients charged with*** 1st and 2nd degree crimes:

(1) ***[Plea]* *Disposition***: \$250.00;

(2) Trial (up to five days): \$750.00; and

(3) Trial (every three days beyond initial five): \$500.00; and

ii. ***[For]* *Clients charged with*** 3rd and 4th degree crimes:

(1) ***[Plea]* *Disposition***: \$150.00;

(2) Trial (up to five days): \$500.00; and

(3) Trial (every three days beyond initial five): \$500.00;

3. Drug Court:

i. ***[Plea]* *Disposition***: \$250.00; and

ii. Program completion: \$250.00;

4. Intensive supervision program: \$100.00;

5. Special hearings unit: \$200.00;

6. Title 9 child abuse and neglect cases: \$500.00; and

7. Title 30 termination of parental rights cases: \$750.00.

(c) In cases where the OPD does not represent the defendant, but provides ancillary services and/or transcripts to the defendant pursuant to *Matter of Canady*, 126 N.J. 486 (1991) or *State v. Arenas*, 126 N.J. 504 (1991), the actual cost will be billed to the defendant.

(d) The OPD will send the client a bill for all services rendered at the end of the case if the flat rate bill has not yet been paid.

(e) No client will be denied services based on inability to pay any OPD fee.

(f) Nothing in this section shall preclude a client from arranging with the OPD to make partial or installment payments of any fee. Pursuant to N.J.S.A. 2A:158A-20, the Public Defender or the Public Defender’s designee may compromise and settle any fee claim whenever the financial circumstances of the client involved are such that, in the judgment of the Public Defender or the designee, the best interests of the State will be served by such compromise and settlement.

(g) Notwithstanding the provisions of (b) above, all cases closed prior to ***[(the effective date of this rule)]* *December 1, 2014,*** will be billed at the hourly rate of \$30.00 per hour for attorney services, in- or out-of-court, \$15.00 per hour for investigator services, and actual costs for litigation (experts and transcripts) expenses. All cases that are open on or after ***[(the effective date of this rule)]* *December 1, 2014,*** will be billed at the flat fee rate.