

IN THE SHAKER HEIGHTS MUNICIPAL COURT

CUYAHOGA COUNTY, OHIO

_____ CASE NO. _____

v.

_____ **REQUEST/MOTION FOR COURT
APPOINTED COUNSEL**

The undersigned hereby requests/moves that counsel be appointed by this court so that she/he may be represented by counsel in this case. I have completed and filed any necessary paperwork which is attached.

(Signature)

(Date signed)

IN THE SHAKER HEIGHTS MUNICIPAL COURT
CUYAHOGA COUNTY, OHIO

THE STATE OF OHIO

CASE NO. _____

Plaintiff

vs.

Defendant

MOTION FOR WAIVER OF APPLICATION FEE

Now comes the Defendant/Affiant, and pursuant to §120.36(A) of the Ohio Revised Code, moves this Court to waive the \$25.00 application fee due to the indigency, financial hardship or the inability of affiant to pay said amount. A Memorandum in Support is included.

X _____
Defendant/Affiant's Signature

MEMORANDUM IN SUPPORT

The undersigned, being duly sworn, deposes and states:

1. I am an indigent person entitled to legal representation in the above case.
2. Pursuant to the Ohio Revised Code §120.36(A), I respectfully request a waiver of the application fee for legal representation because I am unable to pay an application fee of \$25.00 or said payment will subject me to undue hardship. The reason I am unable to pay is as follows:

Wherefore, the Affiant prays that this Court issue an order waiving the \$25.00 application fee set out in O.R.C. §120.36.

X _____
Defendant/Affiant's Signature

Sworn to and subscribed before me
this _____ day of _____, 20 __.

Notary Public / Deputy Clerk / Individual authorized to administer oaths & title

NO WRITING BELOW THIS LINE
(Do not write below this line)

_____, Judge

\$25.00 INDIGENT APPLICATION FEE CLIENT INFORMATION SHEET

1. What is the \$25.00 Indigent Application Fee?

Beginning September 29, 2005, Ohio law requires that all persons who request a public defender or appointed counsel must pay an up-front application fee of \$25.00. (R.C. 120.36)

2. Where do I pay the fee?

Pay the fee to the Clerk of Courts who is designated to collect money for the court where your case is being heard. If you are unable to pay it in person, someone else may pay it on your behalf.

3. Is the fee refundable if I am found not indigent?

No, the fee is not refundable. If you request counsel and submit a financial disclosure form and/or affidavit of indigency, you will be assessed the fee. However, if you withdraw your request for a public defender or appointed counsel prior to submitting the financial disclosure form and/or affidavit of indigency, you will not be assessed a fee.

4. I was assessed the fee before on a previous or different case. Do I owe it again?

Yes, the fee is assessed one time per case. You will be assessed a fee each time the court determines that the matter now in front of them is a new violation and/or separate case.

5. Can the fee be reduced or waived?

The court can reduce or waive the fee if it determines you lack the financial resources to pay it or if payment would result in an undue hardship. If you cannot pay the fee for these reasons, you may file a request to have the fee waived or reduced.

To request that the \$25 filing fee be reduced or waived, sign the motion on the back of this page and return to Shaker Heights Municipal Court.

**Instructions for Completing
Financial Disclosure Form OPD 206R**
Revised September 2017

Section I. Personal Information

Complete this section with the applicant's name, contact information, and case number. If the person who will be represented by court-appointed counsel is a juvenile, also include the juvenile's name in the box marked "Person Represented's Name (*if juvenile*)."

Section II. Other Persons Living in Household

Complete this section with the names of those with whom the applicant lives, who either have a duty to support the applicant or for whom the applicant has a duty to support, such as a spouse or dependent children. Do not include information about persons who share a household with the applicant but with whom the applicant shares no duty to support, such as roommates.

Section III. Presumptive Eligibility

If the applicant is currently receiving assistance from any of the governmental assistance programs listed in this section, check the line(s) next to the name of the program(s). Since that applicant has already been screened and deemed eligible for assistance by another government agency, you may presume the applicant's eligibility for court-appointed counsel. An applicant who is committed to a public mental health facility or who is incarcerated in a state penitentiary at the time of application may be presumed to be indigent and eligible for court-appointed counsel. All juveniles are presumed indigent and eligible for court-appointed counsel. Information in Sections IV – VI does not need to be collected for a juvenile who is requesting court-appointed counsel. (However, an adult requesting court-appointed counsel in a juvenile proceeding, such as a parent in an A/D/N case, must complete Sections IV – VI.) *See Ohio Administrative Code section 120-1-03 (C).*

Section IV. Income and Employer

Complete this section with the gross monthly income and other financial support received by the applicant, including the name and contact information of their employer. If the applicant indicated in Section III that the applicant receives assistance from any of the listed programs, include the amount of monthly assistance received through that program in the second box of this section, which includes "other types of income."

- Compare the dollar amount in the box labeled Total Income in this section to OPD's *Indigent Client Eligibility Guidelines*. If the applicant's total income falls at or below

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187.5% of the federal poverty guidelines on this chart, the applicant must be given court-appointed counsel. *See OAC 120-1-03 (B).* See Section V instructions below for potential ineligibility.

Section V. Liquid Assets

Complete this section with information about the applicant's liquid assets. An applicant's liquid assets can make an applicant ineligible for court-appointed counsel, even if his or her income falls below the guidelines. *See OAC 120-1-03 (D)(2)-(3)*.

Section VI. Monthly Expenses

OAC 120-1-03 states that the "pivotal issue in determining indigency is not whether the applicant ought to be able to employ counsel but whether the applicant is, in fact, able to do so." Therefore, an applicant whose gross monthly income falls above 187.5% of the federal poverty guidelines may still qualify for court-appointed counsel. If an applicant whose income exceeds 187.5% believes he or she is financially unable to employ counsel, complete this section with information about the applicant's basic monthly expenses.

Section VII. Determination of Indigency

If the applicant's total income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.

Applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines can be subject to recoupment.

If the applicant's Liquid Assets in Section V exceed figures provided in *OAC 120-1-03*, appointment of counsel may be denied *if the applicant can employ counsel using those liquid assets*.

If the applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but is financially unable to employ counsel after paying the monthly expenses in Section VI, counsel must be appointed.

VIII. \$25.00 Application Fee Notice

This section provides notice to the applicant that he or she will be assessed a non-refundable \$25 application fee when submitting this form, unless that fee is waived or reduced by the court. No applicant may be denied counsel based upon failure or inability to pay this fee. *See ORC 120.36 (B)*.

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IX. Applicant Certification

This section must be signed by the applicant, certifying that the information is correct, and true to the best of his or her knowledge.

X. Judge Certification

If the applicant is unable to complete this form (e.g. minor, incarcerated person, etc.), in this section, the judge may determine the applicant is eligible for court-appointed counsel and should provide a brief description of why the applicant is unable to complete the form.

XI. Notice of Recoupment

This section provides notice to the applicant that if his or her gross monthly income falls at or above 125% of the federal poverty guidelines, he or she may be subject to recoupment. *See ORC 120.03 (B)(6)–(8), OAC 120-1-05, and ORC 2941.51 (D).*

Attorneys' fees and expenses cannot be taxed as part of the costs charged in a case. However, through recoupment, if the indigent client or juvenile's parent(s) has, or reasonably may be expected to have the means to pay *some* part of the costs of services rendered, the indigent client or juvenile's parent(s) can be required to pay the county an amount that person reasonably can be expected to pay. *See ORC 2941.51 (D).*

XII. Juvenile's Parents' Income

If the respondent/defendant is a juvenile, complete this section with the income information of that juvenile's custodial parent(s). Because financial information was not collected about the parent(s) in Sections IV and V, information collected in this section is used to determine whether the parent(s) of the juvenile will be subject to recoupment.

- Compare the dollar amount in the box labeled Total Income in this section to OPD's *Indigent Client Eligibility Guidelines*. If the parents' total income falls below 125% of the federal poverty guidelines on this chart, they cannot be subject to recoupment. *See OAC 120-1-03 (C)(1)*. If the parents' total income falls at or above 125%, they can be subject to recoupment. *See OAC 120-1-03 (B)*.
- Because recoupment is limited to "an amount that the person reasonably can be expected to pay," you may choose to also collect information about the parents' monthly expenses in Section VI of this form. *See ORC 2941.51*

FINANCIAL DISCLOSURE FORM

(\$25.00 application fee may be assessed—see notice on reverse side)

I. PERSONAL INFORMATION

Applicant's Legal Name		Applicant's Preferred Name and Pronoun		D.O.B.
Mailing Address			City	
State	Zip Code	Case No.	Phone	Cell Phone
SSN Last 4	Gender	Race (double-click to de-select)		
		American Indian or Alaska Native Spanish or Latino	Asian White	Black or African American Other
				Native Hawaiian or Pacific Islander

II. OTHER PERSONS LIVING IN HOUSEHOLD

Name	D.O.B.	Relationship	Name	D.O.B.	Relationship
1)			3)		
2)			4)		

III. PRESUMPTIVE ELIGIBILITY

The appointment of counsel is presumed if the person represented meets any of the qualifications below. Please place an 'X'

Ohio Works First / TANF: ___ SSI: ___ SSD: ___ Medicaid: ___ Poverty Related Veterans' Benefits: ___ Food Stamps: ___

Refugee Settlement Benefits: ___ Incarcerated in state penitentiary: ___ Committed to a Public Mental Health Facility: ___

Other (please describe): _____ Juvenile: ___ (if juvenile, please continue at Section VIII)

IV. INCOME AND EMPLOYER

	Applicant	Spouse <small>(Do not include spouse's income if spouse is alleged victim)</small>	Total Income
Gross Monthly Employment Income	\$	\$	\$
Unemployment, Worker's Compensation, Child Support, Other Types of Income	\$	\$	\$
TOTAL INCOME			\$

Employer's Name: _____ Phone Number: () _____

Employer's Address: _____

V. LIQUID ASSETS

Type of Asset	Estimated Value
Checking, Savings, Money Market Accounts	\$
Stocks, Bonds, CDs	\$
Other Liquid Assets or Cash on Hand	\$
Total Liquid Assets	\$

VI. MONTHLY EXPENSES

Type of Expense	Amount	Type of Expense	Amount
Child Support Paid Out	\$	Telephone	\$
Child Care (if working only)	\$	Transportation / Fuel	\$
Insurance (medical, dental, auto, etc.)	\$	Taxes Withheld or Owed	\$
Medical / Dental Expenses or Associated Costs of Caring for Infirm Family Member	\$	Credit Card, Other Loans	\$
Rent / Mortgage	\$	Utilities (Gas, Electric, Water / Sewer, Trash)	\$
Food	\$	Other (Specify)	\$
EXPENSES	\$	EXPENSES	\$

VII. DETERMINATION OF INDIGENCY

If applicant's Total Income in Section IV is at or below 187.5% of the Federal Poverty Guidelines, counsel must be appointed.

For applicants whose Total Income in Section IV is above 125% of the Federal Poverty Guidelines, see recoupment notice in Section XI.

If applicant's Liquid Assets in Section V exceed figures provided in OAC 120-1-03, appointment of counsel may be denied if applicant can employ counsel using those liquid assets.

If applicant's Total Income falls above 187.5% of Federal Poverty Guidelines, but applicant is financially unable to employ counsel after paying monthly expenses in Section VI, counsel must be appointed.

VIII. \$25.00 APPLICATION FEE NOTICE

By submitting this Financial Disclosure Form, you will be assessed a non-refundable \$25.00 application fee unless waived or reduced by the court. If assessed, the fee is to be paid to the clerk of courts within 7 days of submitting this form to the entity that will make a determination regarding your indigency. No applicant may be denied counsel based upon failure or inability to pay this fee.

IX. APPLICANT CERTIFICATION

I, _____ (applicant or alleged delinquent child) state:

1. I am financially unable to retain private counsel without substantial hardship to me or my family.
2. I understand that I must inform the public defender or appointed attorney if my financial situation should change before the disposition of the case(s) for which representation is being provided.
3. I understand that if it is determined by the county or the court that legal representation should not have been provided, I may be required to reimburse the county for the costs of representation provided. Any action filed by the county to collect legal fees hereunder must be brought within two years from the last date legal representation was provided.
4. I understand that I am subject to criminal charges for providing false financial information in connection with this application for legal representation, pursuant to Ohio Revised Code sections 120.05 and 2921.13.
5. I hereby certify that the information I have provided on this financial disclosure form is true to the best of my knowledge.

Signature

Date

X. JUDGE CERTIFICATION

I hereby certify that the above-noted applicant is unable to fill out and/or sign this financial disclosure for the following reason: _____. I have determined that the party represented meets the criteria for receiving court-appointed counsel.

Judge's Signature

Date

XI. NOTICE OF RECOUPMENT

ORC §120.03 allows for county recoupment programs. Any such program may not jeopardize the quality of defense provided or act to deny representation to qualified applicants. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls below 125% of the federal poverty guidelines. See OAC 120-1-05.

Through recoupment, an applicant or client may be required to pay for part of the cost of services rendered, if he or she can reasonably be expected to pay. See ORC §2941.51(D)

XII. JUVENILE'S PARENTS' INCOME* – FOR RECOUPMENT PURPOSES ONLY – NOT FOR APPOINTMENT OF COUNSEL

	Custodial Parents' Income (Do not include parents' income if parent or relative is alleged victim)	Total
Employment Income (Gross)	\$	\$
Unemployment, Workers Compensation, Child Support, Other Types of Income	\$	\$
	TOTAL INCOME	\$

*Please complete Section VI on page 1 of this form if you would like the court to consider your monthly expenses when determining the amount of recoupment which you can reasonably be expected to pay.