



## Judicial Council of California · Administrative Office of the Courts

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# REPORT TO THE JUDICIAL COUNCIL

For business meeting on October 26, 2012

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Title	Agenda Item Type
Juvenile Dependency: Counsel Collections Program	Action Required
Rules, Forms, Standards, or Statutes Affected	Effective Date
Amend Cal. Rules of Court, rule 1.4; adopt Appendix F; and approve new forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, and JV-136	January 1, 2013
Recommended by	Date of Report
Family and Juvenile Law Advisory Committee Hon. Kimberly J. Nystrom-Geist, Cochair Hon. Dean T. Stout, Cochair	September 14, 2012
	Contact
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### Executive Summary

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council adopt *Guidelines for the Juvenile Dependency Counsel Collections Program* as Appendix F to the California Rules of Court, amend rule 1.4 to add a reference to Appendix F, and approve seven new optional forms for dependency courts to use in implementing the counsel collections program. This recommendation fulfills the council's legislative mandate to "establish a program to collect reimbursements from the person liable for the costs of counsel appointed to represent parents or minors ... in dependency proceedings" (Welf. & Inst. Code, § 903.47(a)). As required by the statute, the guidelines include a statewide standard for determining an obligated person's ability to pay reimbursement as well as policies and procedures to allow courts to recover costs associated with implementing the counsel collections program.

## Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2013:

- Amend rule 1.4(d) of the California Rules of Court to add paragraph (6), an index listing for new Appendix F: *Guidelines for the Juvenile Dependency Counsel Collections Program*.
- Adopt *Guidelines for the Juvenile Dependency Counsel Collections Program* as Appendix F to the California Rules of Court;
- Approve *Paying for Lawyers in Dependency Court—Information for Parents and Guardians* (form JV-130-INFO);
- Approve *Order to Appear for Financial Evaluation* (form JV-131);
- Approve *Financial Declaration—Juvenile Dependency* (form JV-132);
- Approve *Recommendation Regarding Ability to Repay Cost of Legal Services* (form JV-133);
- Approve *Response to Recommendation Regarding Ability to Repay Cost of Legal Services* (form JV-134);
- Approve *Order for Repayment of Cost of Legal Services* (form JV-135); and
- Approve *Juvenile Dependency—Cost of Counsel: Repayment Recommendation/Response/Order* (form JV-136).

The text of the rule, guidelines, and forms is attached at pages 11–33.<sup>1</sup>

## Previous Council Action

The Judicial Council approved draft guidelines for the dependency counsel collections program on June 25, 2010.

## Rationale for Recommendation

Welfare and Institutions Code section 903.47<sup>2</sup> 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

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<sup>1</sup> The attached amended rule 1.4(d) includes a new paragraph (5), which identifies a new Appendix E to the rules, *Guidelines for Determining Financial Eligibility for County Payment of the Cost of Counsel Appointed by the Court in Proceedings Under the Guardian-Conservatorship Law*. This paragraph refers to a separate proposal by the Probate and Mental Health Advisory Committee that will be presented for consideration by the Judicial Council at the same meeting at which this proposal will be presented. It is noted here in the amended rule text to ensure that if both proposals are adopted, the amendment to rule 1.4(d) would reflect both adopted proposals.

<sup>2</sup> Added by 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](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_0101-0150/ab_131_bill_20091011_chaptered.pdf); amended by Assembly Bill 1229 (Stats. 2010, ch. 569), [www.leginfo.ca.gov/pub/09-10/bill/asm/ab\\_1201-1250/ab\\_1229\\_bill\\_20100930\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/09-10/bill/asm/ab_1201-1250/ab_1229_bill_20100930_chaptered.pdf), and Senate Bill 647 (Stats. 2011, ch. 308), [www.leginfo.ca.gov/pub/11-12/bill/sen/sb\\_0601-0650/sb\\_647\\_bill\\_20110921\\_chaptered.pdf](http://www.leginfo.ca.gov/pub/11-12/bill/sen/sb_0601-0650/sb_647_bill_20110921_chaptered.pdf). Unless specified otherwise, all statutes and sections mentioned in this report refer to the Welfare and Institutions Code.

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.”

Assembly Bill 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 reimbursements received by the courts under section 903.1 be “transmitted to the Administrative Office of the Courts (AOC) 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 any reimbursements received under section 903.1 into the Trial Court Trust Fund. Section 903.47(a)(2) adds a 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.”<sup>3</sup>

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

1. It required the Judicial Council to establish a program to collect reimbursements from persons held responsible for the cost of appointed counsel in dependency proceedings.
2. It mandated that the council, as part of the program, establish a statewide standard for determining a responsible person’s ability to pay and adopt policies and procedures governing the courts’ recovery of program costs and use of third-party vendors.
3. It required the trial courts to transmit any collected reimbursements to the AOC in the same manner as required under Government Code section 68085.1 and required the AOC to deposit those funds into the Trial Court Trust Fund and redistribute them to the trial courts to reduce the caseloads of court-appointed counsel.

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<sup>3</sup> This proposal does not address criteria for allocating or methods for distributing the collected funds. The Trial Court Budget Working Group, on April 30, 2012, established a subgroup to develop recommendations for the fair and efficient implementation of the requirements in section 903.47(a)(2). This group’s work is ongoing.

The complex statutory scheme to which these requirements were added has made implementation all the more challenging. The Dependency Counsel Reimbursement Working Group (DCRWG), with representatives from the Family and Juvenile Law Advisory Committee, the Trial Court Budget Working Group, local court administration, and the juvenile dependency bar,<sup>4</sup> considered many methods for implementing the statutory program. After extensive deliberation, the working group determined that program guidelines and optional forms 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 mandated Juvenile Dependency Counsel Collections Program (JDCCP) with as much flexibility as permitted by statute. 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 conferring in September 2011, it first evaluated options for the structure of the reimbursement program. Among the alternatives considered for recommendation were (1) taking no action, leaving the existing framework of informal program guidelines and form templates in place; (2) revising the framework consistent with the group's legal and policy determinations while keeping its status informal; (3) revising the framework as in option 2 but formally establishing the program through council approval of the revised guidelines and form templates; (4) revising the guidelines as in option 2 and using them to develop a formal program of new rules of court and 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 formally by the Judicial Council as Appendix F to the California Rules of Court, and
- An accompanying set of optional Judicial Council forms for local courts to use either as published or as models for creating their own local forms.

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<sup>4</sup> The DCRWG comprises judges, court executive officers, and administrators from the Superior Courts of Calaveras, Contra Costa, Inyo, Mendocino, Orange, Riverside, Sacramento, San Bernardino, and Solano Counties, as well as juvenile dependency attorneys from Los Angeles and San Francisco.

***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 propose one or more methods that courts could use to determine the cost of legal services in dependency as required by section 904. The determination of cost sets an upper limit on the amount that a court may assess a responsible person for reimbursement. The committee recommends allowing courts to adopt one of three methods: (1) determining the actual cost allocable to individual clients; (2) determining cost using a cost model designed to produce the most accurate possible cost estimate without exceeding actual costs; or (3) using a flat-rate fee structure. These methods are outlined in section 5 of the guidelines.

***Standard for determining ability to pay.*** The group next addressed the administration of the program. 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.

The working group recommended a two-tiered standard elaborated in section 6(d) of the guidelines. In the first tier, a responsible person who meets the standards for a civil fee waiver under Government Code section 68632 is presumed unable to pay and eligible for a waiver of liability. The guidelines permit a local court to make a policy determination as to whether circumstances in its jurisdiction warrants further inquiry into the financial condition of a person who meets these threshold requirements. If the court determines no further inquiry is warranted, the inquiry ends.

For a person who did not qualify for a presumptive waiver of liability or whose court determined that further inquiry is warranted irrespective of eligibility for a waiver, the second tier would come into play. If the court determined that referral to a designated financial evaluation officer (FEO) would be cost-effective, the FEO 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. The second-tier inquiry could either result in a determination of the person's inability to pay or a recommendation that the court order 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 amount recovered by the court 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 each court as much flexibility as possible. The guidelines also include provisions under which the Administrative Office of the Courts might take on the burden of contracting with third parties on behalf of local courts.

**Optional forms.** To help courts implement the collections program, the working group recommends that the council approve 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, gather financial information from responsible persons, and issue recommendations and orders regarding reimbursement.

This proposal offers courts two alternatives for using the recommendation, response, and order forms. One alternative provides separate forms for

- the FEO to make a recommendation to the court regarding a person’s ability to pay reimbursement (form JV-133);
- the responsible person to agree or disagree with the recommendation (form JV-134); and
- the court to issue an order for reimbursement (form JV-135).

To give courts the option of reducing the number of forms they use, the other alternative offers a single form, form JV-136, that combines all three functions. The committee sought comment on whether this combined form—which must travel from the financial evaluation officer to the responsible person, and then on to the court—would be compatible with electronic case management systems across the state. It appears that the form is incompatible with some systems but would be useful to smaller courts less reliant on automated systems.

By proposing the forms as optional, the working group and committee have tried to accommodate both those courts that lack the resources to develop their own local forms and those that already have their own forms or need to tailor forms to their local needs and circumstances.

***In re S.M.***

On September 5, 2012, after the comment period had closed and the advisory committee had completed its modification of the proposal in response to comments received, the California Court of Appeal for the Fourth Appellate District decided the case of *In re S.M.* (Sept. 5, 2012, D060733), \_\_ Cal.App.4th \_\_, [www.courts.ca.gov/opinions/documents/D060733.PDF](http://www.courts.ca.gov/opinions/documents/D060733.PDF). In that case, a mother challenged the juvenile court’s inclusion of Supplemental Security Income (SSI) benefits in its calculation of her income for the purpose of determining her ability to repay the cost of legal services provided to her and her child in a dependency proceeding. The court of appeal held that SSI payments “should not be considered in determining a person’s ability to pay” because receipt of those benefits is based on need. (*Id.* at 9.) The court extended its reasoning to exclude from consideration any benefits from a public assistance program that determines eligibility based on need. (*Ibid.*) The court distinguished SSI and benefits from other need-based public programs, on the one hand, from public programs that base eligibility for receipt of benefits on past contributions or service, on the other. The latter programs, the court held, are properly included in a person’s income when considering that person’s ability to repay the cost of legal services under section 903.1 of the Welfare and Institutions Code.

The proposed guidelines and optional forms are consistent with the court’s opinion. Indeed, section 6(d)(1) of the guidelines bases its presumption of an inability to repay the cost of legal services on a person’s receipt of SSI or other public benefits based on need as enumerated in Government Code section 68632. In section 6(d)(3), however, the guidelines should indicate more clearly that benefits received based on need must be excluded from consideration in calculating a responsible person’s income. The committee recommends adding a sentence to section 6(d)(3) to that end, as well as a footnote citing the *S.M.* case.

The committee also recommends revising *Financial Declaration—Juvenile Dependency* (form JV-132). Item 7 of that form provides an opportunity for a responsible person to declare income from sources other than employment. As circulated for comment, item 7 listed several sources—including SSI, State Supplementary Payment (SSP), CalWORKS, Tribal Temporary Assistance for Needy Families (TANF), and general assistance—that base eligibility for receipt of benefits on the recipient’s need. In light of *S.M.*, the committee recommends removing references to these sources and clarifying that the item seeks information about the declarant’s *monthly* income.

### **Comments, Alternatives Considered, and Policy Implications**

The invitation to comment circulated from April 17, 2012, through June 15, 2012, to the standard mailing list for family and juvenile law proposals as well as to the Joint Rules Working Group (JRWG) of the Trial Court Presiding Judges and Court Executives Advisory Committees and the JDCCP listserv. Included on the list were appellate presiding justices, appellate court administrators, trial court presiding judges, trial court executive officers, judges, court administrators and clerks, attorneys, social workers, probation officers, and other juvenile law professionals.

Of the 11 commentators, 4 agreed with the proposal as circulated and 6 agreed with the proposal subject to specified modifications. One commentator did not indicate a position, but generally agreed with the proposal subject to modification. A chart with the full text of the comments and the committee’s responses is attached at pages 34–63.

### **Impracticability of Statutory Requirements**

Several commentators, including the JRWG, expressed concerns that courts would be unable to implement the statutory requirements in the current budgetary climate. These commentators pointed out that implementation of the program would require substantial financial and staff resources to establish, with no guarantee of any return on the investment. Of the courts that have begun to implement a collections program, only Los Angeles and San Diego report collecting revenues that exceed their expenses. The JRWG recommended that the matter be referred to the Judicial Council’s Policy Coordination and Liaison Committee (PCLC) to consider requesting legislative action to mitigate the burden of the program on the courts. The Family and Juvenile Law Advisory Committee joins this recommendation.

### **Referral to Financial Evaluation Officer**

Some commentators expressed concern that mandatory referral to an FEO would not be cost-effective and recommended that the guidelines give the court full discretion not to make the referral. The committee understands that a mandatory referral may present problems for a court with a small staff or few resources. Because the referral is required by Welfare and Institutions Code section 903.45(b), the committee cannot recommend the suggested modification. The statutory scheme does, however, leave open two possibilities recognized in the guidelines for mitigating the burden of this mandate. First, the court may not need to make the referral if to do so would not be cost-effective. Section 903.47(a) mandates that the Judicial Council standard for determining a responsible person's ability to pay include "the cost-effectiveness of the program." The committee has concluded that this requirement reflects a legislative intent that the program not place a burden on a court that would outweigh any prospective benefit. The guidelines accordingly permit a court not to refer a person to an FEO if an evaluation would not be cost-effective. The guidelines also permit a court to determine, as a matter of policy, that a full inquiry into the financial condition of a person presumed eligible for a waiver of liability would not be warranted. Second, the statutes and guidelines do not specify the identity of the court financial evaluation officer. Conceivably, a judicial officer with sufficient information might act as a financial evaluation officer in any case where referral to a separate official for a full-scale evaluation would not be cost-effective.

### **Appointed Counsel at Hearing on Dispute over Ability to Pay**

Two commentators, including the JRWG, stated that the statutory requirement to appoint counsel at a hearing on a dispute over ability to pay for a responsible person who cannot afford counsel would place an excessive burden on the courts. While recognizing the financial burden imposed by compensating counsel for additional time, the committee concluded that it was constrained by statute to retain that requirement. The JRWG also recommended that the AOC pursue a statutory amendment to remove the right to appointed counsel in reimbursement proceedings. In the meantime, the committee interprets section 903.47(1)(B) to allow the court to recover the cost of appointing counsel at the reimbursement hearing from any reimbursements collected, viewing such recovery as falling under "court cost[s] of assessing a parent's ability to pay."

The JRWG also questioned whether a requirement that the attorney appointed to represent a responsible person in a dependency proceeding would have a conflict of interest if also appointed to represent that same person in a dispute over the person's ability to reimburse the cost of the representation. The committee concluded that in most cases, no conflict would exist. Because the court would pay the attorney for the representation under the terms of the contract regardless of the outcome of the reimbursement hearing, the attorney's interest in getting paid would not conflict with the client's interest in not being required to pay. Under the statute, the scope of the hearing is limited to the responsible person's liability for the costs, the amount of the costs, the person's ability to pay the costs, and the terms of payment. Even so, a conflict of interest could arise if, for example, the responsible person were dissatisfied with the quality of the legal services received. In those cases, the court would need to appoint separate counsel for the



responsible person at the reimbursement hearing. The court would still be able to recover the cost of that appointment under section 903.47(a)(1)(B).

### **Inability of Responsible Person to Appear**

Another commentator suggested modifying the guidelines to require the court to presume that a responsible person who cannot appear for evaluation because of incarceration, institutionalization, hospitalization, or similar circumstances is likewise unable to pay reimbursement. The statute requires the financial evaluation officer to recommend that the court order any person who has received proper notice and fails to appear for evaluation to pay the full cost of legal services. The committee recognizes the burden that a literal reading of the statute could place on a confined person but concludes that in most circumstances, that person is adequately protected by the notice provisions in the statute and guidelines. If the responsible person did not receive proper notice, then the FEO is not required to recommend an order of full payment. If the person has received proper notice, the court is entitled to expect a response and cooperation even if the person is unable to appear or to reschedule the appearance. The committee has concluded, however, that in cases in which a person has received proper notice and an order to appear and does respond, but is unable to appear as ordered because of involuntary confinement, justice requires the court to presume that person unable to pay at that time. Nothing, however, would prevent the court from referring the person for a financial evaluation once the person is free from confinement.

### **Reporting requirements**

One commentator objected that the reporting requirements in the guidelines were too onerous, and the committee responded with a limited modification of the proposed guidelines. Keeping in mind that the reporting requirements are not mandated by statute and the guidelines themselves are not mandatory, the committee recommends that the guidelines direct, but do not require, that courts report the data listed in section 13. The guidelines already direct courts to report the data requested in section 13(a)(1) only “[t]o the extent feasible in light of each court’s current practices and resources.” The committee concludes that some effort in collecting and reporting data will be essential to provide feedback to the Legislature on the impact and cost-effectiveness of the program. To the extent that data are collected and reported, the committee also concludes that detailed guidance is justified to promote sufficient uniformity of reporting that results can be compared with some degree of validity between any given court and the others.

### **Alternatives considered**

The preceding sections discuss at some length both the formal and substantive alternatives considered by the working group and the advisory committee when developing the program. Formal alternatives included taking no action; proposing rules of court or standards of judicial administration to implement the required program; and proposing form templates or mandatory forms for courts to use to disseminate information and administer the program. The committee also considered whether to add specific guidelines to help courts implement the statutory requirements, but decided not to elaborate on the statutory requirements unless expressly required by statute or absolutely necessary to prevent confusion.

## **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 recognizes that these costs probably cannot be offset by courts' recovery of a reasonable proportion of the funds collected through the program. Courts will need to designate or contract with 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 procedural tasks will require staff time and resources if performed in-house. Courts that contract with the county or a third party for dependency counsel collection services will incur the costs of those contracts. Court-appointed counsel representing parents would see an indeterminate increase in workload if required to represent their clients at hearings on disputes over ability to pay.

## **Relevant Strategic Plan Goals and Operational Plan Objectives**

The proposed guidelines and forms support the policies underlying Goal III, Modernization of Management and Administration, and Goal IV, Quality of Justice and Service to the Public, by working to improve the quality of legal representation in juvenile dependency proceedings and by enabling courts to allocate funds more effectively when they appoint counsel for parties who cannot afford counsel.

## **Attachments**

1. Cal. Rules of Court, rule 1.4, at page 11
2. Guidelines, at pages 12–21
3. Forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, and JV-136, at pages 22–33
4. Chart of comments, at pages 34–63

Rule 1.4 of the California Rules of Court is amended and Appendix F to the rules is adopted, effective January 1, 2013, to read as follows:

1 **Rule 1.4. Contents of the Rules**

2

3 **(a)–(c)** \*\*\*

4

5 **(d) The appendixes**

6

7 The California Rules of Court includes the following appendixes:

8

9 (1)–(4) \*\*\*

10

11 (5) Appendix E. Guidelines for Determining Financial Eligibility for County  
12 Payment of the Cost of Counsel Appointed by the Court in Proceedings  
13 Under the Guardianship-Conservatorship Law

14

15 (6) Appendix F. Guidelines for the Juvenile Dependency Counsel Collections  
16 Program.

17

1 Appendix F.

2  
3 Guidelines for the Juvenile Dependency Counsel Collections Program

4  
5 **1. Legal Authority**

6 These guidelines are adopted under the authority of section 903.47 of the Welfare and  
7 Institutions Code,<sup>1</sup> which mandates that the Judicial Council “establish a program to  
8 collect reimbursements from the person liable for the costs of counsel appointed to  
9 represent parents or minors pursuant to Section 903.1 in dependency proceedings.” (Welf.  
10 & Inst. Code, § 903.47(a).) As part of the program, the statute requires the council to  
11 “[a]dopt a statewide standard for determining [a responsible person’s] ability to pay  
12 reimbursements for counsel.” This standard must “at a minimum include the family’s  
13 income, their necessary obligations, the number of people dependent on this income, and  
14 the cost-effectiveness of the program.” (Ibid.) The statute also requires the council to  
15 “[a]dopt policies and procedures allowing a court to recover from the money collected the  
16 costs associated with implementing the reimbursements program.”<sup>2</sup> These policies and  
17 procedures must, in turn, “limit the amount of money a court may recover to a reasonable  
18 proportion of the reimbursements collected and provide the terms and conditions under  
19 which a court may use a third party to collect reimbursements.” (Ibid.)

20  
21 Section 903.1 imposes liability on specified persons and estates for the cost of legal  
22 services provided to the child and directly to those persons in dependency proceedings.  
23 These responsible persons are jointly and severally liable for the cost of the child’s  
24 representation. If the petition is dismissed at or before the jurisdictional hearing, though,  
25 no liability attaches.

26  
27 Section 904 authorizes the trial court to determine the cost of dependency-related legal  
28 services using methods or procedures approved by the Judicial Council.

29  
30 Under section 903.47(b), the court may designate a court financial evaluation officer  
31 (FEO) or, with the consent of the county, a county financial evaluation officer (FEO) to  
32 determine a responsible person’s ability to pay the cost of court-appointed counsel. The  
33 court refers any responsible person to the designated FEO at the close of the dispositional  
34 hearing under section 903.45(b) unless that referral would not be cost-effective under  
35 section 903.47(a)(1)(A). The FEO then determines the responsible person’s ability to pay  
36 all or part of the cost of dependency-related legal services under the procedures and within  
37 the limits set by section 903.45(b). The statutory scheme, particularly sections 901 and  
38 903, prohibits the assessed amount from exceeding the actual cost of the legal services.

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<sup>1</sup> Except as otherwise specified, all statutory references in these guidelines are to the Welfare and Institutions Code.

<sup>2</sup> This section 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.”

1 **2. Effective Date**

2 These guidelines are effective for all dependency proceedings filed on or after January 1,  
3 2013.

4  
5 **3. Responsible Person—Definition**

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

10  
11 **4. No Liability**

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

15  
16 **5. Determination of Cost of Legal Services**

17 The court is charged with determining the cost of dependency-related legal services. In  
18 doing so, the court may adopt **one** of the three methods in (a)–(c). In no event will the  
19 court seek reimbursement of an amount that exceeds the actual cost of legal services  
20 already provided to the children and the responsible person in the proceeding. The court  
21 may update its determination of the cost of legal services on an annual basis, on the  
22 conclusion of the dependency proceedings in the juvenile court, or on the cessation of  
23 representation of the child or responsible person.

24  
25 **(a) Actual Cost**

26 The court may determine the actual cost of the legal services provided to a child or  
27 responsible person in a dependency proceeding. The court should base this  
28 determination on the actual cost incurred per event in the proceeding, per hour billed,  
29 or per client represented.

30  
31 **(b) Cost Model**

32 The court may determine the cost of legal services provided to a child or responsible  
33 person in a dependency proceeding by applying the Uniform Regional Cost Model  
34 available on [serranus.jud.ca.gov](http://serranus.jud.ca.gov) or from [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov). Use of the cost model as  
35 described in this section will ensure that the court seeks reimbursement of an amount  
36 that most closely approximates, but does not exceed, the actual cost incurred by the  
37 court.

38  
39 **(1) Time Allocated to Each Event per Attorney**

40 The court will calculate the time allocated to each event in a local dependency  
41 proceeding by

1 (A) Dividing the normative caseload of 141 clients per attorney by the  
2 actual caseload reported by the dependency attorneys in the county in  
3 which the court sits, and then

4  
5 (B) Multiplying the result by the number of hours allocated to the type of  
6 event in question by the Dependency Counsel Caseload Study.<sup>3</sup>  
7

8 **(2) Cost of Each Event per Attorney**

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

11  
12 (A) The actual hourly rate billed to the court for the provision of  
13 dependency-related legal services, or

14 (B) The lowest actual hourly rate billed for dependency-related legal  
15 services in the region<sup>4</sup> in which the court is located as reported in the  
16 most recent survey of those rates, or

17 (C) The approved hourly rate for the region in which the court is located as  
18 provided in the Caseload Funding Model approved by the Judicial  
19 Council in October 2007.<sup>5</sup>  
20

21 **(3) Cost of Proceeding per Attorney**

22 The court will then calculate the cost of the services provided by an attorney in  
23 a dependency proceeding by adding together the costs of each event that has  
24 occurred in the proceeding at issue.  
25

26 **(c) Flat Rate Fee Structure**

27 The court may adopt a flat rate fee structure for the cost of legal services in a  
28 dependency proceeding as long as the fees charged do not exceed the actual cost of  
29 the services provided in that proceeding up to and including the date of the  
30 determination and assessment.  
31

32 **6. Determination of Ability to Pay; Financial Evaluation Officer; Statewide Standard**  
33

34 **(a) Referral for Financial Evaluation**

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

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

<sup>4</sup> California trial courts are grouped into four regions based on parity in cost of living, attorney salaries, 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* (Oct. 2007), pp. 7-8.

<sup>5</sup> See *id.* (Oct. 2007), at pp. 7-10.

1 903.1(a), unless the court finds that, given the resources of the court, evaluation by a  
2 FEO would not be a cost-effective method of determining the responsible person's  
3 ability to pay.

4  
5 **(1) Responsible Person Not Present at Dispositional Hearing**

6 If a responsible person is not present at the dispositional hearing, the court will  
7 issue proper notice and an order for him or her to appear before an FEO for  
8 determination of his or her ability to pay reimbursement of all or part of the  
9 cost of legal services for which he or she is liable under section 903.1(a) unless  
10 the court finds that evaluation by an FEO would not be a cost-effective method  
11 of determining the responsible person's ability to pay given the resources of  
12 the court.

13  
14 To issue proper notice to a responsible person not present at the hearing at  
15 which appearance for a financial evaluation is ordered, the court should send  
16 Order to Appear for Financial Evaluation (form JV-131) or the equivalent  
17 local form by first-class mail to that person's mailing address of record.

18  
19 **(2) Alternative Methods**

20 If the court finds that evaluation by an FEO is not cost-effective, it may take  
21 whatever steps it deems cost-effective to determine the responsible person's  
22 ability to pay.

23  
24 **(3) Failure to Appear for Financial Evaluation**

25 If a responsible person is ordered to appear for financial evaluation, has  
26 received proper notice, and fails to appear as ordered, the FEO will  
27 recommend that the court order the responsible person to pay the full cost of  
28 legal services as determined under section 5 of these guidelines unless the next  
29 paragraph applies.

30  
31 If a responsible person is not present at the hearing at which the order to appear  
32 for a financial evaluation is made, has received proper notice and an order to  
33 appear, and responds to the order by submitting a declaration that he or she is  
34 involuntarily confined and therefore not able to attend or reschedule the  
35 evaluation, the FEO or the court may presume that he or she is unable to pay  
36 reimbursement and is eligible for a waiver of liability at that time.

37  
38 **(4) Proper Notice**

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

40 (A) His or her right to a statement of the costs as soon as it is available;

41 (B) His or her procedural rights under section 27755 of the Government  
42 Code;

43 (C) The time limit within which his or her appearance is required; and

1                   (D)     A warning that if he or she fails to appear before the FEO, the officer  
2                   will recommend that the court order him or her to pay the full cost of  
3                   legal services, and that the FEO’s recommendation will be a sufficient  
4                   basis for the court to order payment of an amount up to the full cost.  
5

6     **(b) Financial Evaluation Officer**

7     The court may either designate a court FEO to determine responsible persons’ ability  
8     to reimburse the cost of legal services or, with the consent of and under terms agreed  
9     to by the county, designate a county FEO to determine responsible persons’ ability to  
10    reimburse the cost of legal services.  
11

12    **(c) Authority of Financial Evaluation Officer**

13    The designated FEO will conduct the evaluation under the procedures outlined in  
14    section 903.45(b). The FEO may determine a referred responsible person’s ability to  
15    pay all or part of the cost of legal services for which he or she is liable, negotiate a  
16    plan for reimbursement over a set period of time based on the responsible person’s  
17    financial condition, enter into an agreement with the responsible person regarding  
18    the amount to be reimbursed and the terms of reimbursement, petition the court for  
19    an order of reimbursement according to the terms agreed to with the responsible  
20    person, and refer the responsible person back to court for a hearing in the event of a  
21    lack of agreement.  
22

23    **(d) Standard for Determining Ability to Pay**

24    The FEO will determine the responsible person’s ability to reimburse the cost of  
25    legal services using the following standard:  
26

27    **(1) Presumptive Inability to Pay; Waiver**

28    If a responsible person receives qualifying public benefits or has a household  
29    income 125 percent or less of the threshold established by the federal poverty  
30    guidelines in effect at the time of the inquiry, then he or she is presumed to be  
31    unable to pay reimbursement and is eligible for a waiver of liability.  
32

33                   (A)     Qualifying public benefits include benefits under any of the programs  
34                   listed in Government Code section 68632(a).  
35

36    **(2) Further Inquiry**

37    If the court has concluded as a matter of policy that further inquiry into the  
38    financial condition of person presumed eligible for a waiver would not be  
39    warranted or cost-effective, the inquiry may end at this point. If the court has  
40    concluded as a matter of policy that further inquiry into the financial condition  
41    of a person presumed eligible for a waiver is warranted, the FEO may proceed  
42    to a detailed evaluation under section 6(d)(3).  
43



1           **(3) Responsible Person’s Financial Condition**

2           The FEO may, at any time following the close of the dispositional hearing,  
3           make a detailed evaluation of a referred responsible person’s financial  
4           condition at that time under section 903.45(b). Based on any relevant  
5           information submitted by the responsible person, including but not limited to a  
6           completed *Financial Declaration—Juvenile Dependency* (form JV-132) or the  
7           equivalent local form, the FEO will assess the responsible person’s household  
8           income, household needs and obligations (including other court-ordered  
9           obligations), and the number of persons dependent on the household income  
10           and will determine the person’s ability pay all or part of the cost of legal  
11           services without using funds that would normally be used to pay for the  
12           common necessities of life.

13  
14           When calculating a person’s household income, the FEO must exclude from  
15           consideration any benefits received from a public assistance program that  
16           determines eligibility based on need.<sup>6</sup>

17  
18           **(e) Circumstances Requiring No Petition or Order for Reimbursement**

19           Under section 903.45(b), the FEO will not petition the court to order reimbursement  
20           of the cost of legal services, and the court will not so order, if the responsible person  
21           has been reunified with any of the children under a court order and reimbursement  
22           would harm his or her ability to support the children.

23  
24           **(f) Amount Assessed**

25           The FEO may, consistent with the responsible person’s ability to pay, assess any  
26           amount up to the full cost determined under section 5 of these guidelines, and may  
27           recommend reimbursement in a single lump sum or in multiple installments over a  
28           set period of time.

29  
30           **(g) Agreement; Petition**

31           If the responsible person agrees in writing to the FEO’s written determination of the  
32           amount that the responsible person is able to reimburse and the terms of  
33           reimbursement, the FEO will petition the court for an order requiring the responsible  
34           person to reimburse the court in a manner reasonable and compatible with the  
35           responsible person’s financial condition.

36  
37           **(h) Dispute; Hearing**

38           If the responsible person disputes liability for the cost of legal services, the amount  
39           of that cost, the FEO’s determination of his or her ability to reimburse all or part of  
40           that cost, or the terms of reimbursement, the FEO will refer the matter back to the  
41           court for a hearing.

---

<sup>6</sup> *In re S.M.* (Sept. 5, 2012, D060733), \_\_\_ Cal.App.4th \_\_\_, [pp. 8–9]  
[www.courts.ca.gov/opinions/documents/D060733.PDF](http://www.courts.ca.gov/opinions/documents/D060733.PDF).

1  
2 **7. Judicial Proceeding Following Determination of Ability to Reimburse Cost**

3 On having made a determination of the responsible person’s ability to reimburse all or part  
4 of the cost of legal services, the FEO will return the matter to the juvenile court as follows:  
5

6 **(a) Agreement; Order**

7 If the responsible person agrees to reimburse the court as recommended by the FEO,  
8 the FEO will prepare an agreement to be signed by the responsible person. The  
9 agreement will reflect the amount to be reimbursed and the terms under which  
10 reimbursement will be paid. The court may order the responsible person to pay  
11 reimbursement under those terms without further notice to the responsible person.  
12

13 **(b) Dispute; Hearing**

14 If the responsible person does not agree with the FEO’s determination with respect to  
15 liability, ability to pay, amount, or terms of reimbursement, the matter will be  
16 deemed in dispute and the FEO will refer the matter to the court to be set for a  
17 hearing as required under section 903.45(b).  
18

19 **(c) Judicial Determination**

20 If at the conclusion of the hearing, the court determines that the responsible person is  
21 able to reimburse all or part of the cost of legal services—including the cost of any  
22 attorney appointed to represent the responsible person at that hearing—without using  
23 funds that would normally be used to pay for the common necessities of life, the  
24 court will set the amount to be reimbursed and order the responsible person to pay  
25 that amount to the court in a manner that the court believes reasonable and  
26 compatible with the responsible person’s financial condition.  
27

28 **(d) Exclusions**

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

31 (1) The responsible person is currently receiving reunification services and the  
32 court finds that reimbursement would pose a barrier to reunification because:

33 (A) It would limit the responsible person’s ability to comply with the  
34 requirements of the reunification plan, or

35 (B) It would harm the responsible person’s current or future ability to  
36 meet the needs of the child; or

37 (2) The court finds that reimbursement would be unjust under the circumstances  
38 of the case.  
39

40 **8. Reevaluation of Ability to Pay**

41 At any time before reimbursement is complete, a responsible person may petition the court  
42 for a modification of the reimbursement order on the ground of a change in circumstances  
43 affecting his or her ability to pay reimbursement. The court may deny the petition without

1 a hearing if the petition fails to state a change of circumstances. The court may grant the  
2 petition without a hearing if the petition states a change of circumstances and all parties  
3 stipulate to the requested modification.

4  
5 **9. Frequency of Determination of Ability to Pay and Assessment**

6 The initial evaluation and determination of a responsible person’s ability to pay  
7 reimbursement may be conducted at any time following the conclusion of the dispositional  
8 hearing. The court may order a reevaluation of a responsible person’s financial condition  
9 on an annual basis, on the conclusion of the dependency proceedings in the juvenile court,  
10 or on the cessation of court-appointed representation of the child or the responsible person.

11  
12 If the FEO determines on reevaluation that the responsible person is able at that time to  
13 pay all or part of the cost of legal services, the FEO may, consistent with the responsible  
14 person’s ability to pay without using funds that would normally be used to pay for the  
15 common necessities of life, assess an amount up to the full cost determined under section  
16 5 of these guidelines of any legal services provided to the child or the responsible person  
17 and may recommend reimbursement in a single lump sum or in multiple installments over  
18 a set period of time.

19  
20 **10. Collection Services**

21  
22 **(a) Court-Based Collection Services**

23 To the extent applicable and consistent with sections 903.1 and 903.47, courts should  
24 administer the collection, processing, and deposit of court-ordered reimbursement of  
25 the cost of dependency-related legal services under the procedures in policies FIN  
26 10.01 and FIN 10.02 of the *Trial Court Financial Policies and Procedures Manual*.

27  
28 **(b) Outside Collection Services Providers**

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

31  
32 **(1) Collection Services Provided by County**

33 If collection services are provided by the county, the agreement should be  
34 formalized by a memorandum of understanding (MOU) between the court  
35 and county. AOC staff will provide a sample MOU on request. An electronic  
36 copy of the MOU, including a scanned copy of the completed signature page,  
37 must be sent to [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov).

38  
39 **(2) Collection Services Provided by Private Vendor**

40 A court that uses a private collection service should use a vendor has entered  
41 into a master agreement with the AOC to provide comprehensive collection  
42 services. A court that uses such a vendor should complete a participation  
43 agreement and send it to the AOC via e-mail to [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov).

1  
2 **(3) Court Option for AOC Agreement with Collection Services Provider**

3 At a court's request, the AOC may directly enter into an MOU with the  
4 county or an agreement with a private collection services vendor for  
5 dependency counsel reimbursement collection services.  
6

7 **11. Recovery of Cost of Program Implementation**

8 Courts may recover the cost of implementing the reimbursements program. Recoverable  
9 costs are limited by statute to the cost of assessing responsible persons' ability to pay for  
10 court-appointed counsel and the costs to collect delinquent reimbursements. Courts may  
11 recover these costs before remitting collected reimbursements to the bank accounts  
12 designated under Government Code section 68085.1. Any program costs recovered by the  
13 court should be reported by e-mail and follow the Cost Recovery Template available on  
14 [serranus.jud.ca.gov](http://serranus.jud.ca.gov) or from [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov).  
15

16 **(a) Limit on Recovery**

17 Under section 903.47(a)(1)(B), recovered costs may not exceed a reasonable  
18 proportion of the reimbursements collected.  
19

20 **12. Remittance and Reporting of Collected Revenue**

21 Courts will remit collected revenue to the AOC, less costs recoverable under section  
22 903.47(a)(1)(B), in the same manner as required under Government Code section 68085.1  
23 and will report this revenue on row 130 of *Court Remittance Advice* (form TC-145). The  
24 AOC will deposit the revenue received under these guidelines into the Trial Court Trust  
25 Fund.  
26

27 **(a) AOC Collections Agreement Option**

28 Where the AOC has entered into an MOU or agreement with a county or a private  
29 collection services vendor under section 10(b)(3) of these guidelines, funds will be  
30 remitted directly to the AOC under the terms of the MOU or the agreement.  
31

32 **13. Program Data Reporting**

33 Each court should report collections program data to the AOC to ensure implementation of  
34 the Legislature's intent by determining the cost-effectiveness of the program and  
35 confirming that efforts to collect reimbursement do not negatively impact reunification; to  
36 provide a basis for projecting the amount of future reimbursements; and to evaluate the  
37 effectiveness of the reimbursement program at both statewide and local levels.  
38

39 **(a) Ongoing Reporting Requirement**

40 All courts will report collections annually on or before September 1, beginning  
41 September 1, 2013. Completed reports should be sent as attachments to an e-mail  
42 message to [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov). The first report should cover the period from January

1 1 to June 30, 2013. Thereafter reports should reflect data from the entire preceding  
2 fiscal year.

3  
4 **(1) Collections Data**

5 To the extent feasible in light of each court's current practices and  
6 resources, data should be collected in the following categories:

7 (A) Total number of responsible persons evaluated

8 (B) Total number of responsible persons not ordered to pay because of  
9 potential impact on reunification

10 (C) Total number of responsible persons not ordered to pay based on  
11 other financial hardship

12 (D) Number of responsible persons with open collections, start of fiscal  
13 year

14 (E) Dollar amount of open collections, start of fiscal year

15 (F) Number of responsible persons added in fiscal year

16 (G) Dollar amount added in fiscal year

17 (H) Total amount collected in fiscal year

18 (I) Total responsible persons fully paid/closed in fiscal year

19 (J) Number of responsible person accounts closed in fiscal year

20 (K) Number of responsible persons with open collections, end of fiscal  
21 year

22 (L) Dollar amount of open collections, end of fiscal year

23  
24 **14. Technical Assistance**

25 AOC staff to the Judicial Council will provide technical assistance on request to courts that  
26 do not yet have a dependency counsel reimbursement program in place or that wish to  
27 coordinate with other courts in establishing a regional reimbursement program. Courts may  
28 send requests by e-mail to [jdccp@jud.ca.gov](mailto:jdccp@jud.ca.gov) to receive technical assistance, which can  
29 include (but is not limited to) services such as

30 (a) Helping a court establish a reimbursement program within its current administrative  
31 structure;

32 (b) Advising a court on the application of the Uniform Cost Model under section 5(b) of  
33 these guidelines;

34 (c) Coordinating a regional reimbursement program among several courts; or

35 (d) Working with current collection services providers who have entered into master  
36 agreements with the AOC to ensure compliance with the JDCCP reporting  
37 requirements.

**Who Pays 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 about any kinds of public assistance you receive. 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 for you 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> : _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILDREN'S NAMES:	
<b>ORDER TO APPEAR FOR FINANCIAL EVALUATION</b>	CASE NUMBER:

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 children named above. You must appear before *(name of financial evaluation officer)*:  
 at *(address)*: \_\_\_\_\_ for an evaluation of your ability to repay all or part of the cost of legal services provided to the children or directly to you in the children's dependency proceeding
  - a.  Between the hours of *(time)*: \_\_\_\_\_ and \_\_\_\_\_, Monday through Friday, on or before *(date)*: \_\_\_\_\_.  
 You may call *(telephone number)*: \_\_\_\_\_ to make an appointment.
  - b.  Your appointment has been set at *(time)*: \_\_\_\_\_ on *(date)*: \_\_\_\_\_.
  
2. You must bring with you to the financial evaluation:
  - a.  A completed copy of the *Financial Declaration—Juvenile Dependency* (form JV-132);
  - b.  Documentation of all household income and assets listed on your *Financial Declaration—Juvenile Dependency* (form JV-132)—including pay stubs, bank statements, proof of public assistance, and any other records; and
  - c.  Documentation of household expenses.—including rental agreements, mortgage or credit card statements, utility bills, records of car or insurance payments, and any other records.

**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; and
4. To receive a written statement of the court's findings and orders.

E. **WARNING:** If you do not appear for the financial evaluation or respond to this order within the time limit set in item 1, the financial evaluation officer will recommend that the court order you to repay the full cost of any legal services provided in this case directly to you or to the children named above, and the officer's recommendation by itself will be enough to allow the court to order you to pay up the full cost.

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER



# CONFIDENTIAL

JV-132

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <hr/> TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILDREN'S NAMES:	
<b>FINANCIAL DECLARATION—JUVENILE DEPENDENCY</b>	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 Number:	
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  SNAP (food stamps)  SSI  SSP  
 County Relief/General Assistance  CalWORKS or Tribal TANF (Temporary Assistance to Needy Families)  
 IHSS (In-Home Supportive Services)  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 attached.

5.  I am receiving court-ordered reunification services.

# CONFIDENTIAL

JV-132

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

**6. Employment:**

Your Employment				Your Spouse/Partner's 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 your last employer? <i>(Name, Address, City, and Zip Code):</i>				If not now employed, who was this person's last employer? <i>(Name, Address, City, and Zip Code):</i>			
Phone number of last employer:				Phone number of last employer:			

**7. Other Monthly Income and Assets:**

Other Income	Assets: What Do You Own?
Unemployment ..... \$	Cash ..... \$
Disability ..... \$	Real Property/Equity ..... \$
Social Security ..... \$	Cars and Other Vehicles ..... \$
Workers' Compensation ..... \$	Life Insurance ..... \$
Child Support Payments ..... \$	Bank Accounts <i>(list below)</i> ..... \$
Foster Care Payments ..... \$	Stocks and Bonds ..... \$
Other Income ..... \$	Business Interest ..... \$
Total \$	Other Assets ..... \$
	Total \$
	Name and branch of bank:
	Account numbers:

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

**8. Expenses:**

Monthly Household Expenses	Reunification Plan: Monthly Cost of Required Services
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 (other than mortgage or car loan):**

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)

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 <input type="checkbox"/> he or she receives qualifying public benefits <input type="checkbox"/> his or her household income falls below 125% of the current federal poverty guidelines <input type="checkbox"/> he or she 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).			
Date: _____		 _____ (SIGNATURE OF FINANCIAL EVALUATION OFFICER)	

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):  <hr/> TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD(REN)'S NAME(S):	
<b>RECOMMENDATION REGARDING ABILITY TO REPAY COST OF LEGAL SERVICES</b>	CASE NUMBER:

On (date): \_\_\_\_\_, (name): \_\_\_\_\_, a person responsible for the support of the children named above, 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 children named above in this case.

The responsible person:

1.  has been reunified with the children under a court order. Repayment would harm his or her ability to support the children. I do not, therefore, petition the court for an order of repayment.
2.  did not appear as ordered or respond to the order. 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 (check all that apply):
  - 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 \$ \_\_\_\_\_.
  - 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 Cost 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.

A hearing is scheduled:

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

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)

ATTORNEY OR PARTY WITHOUT ATTORNEY (Name, State Bar number, and address):    TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD(REN)'S NAME(S):	
<b>RESPONSE TO RECOMMENDATION REGARDING ABILITY TO REPAY COST OF LEGAL SERVICES</b>	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 Cost of Legal Services*.
2.  I 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 attached *Recommendation Regarding Ability to Repay Cost of Legal Services* (form JV-133).
3.  I promise to pay \$ \_\_\_\_\_ on the (1st, 2nd, etc.): \_\_\_\_\_ day of every month, beginning on (date): \_\_\_\_\_ 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 the Court address above  other (address): \_\_\_\_\_
  - b.  I also 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 a lawyer and, if I cannot afford a lawyer, to have a lawyer appointed to represent me.
5. I understand that at any time before I complete payment of the full amount ordered by the court, I may petition the court to change its judgment if a change in circumstances affects 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):  <hr/> TELEPHONE NO.: _____ FAX NO. (Optional): _____ E-MAIL ADDRESS (Optional): _____ ATTORNEY FOR (Name): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD(REN)'S NAME(S):	
<b>ORDER FOR REPAYMENT OF COST OF LEGAL SERVICES</b>	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 \$ \_\_\_\_\_ on the (1st, 2nd, etc.): \_\_\_\_\_ day of every month, beginning on (date): \_\_\_\_\_ until the 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 Cost 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 Cost 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> ):    TELEPHONE NO.: _____ FAX NO. ( <i>Optional</i> ): _____ E-MAIL ADDRESS ( <i>Optional</i> ): _____ ATTORNEY FOR ( <i>Name</i> ): _____	<b>FOR COURT USE ONLY</b>
<b>SUPERIOR COURT OF CALIFORNIA, COUNTY OF</b> STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
CHILD(REN)'S NAME(S):	
<b>JUVENILE DEPENDENCY—COST OF APPOINTED COUNSEL: REPAYMENT RECOMMENDATION/RESPONSE/ORDER</b>	CASE NUMBER:

**REIMBURSEMENT RECOMMENDATION OF FINANCIAL EVALUATION OFFICER**

On (*date*): \_\_\_\_\_, (*name*): \_\_\_\_\_, a person responsible for the support of the children named above, 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 children named above in this case.

The responsible person:

1.  has been reunified with the children 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 or respond to the order. 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 (*check all that apply*):
  - 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 \$ \_\_\_\_\_.
  - 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>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)

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 also 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 \$ \_\_\_\_\_ on the (*1st, 2nd, etc.*): \_\_\_\_\_ day of every month, beginning on (*date*): \_\_\_\_\_ until the 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 also 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 a lawyer and, if I cannot afford a lawyer, to have a lawyer appointed to represent me.
  
10. I understand that, at any time before full payment of the amount ordered by the court, I may petition the court to change its judgment if a change in circumstances affects 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 orders the responsible person to repay to the court the cost of legal services rendered to the children named above in this case in the amount of \$ \_\_\_\_\_
- 13.  The court orders the responsible person to pay the court \$ \_\_\_\_\_ on the (*1st, 2nd, etc.*): \_\_\_\_\_ day of every month, beginning on (*date*): \_\_\_\_\_ until the 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 children named above and is not ordered 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 the cost of legal services rendered 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 children; 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 Cost of Legal Services* (form JV-133).
- 17.  The court's review of the responsible person's agreement and waiver as set forth on *Response to Recommendation Regarding Ability to Repay Cost of Legal Services* (form JV-134).
- 18.  The court's review of the evidence presented at a contested hearing held on (*date*): \_\_\_\_\_

Date: \_\_\_\_\_

\_\_\_\_\_  
JUDICIAL OFFICER

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**Juvenile Dependency: Counsel Collections Program** (adopt Juvenile Dependency Counsel Collections Program Guidelines; approve forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, JV-136)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
1.	First District Appellate Project, Appellate Defenders, Inc., and California Appellate Project-San Francisco by Mat Zwerling	AM	<p>We strongly support the decision to implement these provisions as guidelines, rather than rules. Given the complexity of the system and the potential costs of implementation, a flexible system is essential. Others are better positioned to comment on the many specifics of the proposed guidelines, but two concerns jump out at us.</p> <p>First, the proposed guidelines include, under the Determination of Ability to Pay section, a provision for “Proper Notice,” which includes notification of the statement of costs, procedural rights, the time limit for appearance for a financial evaluation hearing, and a warning regarding a failure to appear for such hearing. (Proposed Guideline 6(a)(4)). We believe that due process fairness requires notice at an earlier stage than the financial evaluation stage. The responsible person should be given notice of their potential liability for the costs of their own and the child’s legal services before the appointment of counsel. In criminal cases, it has been recognized that both state statutory law and the constitutional right to due process require notice of the potential assessment of attorneys fees prior to appointment of counsel in criminal cases. (Pen. Code, §987.8, subd. (f); <i>People v. Smith</i> (2000) 81 Cal.App.4th 630, 637.) Although the parent in a dependency case might not be free to decline counsel for the child, they could decline counsel for</p>	<p>No response required.</p> <p>The committee agrees with the commentator that due process requires notice of liability before the appointment of counsel. The committee has concluded, however, that the notice required by the current statutory scheme and provided on the mandatory Judicial Council dependency petition forms satisfies those requirements. Section 332(h) of the Welfare and Institutions Code requires that notice of parental liability for cost of counsel be given in the juvenile dependency petition, which parents receive before the appointment of counsel. The mandatory Judicial Council juvenile dependency petition forms, JV-100 and JV-110, currently provide the required notice in a prominent location. Sections 290.1(d)(3) and 290.2(d)(3) of the Welfare and Institutions Code require both the social worker and the juvenile court to include a copy of the petition with the notice of the initial hearing. To ensure notice to parents or other responsible persons not located until later in the case, section 291(d)(6)(D) requires that notice of the jurisdictional and dispositional hearings also include notice of liability for the cost of appointed counsel.</p>

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**Juvenile Dependency: Counsel Collections Program** (adopt Juvenile Dependency Counsel Collections Program Guidelines; approve forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, JV-136)

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p>themselves. Accordingly, it would be unfair to give notice of the possibility of liability for the costs of representation <i>after</i> the parent has already accepted and used that representation.</p> <p>Relatedly, the proposed guidelines provide that they “are effective for all dependency proceedings in which the dispositional hearing begins on or after January 1, 2013.” (Proposed Guideline 2.) It would be unfair and potentially a violation of due process to make a responsible person liable for counsel costs where the responsible person accepted appointment of counsel before any guidelines were in place. Accordingly, the effective date provision should be modified to read, “These guidelines are effective for all dependency proceedings <b>filed in which the dispositional hearing begins</b> on or after January 1, 2013.”</p> <p>Second, the proposed guidelines repeat many applicable statutory provisions found in sections 903.1, 903.45, and 903.47. Given the comprehensiveness of the proposed guidelines, and their consistent tracking of statutory language, a significant omission is the</p>	<p>The committee agrees with the commentator that due process requires notice of liability before the appointment of counsel. The committee has concluded, however, that the suggested change is not justified because a responsible person’s liability has long existed independent of the process offered in the proposed guidelines. A person receives sufficient notice of that liability under the current statutory scheme to satisfy the requirements of due process. The statutory imposition of parental liability for the cost of appointed counsel for children in juvenile court has existed since 1965 (Stats. 1965, ch. 2006). Parental liability for the cost of counsel appointed to represent them directly in a dependency proceeding was added in 1981 (Stats. 1981, ch. 188, § 1). The notice requirement in section 332 was added in 1982 (Stats. 1982, ch. 1276, § 3). The Judicial Council petition forms, last amended in 2008, have long complied with the legal requirements for notice of liability.</p> <p>The committee recognizes that the guidelines restate statutory authority in some instances. Nevertheless, the committee does not recommend the suggested change. The guidelines, though public, are intended to guide courts’ efforts to implement the statutorily required collections</p>

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**Juvenile Dependency: Counsel Collections Program** (adopt Juvenile Dependency Counsel Collections Program Guidelines; approve forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, JV-136)

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p>statutorily required rights and procedures applicable to the juvenile court hearing on the financial evaluation. The statute provides: “At the hearing, any person so responsible for costs shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person shall have the right to be represented by counsel, and, when the person is unable to afford counsel, the right to appointed counsel.” (Welf. &amp; Inst. Code, § 903.45, subd. (b) (3<sup>rd</sup> para.)) We’d suggest the currently proposed guidelines 7.3 [7(c)] and 7.4 [7(d)] be renumbered 7.4 and 7.5 respectively, and that the following language, parallel to section 903.45(b), be added as new proposed Guideline 7.3:</p> <p>7.3 Responsible Person’s Rights at Hearing</p> <p>At the hearing, the responsible person shall be entitled to have, but shall not be limited to, the opportunity to be heard in person, to present witnesses and other documentary evidence, to confront and cross-examine adverse witnesses, to disclosure of the evidence against him or her, and to receive a written statement of the findings of the court. The person shall have the right to be represented by counsel, and, when</p>	<p>program. The committee has, to the extent possible, tried to minimize unnecessary verbatim repetition of statutory language in the guidelines. The guidelines do refer expressly to a person’s statutory entitlement to the procedural rights in Government Code section 27755. These rights are substantially identical to the rights listed in section 903.45(b). Furthermore, the <i>Order to Appear for Financial Evaluation</i>, proposed form JV-131, enumerates the responsible person’s rights at the financial evaluation and at a judicial hearing in the event of a dispute. The committee considered whether to include the suggested statutory language in the guidelines, but concluded that the technical information in the statute would be less useful to the responsible person than the simple declaration on the form. The guidelines have, however, been renumbered from 7.3 and 7.4 as circulated to 7(c) and 7(d).</p>

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**Juvenile Dependency: Counsel Collections Program** (adopt Juvenile Dependency Counsel Collections Program Guidelines; approve forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, JV-136)

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p>the person is unable to afford counsel, the right to appointed counsel.</p> <p>7.4 <del>7.3</del> Judicial Determination</p> <p>* * * *</p> <p>7.5 <del>7.4</del> Exclusions</p> <p>* * * *</p>	
2.	Orange County Public Defender’s Office by Mark Brown	AM	<p>In general, the Orange County Public Defender supports the Committee’s proposed Juvenile Dependency Counsel Collections Program Guidelines. However, the modifications discussed below should be made to the proposed guidelines.</p> <p>The proposed guidelines do not take into account that the responsible person may be unable to appear before an FEO due to incarceration, institutionalization, hospitalization or similar circumstances. Therefore, section 6.1.1 should include a provision like: “Notwithstanding the preceding paragraph, the court shall determine whether the responsible person is not present at the dispositional hearing as a result of incarceration, institutionalization, hospitalization or similar circumstances. If the court makes such a determination, the responsible person is presumed to be unable to pay reimbursement and is eligible for a waiver of liability.”</p>	<p>No response required.</p> <p>The committee agrees in principle that a responsible person who is unable physically to appear should not be required to do so. Section 903.45(b), however, makes no exception to the requirement that the court issue an order for that person to appear. The committee recommends that the guideline be modified to allow a responsible person to appear <i>or respond</i> to the notice and order. If the responsible person responds and submits a declaration that he or she is unable to attend or reschedule the appearance because of incarceration, institutionalization, hospitalization or similar circumstances, then the committee recommends permitting the court to extend the presumption of inability to pay and eligibility for waiver of liability to that person.</p>

**SPR12-21****Juvenile Dependency: Counsel Collections Program** (adopt Juvenile Dependency Counsel Collections Program Guidelines; approve forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, JV-136)

All comments are verbatim unless indicated by an asterisk (\*).

	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			Section 7.4 of the proposed guidelines [as circulated; currently 7(d)] correctly notes that the court should not order reimbursement for certain individuals who are receiving reunification services or if the court finds that reimbursement would be unjust. However, Forms JV-133, JV-134, and JV-135 do not include the exclusions or any discussion of the exclusions in section 7.4 [7(d)]. Therefore, the forms should be modified to include the exclusions in section 7.4 [7(d)]. More specifically, the FEO should be permitted to address these exclusions on the FEO's recommendation form (JV-133), the responsible person should be permitted to address these exclusions on the responsible person's response form (JV-134), and the court should be permitted to make findings regarding these exclusions on its form (JV-135).	The committee agrees that a responsible person should have the opportunity to inform the court or the FEO of his or her reunification with the child, his or her receipt of reunification services, or other circumstances that would make repayment unjust. The proposal as circulated gives the person the opportunity to provide relevant information about reunification in items 4 and 5 of form JV-132, the financial declaration. The committee does not recommend providing a specific item for the provision of information about circumstances under which repayment would be unjust. The determination of the injustice of requiring repayment would be made by the court in the context of the responsible person's financial condition considered as a whole. The committee does not recommend modifying form JV-133, as under the current statutory scheme, findings regarding the effect of repayment on a person receiving reunification services or the injustice of requiring repayment are beyond the scope of the financial evaluation officer's authority. The committee does not recommend modifying form JV-134 because form JV-132 already permits the responsible person to provide this information in items 4 and 5. The committee agrees with the suggestion regarding form JV-135, but does not recommend modifying the form because item 5 of the form as circulated gives the court the opportunity to make those findings.
3.	Superior Court of Imperial County by Terri Darr, Court Financial Officer	NI	Section 6.1 [as circulated; currently 6(a)] This section indicates that the Court "shall" make a referral to the financial evaluation	The committee understands that a mandatory referral may present problems for courts with small staff or few resources. The committee

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**Juvenile Dependency: Counsel Collections Program** (adopt Juvenile Dependency Counsel Collections Program Guidelines; approve forms JV-130-INFO, JV-131, JV-132, JV-133, JV-134, JV-135, JV-136)

All comments are verbatim unless indicated by an asterisk (\*).

	Commentator	Position	Comment	Committee Response
			<p>officer.</p> <p>We propose that the referral should be at the discretion of the judicial officer. The judicial officer may have information regarding the case that makes the referral to a financial evaluation officer unnecessary. In addition, a judicial officer could make arrangements for payment during a juvenile hearing which would eliminate the need for a referral, streamline the process, reduce court costs, and provide better customer service.</p> <p>Section 6.1.3(a) [as circulated; currently 6(a)(4)(A)]                      In this section you indicate that a party has a</p>	<p>cannot, however, recommend the sweeping change suggested by the commentator. The referral is required by Welfare and Institutions Code section 903.45(b). The proposed guidelines do, however, recognize two possibilities left open under the statutory scheme for mitigating the burden of this mandate. First, the court may not need to make the referral if doing so would not be cost-effective. Section 903.47(a) mandates that the Judicial Council standard for determining a responsible person’s ability to pay include “the cost-effectiveness of the program.” The committee has concluded that this requirement reflects a legislative intent that the program not impose a burden on a court that would outweigh any prospective benefit. The guidelines, accordingly, permit a court not to refer a person to an FEO if an evaluation would not be cost-effective. The guidelines also permit a court to determine, as a matter of policy, that a full inquiry into the financial condition of a person presumed eligible for a waiver of liability would not be warranted. Second, the statutes and guidelines do not specify the identity of the court financial evaluation officer. Conceivably, a judicial officer with sufficient information might act as a financial evaluation officer in any case where referral to a separate person for a full-scale evaluation would not be cost-effective.</p> <p>The committee recognizes the difficulty of determining the cost of court-appointed counsel attributable to a single client in a single</p>

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	Commentator	Position	Comment	Committee Response
			<p>right to a statement of costs.</p> <p>Please describe how a statement of costs is provided. Our attorneys are contracted and do not provide the Court a statement of costs.</p> <p>Section 6.4.3 [as circulated; currently 6(d)(3)] This section indicates that the party must complete a JC form. Please consider that the party could complete a JC form or a similar Court-developed form.</p> <p>Section 10.2.2 [as circulated; currently 10(b)(2)] This requires that the Court must use an AOC master agreement. Please consider that our Court uses non-master agreement vendors, i.e., Ventura Superior Court. Please consider that a non-master agreement vendor, i.e., a local collection agency, may be an effective collection agency. Please consider that the preference is to use an AOC master agreement, but that the court is not required to use an AOC master agreement.</p>	<p>dependency proceeding. Nevertheless, a responsible person is statutorily entitled to a statement of costs under Welfare and Institutions Code section 903.45(b). The committee has proposed, in section 5 of the guidelines, a choice of three methods for courts to use to determine their cost of providing legal services in dependency proceedings. Those courts with attorneys under contract may not be able to use the actual cost method, but should be able to use one of the other two methods: application of the Uniform Regional Cost Model or the assessment of a flat fee that does not exceed the actual cost of legal services.</p> <p>The committee agrees with the suggestion to give a court the option of using an equivalent local form to collect a responsible person’s financial information.</p> <p>The committee recognizes that a local collection agency may be more effective in achieving the program’s goals in some circumstances and recommends giving the court the discretion to use the most efficient means of collecting revenue. Section 10(b)(2) of the guidelines encourages but does not require a court to use a vendor who is party to a master agreement.</p>



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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
4.	Superior Court of Los Angeles County by Michael Gatiglio	A	The Los Angeles Superior Court (LASC) is generally in agreement with the proposed changes because of the flexibility within the procedures as stated in the proposal. LASC dependency collection efforts fit within the framework of the guidelines to order reimbursement for the cost of legal services and establishing a program to collect money for those that have the ability to pay.	No response required.
5.	Superior Court of Riverside County by Michael J. Cappelli	AM	<p><b>Form JV-131</b> The block for the children’s names in the caption needs to be expanded.</p> <p>Recommend removal of the check boxes for the type of hearing as it does not list all events after disposition;</p> <p>and in the notice section, capitalize the word NOTICE.</p> <p><b>Form JV-132</b> Remove the word ‘law’ in the title of the document.</p> <p>On page three, reverse the signature of the FEO and the date. The date should be in the left and</p>	<p><b>Form JV-131</b> The committee agrees with the suggested change and has modified its recommendation accordingly.</p> <p>The committee recommends deleting the list of postdispositional events from this form in response to the commentator’s suggestion. Referral of a responsible person for financial evaluation need not coincide with these events.</p> <p>The committee agrees with the suggested change and has modified its recommendation accordingly.</p> <p><b>Form JV-132</b> The committee agrees with the suggested change and has modified its recommendation to rename the form <i>Financial Declaration—Juvenile Dependency</i>.</p> <p>The committee agrees with the suggested change and has modified its recommendation accordingly.</p>

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	<b>Commentator</b>	<b>Position</b>	<b>Comment</b>	<b>Committee Response</b>
			<p>the signature on the right.</p> <p>If this form is intended to be confidential since it contains financial information, add the word ‘Confidential’ at the top.</p> <p><b>Forms JV-133, 134 &amp; 135</b> The block for the children’s names in the caption needs to be expanded.</p> <p><b>Form JV-136</b> Not an efficient or workable form for our court. It would work better if the forms are separate.</p>	<p>The committee agrees with the suggested change and has modified its recommendation to require that the information on the form be kept confidential.</p> <p><b>Forms JV-133, JV-134 &amp; JV-135</b> The committee agrees with the suggested change and has modified its recommendation accordingly.</p> <p><b>Form JV-136</b> The committee recommends retaining form JV-136. This form combines the content of forms JV-133, JV-134, and JV-135 into one form. In the process of developing the proposal, some courts requested the option of using a combined form. JV-136 responds to these requests. It is intended as an alternative for courts that cannot or do not choose to use forms JV-133, JV-134, and JV-135 separately. Courts that choose to use the separate forms retain that option.</p>
6.	Superior Court of San Bernardino County by Christine M. Volkers	AM	<p>Recommend reassessment/modification to address the anticipated increase in fiscal responsibilities/obligations of Courts already stretched to the limit fiscally.</p> <p>The biggest concern regarding dependency contractors is the clause on page 10, at the end of the paragraph, titled “Implementation Requirements, Costs, and Operational Impacts”</p>	<p>The committee has reassessed the guidelines and forms to ensure that they limit the increased fiscal responsibilities to those required by statute as well as to maximize the flexibility with which courts may implement these new responsibilities.</p> <p>The requirement that the responsible person be represented by appointed counsel at the reimbursement hearing is statutory, located in section 903.45(b) of the Welfare and Institutions</p>

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			<p>which states that 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.”</p> <p>Our Court’s ongoing dependency Request For Proposal (RFP), currently reads, “Pursuant to AB131, the State and Court have established a financial evaluation and collections program for appointed dependency representation services. Contractor must agree to participate in that effort at no additional cost; participation includes, but is not limited to, the distribution of financial declaration forms to clients upon initial appointment.”</p> <p>The concern is, if implementation of the dependency collections program did involve a significant increase in the duties of the dependency contractor, in particular representation at dispute hearings, the Court would need to address that in an amendment to the contract, which would result in increased costs.</p> <p>Additional hearings impacts, the first hearing is understandable, but the second proposed hearing is not. Reconsideration should be given to allow the FEO to make that determination, and only as a last resort allow another hearing. In addition, there are no limits on the number of times a case can be calendared for modification.</p>	<p>Code. The committee recognizes the burden that this requirement places on courts. The committee reads Welfare and Institutions Code section 903.47(a)(1)(B) to permit the court to recover the cost of appointed counsel at a reimbursement hearing as a “cost of assessing a parent’s ability to pay” reimbursement.</p> <p>The committee recommends a limited modification in response to the commentator’s suggestion to clarify that only the first circumstance, in the event of a dispute, requires a hearing. The petition for modification might not require a hearing. To be considered, the petition would have to state a change of circumstances. If no change of circumstances is stated, the court</p>

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			<p>1. If the responsible person does not agree with the Financial Evaluation Officer’s (FEO’s) determination with respect to liability, ability to pay, amount, or terms of reimbursement, the matter will be deemed in dispute and the FEO will refer the matter to the court to be set for a hearing as required by section 903.45.</p> <p>2. At any time before reimbursement is complete, a responsible person may petition the court for a modification of the reimbursement order on the ground of a change in circumstances affecting his or her ability to pay reimbursement.</p> <p>The reporting requirements appear to be very cumbersome and labor intensive. Courts do not have the resources or information to provide this type of information. Courts that enlist the services of a third party will not have the ability to track this information. (See items indentified by an asterisk (*) for significant concerns).</p> <p>Each court will report collections program data to the AOC to:</p> <p>(a) Ensure implementation of the Legislature’s intent by:            (1) Determining the cost-effectiveness of the program; (*) and            (2) Ensuring that efforts to collect reimbursement do not negatively impact reunification.</p>	<p>may deny the petition ex parte. If all parties stipulate to the requested modification, the court may grant the petition without a hearing. Compare the procedures in rule 5.570 for considering a petition for modification under section 388(a).</p> <p>The committee recommends a limited modification of the proposed guidelines in response to the comment. Keeping in mind that the reporting requirements are not mandated by statute and the guidelines themselves are not mandatory, the committee recommends that the guidelines direct, but not require, the courts to report the data listed in section 13. As circulated for comment, the guidelines already direct the courts to report the data listed in section 13(a)(1) “[t]o the extent feasible in light of each court’s current practices and resources.” The committee has concluded that some effort at collecting and reporting data will be essential to provide feedback to the Legislature on the impact and cost-effectiveness of the program. To the extent that data are collected and reported, the committee has further concluded that detailed guidance is</p>

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			<p>(b) Ensure accurate reporting of reimbursements received.</p> <p>(d) Evaluate the effectiveness of the reimbursement program at both statewide and local levels. (*)</p> <p>To the extent feasible in light of each court’s current practices and resources, data should be collected in the following categories:</p> <p>(a) Total number of responsible persons evaluated. (*)</p> <p>(b) Total number of responsible persons not ordered to pay due to impact on reunification. (*)</p> <p>(c) Total number of responsible persons not ordered to pay based on other financial hardship. (*)</p> <p>(d) Number of responsible persons with open collections, start of fiscal year. (*)</p> <p>(e) Dollar amount of open collections, start of fiscal year. (*)</p> <p>(f) Number of responsible persons added in fiscal year. (*)</p> <p>(g) Dollar amount added in fiscal year. (*)</p> <p>(h) Total amount collected in fiscal year. (*)</p> <p>(i) Total responsible persons fully paid/ closed in fiscal year. (*)</p> <p>(j) Number of responsible person accounts closed in fiscal year. (*)</p> <p>(k) Number of responsible persons with open collections, end of fiscal year. (*)</p> <p>(l) Dollar amount of open collections, end of</p>	<p>justified to promote the ability to compare, with any degree of validity, the data from one court with the data of other courts.</p>

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	Commentator	Position	Comment	Committee Response
			fiscal year. (*)	
7.	Superior Court of San Diego County by Mike Roddy	AM	<p>Juvenile Court already has a collections program in place through the County’s Revenue &amp; Recovery service that covers the elements included in this legislation. The process includes a notice to appear before a financial officer, a financial assessment, a process to appear before the court for any disputes, etc. When the initial legislation was passed in 2009, there were discussions with AOC regarding our R &amp; R process and the feedback was that our existing collections process met this requirement. The proposed forms are optional and may be useful to provide further information to the party regarding the collections process.</p> <p><u>Charts showing hearings/events, hours per event, and cost per event (pp. 24-27):</u></p> <ul style="list-style-type: none"> <li>• Add to hearings/events: Jurisdiction, 24-month review, 388 hearing, nonminor dependent status review, and hearing on request to reenter foster care (WIC § 388(e)). Alternatively, add note to indicate that these hearings are not listed because they were not included in the 2002 Caseload Study.</li> </ul>	<p>No response required.</p> <p><u>Charts showing hearings/events, hours per event, and cost per event:</u></p> <p>The committee has withdrawn the proposed chart from this recommendation. The chart will be available online. The committee has, however, revised the chart as indicated below.</p> <p>The committee agrees with the commentator’s suggestion to delete outdated rule numbers and to streamline the description of hearings. The committee has modified its recommendation to note that the hearings listed are those included in the 2002 Caseload Study.</p>

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			<ul style="list-style-type: none"> <li>• If the figures calculated for “Disposition” included jurisdiction hearings, change “Disposition” to “Jurisdiction/Disposition.”</li> <li>• Change “First PPH” to “PPH” and delete “Second PPH” and “Third PPH” because the hours per PPH and cost per PPH are the same for all three. This change would also accommodate any PPHs subsequent to the third PPH.</li> <li>• Change “<b>39.1B writ</b>” to “<b>8.452 or 8.454 writ</b>” (or “Extraordinary writ” per Uniform Cost Model Implementation chart, p. 28) because the relevant Cal. Rules of Court were renumbered, effective 1-1-07.</li> </ul> <p><u>Hearing/Event</u></p> <p>Detention</p> <p><u>Jurisdiction/Disposition</u></p> <p>6 month review</p> <p>12 month review</p> <p>18 month review</p> <p><u>24 month review</u></p> <p>.26 hearing</p> <p><u>388 hearing</u></p> <p><u>First PPH</u></p> <p><u>Second PPH</u></p> <p><u>Third PPH</u></p> <p><u>Nonminor dependent status review</u></p>	<p>The committee agrees with the suggestion and has modified its recommendation to specify that the costs calculated for disposition include the cost of representation at the jurisdictional hearing.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p>

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	Commentator	Position	Comment	Committee Response
			<p><u>Request to reenter foster care 39.1B 8.452 or 8.454 writ</u></p> <p><u>Uniform Cost Model Implementation chart, p. 28:</u></p> <ul style="list-style-type: none"> <li>• First gray box (top left): Text is incomplete; add “time attorney.”</li> </ul> <p>Basic Caseload Standard from 2002 Caseload Study (141 clients per <u>full-time attorney</u>)</p> <ul style="list-style-type: none"> <li>• If the figures calculated for “Disposition” included jurisdiction hearings, change “Disposition” to “Jurisdiction/Disposition.”</li> </ul> <p><u>Attachment C – Flow Chart, p. 31:</u></p> <p>The flow chart is clear and easy to follow, but the legend (center box) description for pink-</p>	<p><u>Uniform Cost Model Implementation chart:</u></p> <p>The committee has withdrawn the proposed chart from this recommendation. The chart will be available online. The committee has, however, revised the chart as indicated below.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p><u>Attachment C – Flow Chart:</u></p> <p>The committee has withdrawn the proposed chart from this recommendation. The chart will be available online. The committee has, however, revised the chart as indicated below.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation</p>



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			<p>shaded boxes is: “Inquiries regarding court resources.” Are these inquiries about court resources or about whether “the court has concluded as a matter of policy that further inquiry . . . would not be warranted or cost-effective”? (See Guideline 6.4.2. [as circulated; currently 6(d)(2)]) Perhaps a more accurate description for the pink-shaded boxes would be “Court policy regarding further inquiry.”</p> <p><b>Form JV-130-INFO:</b></p> <ul style="list-style-type: none"> <li>• Left footer: Consider adding citation to Welfare and Institutions Code § 903.45. (See, e.g., JV-219-INFO, JV-464-INFO.)</li> </ul> <p><b>Form JV-131:</b></p> <ul style="list-style-type: none"> <li>• Below the form title—the purpose of stating the type of hearing is unclear. The referral to the financial officer can be made at any time. This section may not be needed.</li> <li>• At #1 where the appearance date is noted (Monday through Friday, on or before (date): Recommend leaving a fillable line for the collection agent/court to enter the date/time the party can appear as this may vary by county.</li> </ul>	<p>accordingly.</p> <p><b>Form JV-130-INFO</b></p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p><b>Form JV-131</b></p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation to delete the list of postdispositional events from this form. Referral of a responsible person for financial evaluation need not coincide with these events.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation to give courts more options for scheduling a financial evaluation.</p>

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	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none"> <li>• Third box from the top, upper left section of page 1 - Insert parentheses: CHILD(REN)'S NAME(S)</li> <li>• Fifth box from the top, page 1 – Add check box marked “Other.” Consider changing the check boxes to allow more flexibility:               <ul style="list-style-type: none"> <li><input type="checkbox"/> Disposition   <input type="checkbox"/> Prepermanency Review   <input type="checkbox"/> Postpermanency Review</li> <li><input type="checkbox"/> Writ   <input type="checkbox"/> Other</li> </ul> </li> <li>• Boxed section titled “Notice” – item D.3.: Add “and” after the semicolon.</li> <li>• Right footer: Add “903.1” between “§§” and “903.45(b).”</li> </ul> <p><b>Form JV-132:</b></p> <ul style="list-style-type: none"> <li>• Third box from the top, upper left section of pages 1, 2, 3 - Insert parentheses: CHILD(REN)'S NAME(S)</li> <li>• Item 1 (Personal Information): Add “Number” after “I.D. or Driver’s License.”</li> </ul>	<p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation to delete the list of postdispositional events from this form. Referral of a responsible person for financial evaluation need not coincide with these events.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p><b>Form JV-132</b></p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p>

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	Commentator	Position	Comment	Committee Response
			<ul style="list-style-type: none"> <li>• Item 7 (Other Income and Assets): Increase space between listed items. (There is adequate empty space beneath this section to do so.)</li> <li>• Item 8 (Expenses): Increase space between listed items.</li> <li>• Box for FEO use only – Change text as follows: 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 <input type="checkbox"/> 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"/> <b>he or she</b> 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).</li> <li>• Right footer, p.1: Add “903.1” between “§§” and “903.45(b).”</li> </ul> <p><b>Form JV-133:</b></p> <ul style="list-style-type: none"> <li>• Third box from the top, upper left</li> </ul>	<p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p><b>Form JV-133</b></p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation</p>

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			<p>section of page 1 - Insert parentheses: CHILD(REN)'S NAME(S)</p> <ul style="list-style-type: none"> <li>First sentence – Change “in the case above” to “in this case” because the case number will appear in the box provided. 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 this case-above.</li> <li>Item 3.c.(2) – Change “Costs” to “Cost” for consistency with the titles of forms JV-133 and JV-134.</li> <li>Right footer: Add “903.1” between “§§” and “903.45(b).”</li> </ul> <p><b>Form JV-134:</b></p> <ul style="list-style-type: none"> <li>Third box from the top, upper left section of page 1: Insert parentheses. CHILD(REN)'S NAME(S)</li> </ul>	<p>accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p><b>Form JV-134</b></p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p>

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			<ul style="list-style-type: none"> <li>• Item 1: Change “<i>Costs</i>” to “<i>Cost</i>” for consistency with the titles of forms JV-133 and JV-134.</li>   <li>• Item 2: Delete “further” because there may be agreement as to item 1 or item 2, but not to both items.</li>   <li>• Item 4.c., last bullet point: Change “<i>an attorney</i>” to “<i>a lawyer</i>” for consistency with form JV-130-INFO.            To be represented by <u>an attorney a lawyer</u> and, if I cannot afford <u>an attorney a lawyer</u>, to have <u>an attorney a lawyer</u> appointed to represent me.</li>   <li>• Item 5: Change “modify or vacate” to “change, and change “with regard to” to “that affects” to simplify the language (e.g., JV-130-INFO).            5. I understand that, at any time prior to full payment of the amount ordered by the court, I may petition the court to <del>modify or vacate</del> <u>change</u> its previous judgment on the grounds of a change in circumstances <del>with regard to that affects</del> my ability to pay the judgment.</li>   <li>• Right footer: Add “903.1” between “§§” and “903.45(b).”</li> </ul>	<p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p>

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			<p><b>Form JV-135:</b></p> <ul style="list-style-type: none"> <li>• Third box from the top, upper left section of page 1: Insert parentheses. CHILD(REN)'S NAME(S)</li> <li>• At Item 5: The court can order the suspension of collection efforts as well due to reunification services. This form does not support that type of order. Perhaps #5 can be modified to allow for a selection of suspended.</li> <li>• Items 6 and 7: Change “Costs” to “Cost” for consistency with the titles of forms JV-133 and JV-134.</li> <li>• Right footer: Add “903.1” between “§§” and “903.45(b).”</li> </ul> <p><b>Form JV-136:</b></p> <ul style="list-style-type: none"> <li>• It would be a challenge to use this form that has 3 different individuals (financial officer, party and the court) completing different sections. It would be difficult to track the sending/receipt of the form and by the time it reaches the court, it may not be in the most</li> </ul>	<p><b>Form JV-135</b></p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee is not aware of any authority under which the court may order the suspension of collection efforts due to reunification services. Section 903.45(b) provides that the court may not order repayment if a person is receiving reunification services and repayment would pose a barrier to reunification. The committee does not recommend the suggested modification.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p><b>Form JV-136</b></p> <p>The committee recommends retaining form JV-136. This form combines the content of forms JV-133, JV-134, and JV-135 into one form. In the process of developing the proposal, some courts requested the option of using a combined form. JV-136 responds to these requests. It is intended as an alternative for courts that cannot or do not choose to use forms JV-133, JV-134, and JV-135</p>

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			<p>legible format. Recommend keeping the 3 forms separate.</p> <ul style="list-style-type: none"> <li>Third box from the top, upper left section of pages 1, 2, and 3: Insert parentheses. CHILD(REN)'S NAME(S)</li> <li>First sentence: Change “in the case above” to “in this case” because the case number will appear in the box provided. 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 <del>the this</del> case <del>above</del>.</li> <li>Right footer, p. 1: Add “903.1” between “§§” and “903.45(b).”</li> <li>Item 9.c., last bullet point: Change “an attorney” to “a lawyer” for consistency with form JV-130-INFO. To be represented by <del>an attorney a</del></li> </ul>	<p>separately. Courts that choose to use the separate forms retain that option.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p>

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			<p><u>lawyer</u> and, if I cannot afford <u>an attorney a lawyer</u>, to have <u>an attorney a lawyer</u> appointed to represent me.</p> <ul style="list-style-type: none"> <li>Item 10: Change “modify or vacate” to “change, and change “with regard to” to “that affects” to simplify the language (e.g., JV-130-INFO). 10. I understand that, at any time prior to full payment of the amount ordered by the court, I may petition the court to <del>modify or vacate</del> <u>change</u> its previous judgment on the grounds of a change in circumstances <del>with regard to</del> <u>that affects</u> my ability to pay the judgment.</li> <li>Court order (p. 3): Delete comma after “To.” To, <u>(name)</u>: , the responsible person.</li> <li>Item 12: Insert “orders” after “The court.” 12. The court <u>orders</u> 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 \$</li> <li>Item 13: Insert “court orders the” after “The.”</li> </ul>	<p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p>



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			<p>13. The <b>court orders the</b> responsible person to pay the court \$ _____ per month on the _____ day of each month, beginning on _____ until the agreed amount is paid in full.</p> <ul style="list-style-type: none"> <li>Item 14: Change “order” to “ordered.” The court finds that the responsible person is <b>unable</b> 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 <b>ordered</b> to repay any costs.</li> <li>Items 16 and 17: Change “Costs” to “Cost” for consistency with the titles of forms JV-133 and JV-134.</li> </ul>	<p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p> <p>The committee agrees with the commentator’s suggestion and has modified its recommendation accordingly.</p>
8.	State Bar of California Standing Committee for the Delivery of Legal Services By: Catherine Bennett	AM	It appears that the forms are being updated in conformity with the Juvenile Code and Rules of Court.	No response required.
9.	Trial Court Presiding Judges Advisory Committee/Court Executives Advisory Committee Joint Rules Working Group	A	The TCPJAC/CEAC Joint Rules Working Group agrees with this proposal with the understanding that the proposal is for the adoption of guidelines and approval of optional Judicial Council forms only to implement a statutorily required program to collect the cost of dependency-related legal services from responsible persons who are able to bear the cost. The working group acknowledges that it will be difficult for courts to implement the	The committee shares the working group’s understanding of the proposal. The committee intends the proposal to mitigate the burdens imposed on local courts by the program and to give each court the greatest leeway to tailor the implementation of the statutory requirements to local needs and circumstances. The committee has noted and joined the working group’s recommendation that the matter be referred to the Judicial Council’s Policy Coordination and

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			<p>statutory requirements during these economic times and recommends that the matter be referred back to the Policy Coordination and Liaison Committee (PCLC) to have the Judicial Council give directions to the AOC Office of Governmental Affairs (OGA) to consider returning to the Legislature and ask to defer implementation of the statute until a later time.</p> <p><b>Operational impacts identified by the working group:</b></p> <p><b>Potential Fiscal Impact</b> The collected revenue portends to be far offset by the costs of implementation. The estimate would suggest that this is not a viable program. Given the workload impact this program will create and the severe budget reductions the courts are facing, it does not appear prudent to implement.</p> <p>Section 11.1 [as circulated; currently 11(a)] limits the cost of collections. Because it is anticipated that a large portion of these cases will be determined to qualify for waiver due to financial inability, reunification, dismissal or cost of reunification services; the cost of collections per collectable case will be extremely high. If the court cannot recover its full cost of collections, the program is of no value as the court would save money by not implementing.</p>	<p>Liaison Committee in its report to the Judicial Council.</p> <p><b>Potential Fiscal Impact</b> The committee understands the commentator’s concern but is nevertheless required by the statutory scheme to develop the program.</p> <p>The committee understands and shares the commentator’s concerns. The limit on recoverable costs is imposed by section 903.47(a)(1)(B) of the Welfare and Institutions Code. The guidelines attempt to implement the Legislature’s intent that courts conserve resources by permitting a court to determine whether referral for a full-fledged financial evaluation would be a cost-effective method of determining a responsible person’s ability to pay reimbursement.</p>

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			<p>Further, given the Governor’s recent budget proposal, any court that has not already implemented such a program will not have the resources to “front” the costs of establishing such a program regardless of whether or not those costs are eventually reimbursed.</p> <p>The costs of implementation would also include possible increase in financial costs to reprogram existing automated systems.</p> <p><b>Impact on Existing Automated Systems</b> This proposal requires programming to establish accounts receivable for juvenile dependency case type or interface with accounting system. It also requires programming to capture required data elements for and generation of annual reports.</p> <p>The overall court case management system impact of this proposal is medium. This review relates to the impact of adding the six new optional forms only. The impact to add is considered medium due to the number of forms and layout. New Document Type codes would also be required. Staff would also need to be trained as to when the forms are required to be printed.</p> <p><b>Change to Trial Court Labor or Employment Related Concerns</b> The timing of this implementation is very problematic with courts reducing staff and</p>	<p>The guidelines attempt to implement the Legislature’s intent that courts conserve resources by permitting a court to determine whether referral for a full-fledged financial evaluation would be a cost-effective method of determining a responsible person’s ability to pay reimbursement.</p> <p><b>Impact on Existing Automated Systems</b> The committee recognizes the impact of the statutorily required program on the trial courts. It intends the proposal to mitigate these burdens and to give each court the greatest leeway to tailor the implementation of the statutory requirements to local needs and circumstances.</p> <p><b>Change to Trial Court Labor or Employment Related Concerns</b> The committee intends the proposal to mitigate the burdens imposed on local courts by the</p>

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			<p>services. Given the extreme budget situation, it is unlikely courts will be in a position to “advance” the implementation costs of this program so would be unable to hire a financial evaluation officer if one is not already in place.</p> <p><b>Require Development of Local Rules or Forms</b> Given the severe budget situation, it is unlikely courts will have sufficient resources to implement.</p> <p><b>Increase Training Needs Requiring the Commitment of Staff Time and Court Resources</b> Every clerk and every juvenile judge will have to be trained.</p> <p><b>Increase to Existing Court Staff Workload</b> The implementation of this proposal will increase staff workload in any court that has not already implemented this program. The impact will be significant. Court staff would be required to send additional notices and citations,</p>	<p>program and to give each court the greatest leeway to tailor the implementation of the statutory requirements local needs and circumstances. The guidelines attempt to implement the Legislature’s intent that courts conserve resources by permitting a court to determine whether referral for a full-fledged financial evaluation would be a cost-effective method of determining a responsible person’s ability to pay reimbursement.</p> <p><b>Require Development of Local Rules or Forms</b> The proposal permits, but does not require, the development of local rules and forms.</p> <p><b>Increase Training Needs Requiring the Commitment of Staff Time and Court Resources</b> The committee recognizes the impact of the statutorily required program on the trial courts. It intends the proposal to mitigate these burdens and to give each court the greatest leeway to tailor the implementation of the statutory requirements to local needs and circumstances.</p> <p><b>Increase to Existing Court Staff Workload</b> The committee recognizes the impact of the statutorily required program on the trial courts. It intends the proposal to mitigate these burdens and to give each court the greatest leeway to tailor the implementation of the statutory requirements to</p>

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			<p>maintain statistical data, and prepare reports. There will be an increase in courtroom hearings where the amount of reimbursement is disputed. Policies and procedures will be required to provide guidance on the processes required.</p> <p><b>Changes the Responsibilities of the PJ/Supervising Judge</b> Judges will have to oversee implementation and training.</p> <p><b>Impact on Court Security</b> It will interject another element of conflict in an often hostile environment that will require heightened security.</p> <p><b>Impact on Local or Statewide Justice Partners</b> If the county serves as the financial evaluation officer there will be a significant impact to their processes. Policies and procedures will be required to coordinate the determination and actions of the FEO with the court and for the exchange of information.</p>	<p>local needs and circumstances.</p> <p><b>Changes the Responsibilities of the PJ/Supervising Judge</b></p> <p><b>Impact on Court Security</b> The committee recognizes the impact of the statutorily required program on the trial courts. It intends the proposal to mitigate these burdens and to give each court the greatest leeway to tailor the implementation of the statutory requirements to local needs and circumstances. The flexibility offered by the standard for determining a person’s ability to pay is intended to reduce the element of conflict and to promote trust in the fairness of the courts.</p> <p><b>Impact on Local or Statewide Justice Partners</b> The committee recognizes the impact of the statutorily required program. Under section 903.47(b), a county appears free to decline to serve as the FEO unless it can agree to acceptable terms and conditions with the court. These terms and conditions would undoubtedly address coordination and the exchange of information.</p>

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			<p><b>Implementation</b>                      The statute and proposed guidelines are not feasible. It is unlikely the court would recover the costs of implementing the program given the estimated number of cases that may be eligible for reimbursement. A member of the working group estimates that for every one case that is eligible for reimbursement nine cases will not be. It is unlikely the court could make up the costs of collections with only 10 percent of cases (or fewer) being eligible for collection.</p> <p>The working group recommends that the matter be referred back to PCLC to have the Judicial Council give directions to OGA to consider returning to the Legislature and ask to defer implementation of the statute at a later time.</p> <p><b>Other Impacts</b>                      The statute provides for the right to appointed counsel at the hearing to determine ability to pay. These proceedings are civil in nature as the responsible party is not facing a loss of liberty.</p> <p>Further, if the amount of attorney fees is in dispute, the attorney that represented the responsible party in the underlying dependency action could have a conflict and another attorney would have to be appointed.</p>	<p><b>Implementation</b>                      The committee recognizes the impact of the statutorily required program on the trial courts. It intends the proposal to mitigate these burdens and to give each court the greatest leeway to tailor the implementation of the statutory requirements to local needs and circumstances.</p> <p>The committee has noted the working group’s recommendation to refer the matter to PCLC in its report to the Judicial Council.</p> <p><b>Other Impacts</b>                      The statutory requirement that counsel be appointed at a reimbursement hearing parallels the requirement for a hearing conducted under Government Code section 27755, which requires that a person represented by appointed counsel at the underlying proceeding also has need of representation at the hearing on costs.</p> <p>The committee has concluded that in the most concrete sense, no conflict would exist. Because the court would pay the attorney for the representation under the terms of their contract regardless of the outcome of the reimbursement hearing, the attorney’s interest in getting paid</p>

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			The AOC should pursue a change in the statute that removes the language that provides the right to appointed counsel in collection proceedings.	would not conflict with the client’s interest in not being required to pay. The only issue at the hearing is whether the responsible person will reimburse the court. For further discussion, please see the report to the Judicial Council, at p. 7.  The committee has noted the working group’s recommendation in its Judicial Council report.
10.	Cynthia Wojan Juvenile Court Coordinator Superior Court of Solano County	A	I am glad to see forms available that are specific to Dependency Court and tailored to the process.  I am concerned about the added burden on our small division regarding conducting financial evaluations, etc., if that is how our court decides to proceed on these collections, but I do understand the need to attempt to recoup some of the funds expended on court-appointed counsel for parents and children.  I appreciate all the work that the various working groups took to put together forms and discuss/work out some of the ambiguous details for this project.	No response required.  The guidelines attempt to give each local court the flexibility to implement the statutory requirements in as cost-effective a manner as possible.  No response required.