

Office of the State Public Defender

Presentation to the

LAW AND JUSTICE INTERIM COMMITTEE

JANUARY 30, 2018

Public Defender Fees

- ▶ 46-8-113 MCA allows the court to impose, as part of a condition of a sentence the cost of counsel (public defender fee) if the court determines the client has the ability to pay.
 - ▶ If the client pleads guilty prior to trial the Court may order:
 - ▶ \$250 for a misdemeanor case.
 - ▶ \$800 for a felony case.
 - ▶ If the case goes to trial the court may order the client to pay the costs incurred by OPD for providing counsel in the criminal trial.

Public Defender Fee Process Post HB 62:

The following applies to Public Defender fees assessed by a Court after July 1, 2017.

- ▶ HB 62 was enacted during the 2017 Legislative Session. The fee assessment amounts did not change.
 - ▶ OPD now receives detailed assessment information by client from the Court Administrator's office.
 - ▶ Since July 1, 2017, there have been 1,010 assessments in the amount of \$502,769.
 - ▶ Clients pay OPD directly via:
 - ▶ OPD online Payment Portal; or
 - ▶ Money order to OPD Central Services in Butte.
 - ▶ Unpaid assessments are referred to the Department of Revenue for offset.

Eligibility Determination

- ▶ HB 77 required the Central Services Division to implement and oversee the eligibility process and verify information for all applicants seeing counsel under the hardship provision. This was previously handled by the Regional Public Defender offices.
- ▶ The Division is in the process of hiring two eligibility specialists to work exclusively on hardship determinations statewide.
 - ▶ Local offices will continue to perform an initial review based on gross income or presumptive eligibility.
 - ▶ Applicants who do not qualify under those conditions will be referred to Central Services for the hardship determination.
- ▶ This process will ensure consistency throughout the state.
- ▶ OPD's determination may be modified by the Court.