

**PROPOSAL SECTION**

**TREASURY - GENERAL**

**OFFICE OF THE PUBLIC DEFENDER**

**Notice of Proposed Substantial Changes Upon Adoption to Proposed New Rules**

**Fees for Service**

**Proposed Changes: N.J.A.C. 17:39-3**

Proposed: April 21, 2014, at 46 N.J.R. 687(a).

Authorized By: Joseph E. Krakora, Public Defender.

Authority: N.J.S.A. 2A:158A-7(j), 16, and 19.

Submit written comments by October 3, 2014, to:

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**Take notice** that the Office of the Public Defender (OPD) proposed new rules at N.J.A.C. 17:39-3 on April 21, 2014, at 46 N.J.R. 687(a), to replace the current manner in which clients are

charged for services rendered on their behalf by the OPD. The public comment period closed June 20, 2014.

The OPD is proposing two substantial changes throughout the new rules based upon further internal discussion. The OPD did not receive any public comments on the original notice of proposal. This notice of proposed substantial changes is published pursuant to N.J.S.A. 52:14B-4.10.

**Summary of Agency-Initiated Changes:**

Upon discussion with staff, the Public Defender has made the following two changes throughout the new rules:

1. At N.J.A.C. 17:39-3.1(b)1i and ii and (b)2i and ii, a change to the lead-in text is made to clarify that the degree of crime indicated is for what the client is initially charged with, not the final charge as of the ultimate disposition. This change simply provides that the fee is based on the initial charges against the clients; and

2. At N.J.A.C. 17:39-3.1(b)1i(1) and (2) and (b)1ii(1) and (2), (b)2i(1) and (b)2ii(1), and (b)3i substitution of the word “disposition” for “plea.” This change simply provides additional clarification that the new rules will affect all types of case resolutions, not just pleas.

**Effect of Proposed Changes on Impact Statements Included in Original Proposal**

The changes to the proposed new rules will not affect the impact statements included in the original rule proposal. These changes simply clarify that the new rules will affect all types of case resolutions, not just pleas and that the fee is based on the initial charges against the clients. None of these changes affect the Social, Economic, Jobs, or Agriculture Industry Impacts; the

Federal Standards Statement; the Regulatory Flexibility Statement; or the Housing Affordability or Smart Growth Development Impact Analyses as published in the original proposal.

**Full text** of the proposed substantial changes to the proposed new rules follows (additions to proposal indicated in boldface **thus**; deletions from proposal indicated in brackets [thus]:

## CHAPTER 17

### OFFICE OF THE PUBLIC DEFENDER

#### SUBCHAPTER 1.-2. (RESERVED)

#### SUBCHAPTER 3. FEES FOR SERVICE

##### 17:39-3.1 Office of the Public Defender fees

(a) (No change from proposal.)

(b) In all cases, the Office of the Public Defender will charge its clients a flat fee based on the case type and/or degree of crime. These rates will apply to all attorney and investigator services, including any litigation (experts and transcripts) expenses, provided by the OPD to provide representation to its clients pursuant to N.J.S.A. 2A:158A-7(d). As used in this subsection, “day” shall mean any court day during which any portion of the trial takes place to include jury selection at the front end and deliberations at the back end. The billing rates used in criminal cases are as follows:

#### 1. Criminal Court (Adult):

i. [For] **Clients charged with** 1st and 2nd degree crimes:

(1) Pre-indictment [plea] **disposition:** \$250.00;

(2) Post-indictment [plea] **disposition:** \$500.00;

(3)-(4) (No change from proposal.)

ii. [For] **Clients charged with** 3rd and 4th degree crimes:

(1) Pre-indictment [plea] **disposition:** \$150.00;

(2) Post-indictment [plea] **disposition:** \$250.00;

(3)-(4) (No change from proposal.)

2. Family Court (Juvenile Delinquency):

i. [For] **Clients charged with** 1st and 2nd degree crimes:

(1) [Plea] **Disposition:** \$250.00;

(2)-(3) (No change from proposal.)

ii. [For] **Clients charged with** 3rd and 4th degree crimes:

(1) [Plea] **Disposition:** \$150.00;

(2)-(3) (No change from proposal.)

3. Drug Court:

i. [Plea] **Disposition:** \$250.00;

ii. (No change from proposal.)

4.-7. (No change from proposal.)

(c)-(g) (No change from proposal.)