

§ 120.36. Application fee for indigent defendants and parties in juvenile court

(A) (1) Subject to division (A)(2), (3), (4), (5), or (6) of this section, if a person who is a defendant in a criminal case or a party in a case in juvenile court requests or is provided a state public defender, a county or joint county public defender, or any other counsel appointed by the court, the court in which the criminal case is initially filed or the juvenile court, whichever is applicable, shall assess, unless the application fee is waived or reduced, a non-refundable application fee of twenty-five dollars.

The court shall direct the person to pay the application fee to the clerk of court. The person shall pay the application fee to the clerk of court at the time the person files an affidavit of indigency or a financial disclosure form with the court, a state public defender, a county or joint county public defender, or any other counsel appointed by the court or within seven days of that date. If the person does not pay the application fee within that seven-day period, the court shall assess the application fee at sentencing or at the final disposition of the case.

(2) For purposes of this section, a criminal case includes any case involving a violation of any provision of the Revised Code or of an ordinance of a municipal corporation for which the potential penalty includes loss of liberty and includes any contempt proceeding in which a court may impose a term of imprisonment.

(3) In a juvenile court proceeding, the court shall not assess the application fee against a child if the court appoints a guardian ad litem for the child or the court appoints an attorney to represent the child at the request of a guardian ad litem.

(4) The court shall not assess an application fee for a postconviction proceeding or when the defendant files an appeal.

(5) (a) Except when the court assesses an application fee pursuant to division (A)(5)(b) of this section, the court shall assess an application fee when a person is charged with a violation of a community control sanction or a violation of a post-release control sanction.

(b) If a charge of violating a community control sanction or post-release control sanction described in division (A)(5)(a) of this section results in a person also being charged with violating any provision of the Revised Code or an ordinance of a municipal corporation, the court shall only assess an application fee for the case that results from the additional charge.

(6) If a case is transferred from one court to another court and the person failed to pay the application fee to the court that initially assessed the application fee, the court that initially assessed the fee shall remove the assessment, and the court to which the case was transferred shall assess the application fee.

(7) The court shall assess an application fee pursuant to this section one time per case. For purposes of assessing the application fee, a case means one complete proceeding or trial held in one court for a person on an indictment, information, complaint, petition, citation, writ, motion,

or other document initiating a case that arises out of a single incident or a series of related incidents, or when one individual is charged with two or more offenses that the court handles simultaneously. The court may waive or reduce the fee for a specific person in a specific case upon a finding that the person lacks financial resources that are sufficient to pay the fee or that payment of the fee would result in an undue hardship.

(B) No court, state public defender, county or joint county public defender, or other counsel appointed by the court shall deny a person the assistance of counsel solely due to the person's failure to pay the application fee assessed pursuant to division (A) of this section. A person's present inability, failure, or refusal to pay the application fee shall not disqualify that person from legal representation.

(C) The application fee assessed pursuant to division (A) of this section is separate from and in addition to any other amount assessed against a person who is found to be able to contribute toward the cost of the person's legal representation pursuant to division (D) of [section 2941.51](#) of the Revised Code.

(D) The clerk of the court that assessed the fees shall forward all application fees collected pursuant to this section to the county treasurer for deposit in the county treasury. The county shall retain eighty per cent of the application fees so collected to offset the costs of providing legal representation to indigent persons. Not later than the last day of each month, the county auditor shall remit twenty per cent of the application fees so collected in the previous month to the state public defender. The state public defender shall deposit the remitted fees into the state treasury to the credit of the client payment fund created pursuant to division (B)(5) of [section 120.04](#) of the Revised Code. The state public defender may use that money in accordance with that section.

(E) On or before the twentieth day of each month beginning in February of the year 2007, each clerk of court shall provide to the state public defender a report including all of the following:

(1) The number of persons in the previous month who requested or were provided a state public defender, county or joint county public defender, or other counsel appointed by the court;

(2) The number of persons in the previous month for whom the court waived the application fee pursuant to division (A) of this section;

(3) The dollar value of the application fees assessed pursuant to division (A) of this section in the previous month;

(4) The amount of assessed application fees collected in the previous month;

(5) The balance of unpaid assessed application fees at the open and close of the previous month.

(F) As used in this section:

(1) "Clerk of court" means the clerk of the court of common pleas of the county, the clerk of the juvenile court of the county, the clerk of the domestic relations division of the court of common pleas of the county, the clerk of the probate court of the county, the clerk of a municipal court in the county, the clerk of a county-operated municipal court, or the clerk of a county court in the county, whichever is applicable.

(2) "County-operated municipal court" has the same meaning as in [section 1901.03](#) of the Revised Code.

HISTORY: 151 v H 66, § 101.01, eff. 9-29-05; 151 v H 530, § 101.01, eff. 6-30-06.

Temporary (Uncodified Law) included in H.B. 530:

The provisions of § 701.03 of 151 v H 530 read as follows:

SECTION 701.03. On or before February 20, 2007, each clerk of court, as defined in [section 120.36](#) of the Revised Code, shall provide to the State Public Defender a report including all of the following for the calendar year 2006:

(A) The number of persons who requested or were provided a state public defender, county or joint county public defender, or other counsel appointed by the court;

(B) The number of persons for whom the court waived the application fee pursuant to division (A) of [section 120.36](#) of the Revised Code;

(C) The dollar value of the application fees assessed pursuant to division (A) of [section 120.36](#) of the Revised Code;

(D) The amount of assessed application fees collected;

(E) The balance of unpaid assessed application fees at the open and close of the calendar year.