



Superior Court

State of California
County of Lake
Courthouse
Lakeport, California 95453
707-263-2262

KRISTA D. LEVIER
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COURT EXECUTIVE/CLERK
JURY COMMISSIONER
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September 24, 2024

INVITATION TO COMMENT NOTICE TO ATTORNEYS AND ALL INTERESTED PARTIES

Below is a list of proposed amendments to the Local Rules. A draft is attached. Please submit any comments to krista.levier@lake.courts.ca.gov by close of business November 8, 2024.

Chapter 3	Rule 3.13	Court Appointed Attorney Fees
Chapter 5	Rule 5.11	Petition for Mental Health Diversion

Full text of all Local Rules is available at www.lake.courts.ca.gov.

DEADLINE FOR COMMENTS - November 8, 2024

3.13 Court Appointed Attorney Fees (Amended 1/1/2025)

This Rule applies to appointment of counsel for indigent defendants when no public defender, alternate public defender, or contractor for indigent defense, is available for appointment. The following sets forth the process by which attorneys appointed in criminal or juvenile (Welfare & Institutions § 602) cases may submit billings pertaining to court appointments and fees allowable for such appointments.

a. Standard Billing Process

1. The court will allow attorney's fees for services rendered by counsel properly appointed while matters are pending before the court. Appointment orders must be made before an attorney may begin billing for services.
2. Application for fees must be submitted no more frequently than once every 30 days. The application must include an itemization of the legal services rendered and the amount of time for such services. Application for fees must be submitted to the court for approval.
3. Once approved by the Presiding Judge, the order for payment of fees shall be submitted to the County of Lake for payment.
4. In no event will the application for payment be presented more than 60 days after the disposition of the case. The court reserves the right to reject any invoice presented for payment more than 60 days after the disposition of the case.
5. If an attorney believes that the case is of such a special or unusual nature that is not possible to render services in accordance with the maximum fee schedule, he/she must file a declaration explaining why an exception to the maximum fee is sought. Upon review of such written declaration, a reasonable fee exceeding the limits set forth in this schedule may be established by the Presiding Judge.
6. Authorization and payment for expenses such as fees for investigators and expert witnesses must be made in accordance with the ancillary fee request process.

b. Criminal and Juvenile Case Classifications

1. **Class 1:** All murders ~~homicides~~, whether capital or non-capital and all offenses having a maximum sentence of life without possibility of parole, or in the discretion of the court, an aggregate state prison sentence of 25 years or more.
2. **Class 2:** All crimes for which the upper term of punishment is four (4) years or more, but less than Class 1.

3. **Class 3:** All other felonies, misdemeanors, juvenile, civil contempt, child custody and conservatorship matters.

c. Minimum Experience Requirements for Attorneys

1. **Class 1:** Certified criminal law specialist or equivalent experience as determined by the Presiding Judge.
2. **Class 2:** Five (5) years' experience as an attorney, with a substantial part of such experience in criminal law.
3. **Class 3:** An attorney may be eligible for this class by providing oral or written proof of relevant experience and upon authorization of the Presiding Judge.

d. Fee Schedule: All attorneys must agree to handle all cases to which they are appointed at the rates established by the court. The court will periodically review and adjust rates as necessary.

1. **Class 1:** The rate will be \$120.00 per hour, unless otherwise determined on a case-by-case basis.
2. **Class 2:** The rate will be \$95.00 per hour, unless otherwise determined on a case-by-case basis.
3. **Class 3:** The rate will be \$80.00 per hour, unless otherwise determined on a case-by-case basis.

(Amended 1/1/2025)

5.11 Petitions for Mental Health Diversion (New 1/1/2025)

a. Noticed Application or Petition

Defense counsel shall file an Application or Petition for Mental Health Diversion (Application or Petition), pursuant to Penal Code section 1001.36, with the court and serve the prosecutor with a copy. The Application or Petition shall be noticed for initial hearing on the criminal law and motion calendar. All pleadings filed in support of and opposition to the Application or Petition shall comply with California Rule of Court 4.111.

To the extent such information is available at the time of filing, the Application or Petition should specify in detail:

1. The mental disorder at issue, including diagnostic and treatment history of said disorder. If the defendant suffers from multiple or co-occurring disorders, the application shall so specify;
2. A description of the nexus between defendant's mental disorder and the charged offense;
3. The opinion of a qualified mental health expert indicating that the defendant's symptoms motivating the criminal behavior would respond to mental health treatment;
4. A statement that the defendant consents to diversion and waives the right to a speedy trial (Local Form LK-905 may be used for that purpose);
5. A description of the proposed treatment plan.

b. Meet and Confer

Prior to the initial court date for the review of an Application or Petition, defense counsel and the prosecutor shall meet and confer to determine whether the parties agree diversion is appropriate.

c. Initial Review and Prima Facie Hearing on the Application or Petition

At the initial review hearing, the court shall consider the Application or Petition, offers of proof, reliable hearsay, and argument of counsel.

If the court finds the defendant has made a prima facie showing that the defendant meets the minimum requirements of eligibility for diversion and the offenses are suitable for diversion, the matter shall be continued to the mental health calendar for further hearing on the Application or Petition.

d. Hearing on the Application or Petition in Mental Health Court

Prior to the hearing on the Application or Petition in mental health court, defendant shall file and serve any relevant medical records, psychological records, assessments and proposed treatment plans. If defendant

requests any such documents be filed under seal, defendant shall file a proposed protective order (local form LK-914 may be used), along with a declaration stating the documents and proposed order have been served on the prosecution.

At the hearing in mental health court, the court shall conduct a hearing on the Application or Petition if the parties are ready to proceed and time permits. Alternatively, the court may set the matter for a hearing on the Application or Petition on a future date.

e. Denial of the Application or Petition

If the Application or Petition is denied, the matter shall be continued to the criminal calendar.

f. Granting of the Application or Petition

If the Application or Petition is granted, criminal proceedings shall be suspended and the court shall make all necessary orders relating to the treatment of defendant and continue the matter for a mental health diversion review hearing.

g. Mental Health Diversion Review Hearings

At the review hearings, defendant or defendant's mental health provider shall submit a progress report concerning defendant's participation in the treatment plan.

If defendant is making progress, the court shall set another progress report date. If defendant is not making progress, the court may give defendant additional time to comply and continue the progress hearing to another date; or issue an order to show cause why the court should not terminate mental health diversion and reinstate criminal proceedings pursuant to Penal Code section 1001.36(b) and set a date for hearing on the order to show cause.

h. Termination of Mental Health Diversion

Termination of mental health diversion pursuant to Penal Code section 1001.36(g), shall be ordered only after a written motion or order to show cause and a noticed hearing. Upon termination of mental health diversion, criminal proceedings shall be reinstated and the matter shall be continued to the criminal calendar.

i. Completion of Mental Health Diversion

Upon successful completion of all terms and conditions of mental health diversion, the court shall dismiss the matter pursuant to Penal Code section 1001.36(e).

(New 1/1/2025)