

CORRECTED



RESOLUTION NO. 152-2020

OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO

WHEREAS, the County of El Dorado Board of Supervisors is authorized to adopt new fees, fee levels, and charges, pursuant to Government Code § 54985; and

WHEREAS, the Public Defender Department has reviewed and analyzed the possibility of implementing a Fee Schedule for adult conservatorship clients; and

WHEREAS, the County, having completed said analysis which included a review of Public Defender operations (personnel, indirect and overhead, supervision and equipment costs) and a full cost recovery analysis, as well as comparison against prevailing fees charged in surrounding counties, as applicable; and

WHEREAS, the Public Defender Department has established Processes, set forth in Exhibit A – Public Defender Department Processes, to guide the application of fees for Department services; and

WHEREAS, the County has determined that on occasion, at the direction of the Superior Court, certain of the fees outlined hereto should be waived, discounted, or deferred, and that the Public Defender shall be empowered to take such action; and

WHEREAS, the Board finds it in the best interest of the residents of the County to establish a Schedule of Fees for adult Conservatorship cases to be charged for the legal services provided by the Public Defender,

NOW, THEREFORE, BE IT RESOLVED the Board of Supervisors determines that the following fee shall be applicable to services provided by the Public Defender:

- a. Adult Conservatorships.....Current PD billable rate in the year the charge is incurred – will be updated annually

The proposed billing rate for adult conservatorship clients for Fiscal Year 2020/21 is \$159/hr; and

BE IT FURTHER RESOLVED, that the Public Defender or designee shall have the authority to waive, decrease, or defer said fee at the direction of the Superior Court as detailed in Exhibit A – Public Defender Department Processes; and

BE IT FURTHER RESOLVED, pursuant to applicable provisions of state law and County Ordinance Code, the new fee set forth herein, is hereby adopted and shall take effect sixty (60) days from the execution of this Resolution; and

BE IT FURTHER RESOLVED, the Processes set forth in Exhibit A – Public Defender Department Processes are hereby adopted and shall take effect upon execution of this Resolution; and

BE IT FURTHER RESOLVED, the Processes may be modified from time to time by Resolution amending the Public Defender Department Processes in its entirety, incorporating those modifications in Exhibit A

PASSED AND ADOPTED by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held the 13th day of October, 2020, by the following vote of said Board:

Ayes: Hidahl, Frentzen, Veerkamp, Parlin, Novasel
Noes: None
Absent: None

Attest:
Kim Dawson
Clerk of the Board of Supervisors

By:  _____
Deputy Clerk

 _____
Brian K. Veerkamp
Chair, Board of Supervisors

PUBLIC DEFENDER DEPARTMENT PROCESSES

The following fee policies are applicable to fees collected or charged by the Public Defender Department.

A. APPLICABILITY

The billable rate will be updated annually by reviewing the Department's operations (personnel, indirect and overhead, supervision and equipment costs). The fees or charges are intended to cover a portion of the ordinary costs of the Public Defender Department for providing legal services.

B. ELIGIBILITY AND SCREENING

a. Adult Conservatorships:

An Adult Conservatorship is determined to be potentially billable by the appointed attorney using the following parameters:

- i. cash on hand in excess of \$40,000;
- ii. real property valued in excess of \$100,000, as long as the equity is in excess of \$40,000;
- iii. total assets (i.e., cash, property equity, and/or chattel) valued in excess of \$40,000; or
- iv. any combination of (i) through (iii).

C. ABILITY TO PAY

The clients retain the right to request a hearing on the fees and their ability to pay, which will allow the client to present any evidence of hardship that might not be readily apparent to either the courts or to the Public Defender. This should adequately protect the clients' constitutional due process rights.

D. FEE WAIVER, REDUCTION, OR DEFERRAL

The Public Defender fees may be waived, reduced, or deferred by the judge presiding over the proceedings pursuant to the Probate Code 1471 & 1472.

E. TIME TRACKING

All attorney time will be tracked using the County's current and approved time tracking system and will identify the case number, time worked (in 15 minute increments), and the specific services rendered. All time will be approved by the attorney and the attorney's supervisor.

F. SEVERABILITY

If any title, article, section, subsection, sentence, clause, or phrase of these Processes or any amendment thereto is for any reason held by a court of competent jurisdiction to be invalid or unconstitutional, such decision shall not affect the validity of the remaining portions of these Processes or amendments thereto. The Board of Supervisors declares that it would have approved these Processes and each title, article, section, subsection, sentence, clause, and phrase of these Processes irrespective of the fact that any one or more titles, sections, subsections, sentences, clauses, or phrases are declared invalid or unconstitutional.

Exhibit A

G. NON EXCLUSIVITY

Nothing in these Processes or any amendment thereto shall limit or preclude the enforcement of other county ordinances, including penalties therein or any other federal, state, or local laws or regulations. The remedies provided herein are cumulative to all other remedies now or hereafter available to abate or otherwise enforce a fee requirement for conduct described herein. The collection or acceptance of any fee does not constitute and shall not be construed as approval or authorization of any conduct, activity, or condition that violates any federal, state, or local laws or regulations.