ADVICE OF RIGHTS

Right to Be Represented By Counsel, Eligibility for Court-Appointed Counsel, Application Fee and Contribution Amount

You (or your child in a juvenile delinquency, dependency or termination of parental rights case) have the right to have an attorney represent you in court on this matter. You may be financially eligible to have an attorney appointed by the court.

The court may require you to pay a $20 Application Fee to determine whether you are eligible for court-appointed counsel. This fee is due even if your request for appointment of counsel is denied. This fee may, in limited circumstances, be waived.

The court will determine if you can afford to hire an attorney. If you are eligible to have an attorney appointed, the court will determine whether you are "eligible and indigent" or "eligible and able to contribute." If you have some available cash or liquid assets, but not enough to privately hire your own attorney, after paying the Application Fee, you may be ordered to pay a Contribution Amount to the court toward the cost of having court-appointed counsel.

You may request a hearing to contest any decision made on your application for appointment of counsel.

Appointment of counsel cannot be denied, delayed, or withdrawn because of failure to pay the Application Fee or Contribution Amount ordered.

Financial Information Required

In order for the court to decide whether you are eligible for court-appointed counsel, you must provide information about your income, expenses, property, debts, and dependents on a financial statement, called an "Affidavit of Eligibility." Financial information on your spouse, if you have one, and others in your household may also be required. If you are charged with failure to pay court-ordered obligations, you may wish to talk to an attorney prior to completing the affidavit.

The financial information provided to the court will be reviewed. You (and generally your spouse) must sign releases of information. This allows the court to obtain information from others to verify your financial situation. You may also be asked to provide proof of debts, property, and income (such as recent wage stubs).

Your Social Security number is requested on the Affidavit of Eligibility. Your provision of this number is voluntary. You cannot be compelled to provide it nor denied court-appointed counsel for failure to provide it. However, providing your Social Security number will likely speed the processing of your request for court-appointed counsel. By providing your Social Security number, you are acknowledging that it may be used to verify your financial information, and it may be used for collection purposes.

Information you provide on the financial statement is held confidential from the general public. The releases of information allow your address to be given to court staff to update court records and allow verification of the financial information you provide. The information on the financial statement may be provided to the district attorney in limited circumstances (as noted below). The information you provide may be used by the court, the Department of Revenue, or their assignees, for the purpose of collecting delinquent amounts owed to the state.

How Appointment of Counsel May Change the Available Actions if False Information Provided

If your financial situation changes during your case, you must tell the court. The court may appoint counsel if counsel was previously denied, waive the Contribution Amount if an amount was ordered, or end the appointment of counsel.

If the court has reason to believe you knowingly provided false information, your financial statement may be sent to the district attorney for possible filing of criminal charges, your appointed attorney may be withdrawn and/or you may be required to repay the cost to the state of providing court-appointed counsel.

At the End of the Case

At the end of the case, you may be ordered to repay all or part of the cost of court-appointed services provided and not previously paid by you as a Contribution Amount. This is called "recoupment." Recoupment will be ordered if the court determines you are, or may be, financially able to repay these costs.

If you are provided court-appointed counsel in a non-criminal case or in a limited number of criminal cases or probation violation proceedings in which the first accusatory instrument or petition was filed on or before January 1, 1998, you will not be ordered to pay recoupment unless you are convicted of a crime charged in the case. If you (or your child in a juvenile matter) are provided court-appointed counsel in any case in which the first accusatory instrument or petition was filed after January 1, 1998, you may, depending on your financial situation, be ordered to pay recoupment.

If you are ordered to pay recoupment, any amount you have paid toward a Contribution Amount ordered by the court at the beginning of the case will offset or reduce the recoupment amount owed. Even if no recoupment is ordered, you will remain responsible for paying any $20 Application Fee or Contribution Amount ordered at the beginning of the case that has not been paid, unless you petition the court for a full or partial waiver of the amount(s) previously ordered due to a change in your financial situation.

If your financial situation gets worse and you are unable to pay the recoupment amount or meet the schedule of payments ordered by the court, you may request a change in the repayment schedule or court order.

If you fail to pay the recoupment amount as ordered and:

- payment was a condition of probation, in addition to contempt of court and civil judgment enforcement remedies set out below, you may be ordered to show cause why your probation should not be revoked; or

- payment was not ordered as a condition of probation, the court may order you to show cause why you should not be held in contempt of court or the court, the Department of Revenue, or their assignees may pursue collection of the recoupment amount. All civil judgment debtor protections and exemptions will be available to you.