

Information For Defendants About Getting A Court-Appointed Attorney

If you are charged with a criminal offense and cannot afford to hire an attorney, you are entitled to a court-appointed attorney.

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Alaska Court System

How To Find A Private Attorney

The Alaska Bar Association provides a free service called the Lawyer Referral Service. You can talk to the Lawyer Referral Service by calling:

272-0352 in Anchorage or
800-770-9999 outside Anchorage (toll free within Alaska)

Tell the Lawyer Referral Service you want to hire a lawyer to handle your criminal case. The service will give you the names and telephone numbers of three attorneys who handle criminal cases. Each attorney has agreed to charge no more than \$50 for the first half-hour consultation. Thereafter, the fee will have to be agreed upon by both you and the attorney you select.

The following is a statement from the Lawyer Referral Service:

Because we are simply a referral service, we cannot know what your total fee might be, nor how long it will take to resolve your problem. Likewise, we cannot represent the quality of service that you will receive. We can advise you, however, that each attorney listed by the Referral Service is a member in good standing of the Alaska Bar Association.

Please be sure to advise the attorney that you were referred by the Service so that you get the reduced charge. We will ask for your name so that we can verify to the attorney that you were in fact referred by us. If, for some reason, none of the attorneys can help you, please contact us again and we will give you additional names.

What Is An Attorney and What Will An Attorney Do For Me?

An attorney is a person who has studied the laws of Alaska and has passed a test to show that he or she understands these laws.

Your attorney will:

- come to court with you each time you come to court and speak for you in court,
- talk to the prosecutor for you,
- examine the charges which have been brought against you to see if they are in proper form,
- prepare and file legal papers for you,
- make sure that no improper evidence is brought against you in court,
- make sure all your rights are protected in court,
- advise you about whether or not you should have a trial, and
- show your case to the court in the way most favorable to you.

An attorney will talk with you about the facts of your case in private. An attorney is not allowed to tell anyone else what you tell him or her about your case unless you want your attorney to do so. **Exception:** If your attorney is court-appointed, your attorney will be required to tell the court if he/she learns of any change in your financial status that would affect your eligibility for appointed counsel.

Even if you think you want to admit that the charges against you are true, an attorney can help you at sentencing by giving favorable information to the court and by making an argument for you.

Because your right to an attorney is so important, if you want an attorney but cannot afford to hire your own, the court will appoint an attorney to represent you.

NOTE: The words "attorney," "lawyer," and "counsel" all mean the same thing.

Will I Have To Pay Anything For A Court-Appointed Attorney?

If you are convicted, the court will enter a judgment against you which will require you to pay for part of the cost of your appointed attorney. The amount you must pay will be based on the offense you are convicted of (which may not be the same as the offense originally charged).

In most cases, the court will use a schedule to determine the amount you will be required to pay. The schedule is printed below. In unusual circumstances, you could be required to pay more or less than the scheduled amount.

If you are not convicted, you usually will not have to pay for court-appointed counsel.

Remember: The amount you will be required to pay under the schedule is much less than you would have to pay for a private attorney.

Schedule of Costs For Court-Appointed Counsel [from Criminal Rule 39(d)]

Stage At Which The Case Ends	Offense of Which Defendant is Convicted			
	Misdemeanor	Class B or C Felony	Class A or Unclassified Felony	Murder in the 1st or 2nd Degree
Trial	500	1,500	2,500	5,000
Misdemeanor change of plea	200			
Felony change of plea after substantive motion work and hearing but before trial begins		1,000	1,500	2,500
Felony change of plea after indictment but before substantive motion work and hearing		500	1,000	2,000
Felony change of plea before indictment		250	500	750
Post-conviction relief or probation revocation proceeding in trial court	250	250	500	750

What Must I Do To Get A Court-Appointed Attorney?

When you appear in court, the judge will ask you if you want an attorney to help you. If you say yes, the judge will ask if you want to hire your own or if you want the court to appoint one for you at public expense. If you say you want the court to appoint one, the judge will either ask you questions about your financial situation or ask you to fill out a financial statement. In either case, you will have to give this financial information under oath.

You may be required to attempt to hire a private attorney before the court makes a final decision about whether you qualify for a court-appointed attorney.

WARNING: Any financial information given to the court can be reviewed by the Attorney General's Office after your case is concluded. If you give false information, the false information may be used to charge you with the crime of perjury. Also, if the court later determines that you were not really qualified for a court-appointed attorney, the court will order you to pay for all of the cost of the court-appointed attorney **whether or not you are convicted**. Finally, your attorney must ask to withdraw from the case if he or she reasonably believes you made a "material misrepresentation" (a significant false statement) of your financial status to the court.

What If The Judge Denies My Request For A Court-Appointed Attorney?

You may ask the presiding judge to review the trial judge's decision by filing a request with the trial court within 3 days after the order denying counsel is sent to you. You can use form CR-212 to make your request. You can get this form at the clerk's office.

After An Attorney Is Appointed, Will I Be Required To Do Anything?

Yes.

1. You will be required to contact your attorney by the date ordered by the judge.
2. Also, you will be required to report to the court any change in your employment and any improvement in your financial status.

What Happens If My Financial Situation Improves?

You must report any improvement in your financial situation to the court. The court will then either continue or terminate (end) the appointment of counsel. If the court continues the appointment, you may be required to pay for the actual cost of your appointed counsel from the time your financial status changed to the end of your case, whether or not you are convicted. If the court terminates the appointment, you will be required to hire your own attorney.

What Happens If I Am Not Convicted?

If you are not convicted, you will not be required to pay for any of the costs of your court-appointed attorney unless the court determines that one of the following is true:

- At the time counsel was appointed, you were really not qualified for a court-appointed attorney; or
- During the course of your case, your financial status improved and you no longer qualified for an attorney at public expense but the court continued the appointment of your attorney.

What Happens If I Am Convicted?

The judge will enter a criminal judgment against you stating the sentence for your offense.

The judge will also enter a separate judgment ordering you to pay the costs of your appointed counsel. That amount can be higher or lower than the amount on the schedule on page 2 of this booklet. Before entering this judgment, the judge will give you a chance to object and explain why you think the amount should be lower than the proposed judgment amount. The judge will not order you to pay an amount greater than the actual cost of counsel.

The judgment against you for the cost of appointed counsel will require you to apply for your PFD every year that you are eligible to receive a dividend until the judgment is paid in full.

WARNING: You may be held in contempt of court if you are eligible to receive a PFD but fail to apply for it.

If you do not pay the judgment, the court can issue an order taking your PFD, salary, bank accounts, or other property to pay the judgment. The costs for taking the property may be added to the amount of the judgment.

What If I Cannot Afford To Pay The Judgment For The Costs Of Appointed Counsel?

If you cannot pay the judgment all at once, contact the collections unit named on the judgment and ask if you can arrange a payment schedule.

If the collections unit does not agree to let you make installment payments, you can ask the court to authorize such payments. Form CR-545 is available at the clerk's office for you to use to make such a request.

You can also ask the judge to postpone the due date for payment or change the amount of the judgment. You can use form CR-545 to make either request.

If you ask the judge to reduce the amount of the judgment, you must explain in detail in the first paragraph of the form why paying the original judgment amount will impose "manifest hardship" on you or your family. Examples of situations that the court may consider "manifest hardship" include loss of your job, extraordinary expenses, or serious illness or injury. You should also attach:

- a Financial Statement (form CR-206); and
- proof of the "manifest hardship." Examples of such proof include a letter from your doctor or statements from the IRS or your bank showing your debts.

Additional Costs For Proceedings After Conviction

If you are convicted, there may be additional proceedings in your case. You will be required to pay part of the costs of the attorney if a court-appointed attorney represents you in any of the following proceedings.

- a. Appeal. If you are convicted of a crime, you can appeal the decision to a higher court. Unless your conviction is reversed on appeal, a judgment will be entered against you for part of the cost of appointed counsel. For example, the cost of counsel if you appeal only your sentence will be \$250 in a misdemeanor case and \$500 in a felony. If you appeal other issues in addition to your sentence (a combined "merit" and "sentence" appeal), the cost of counsel will be \$1,000 for a misdemeanor appeal and \$2000 for a felony appeal. See Appellate Rule 209(b)(8) for the entire schedule of costs of appointed counsel in appeals.
- b. Probation Revocation. If you are put on probation as part of your sentence and you violate any of the conditions of your probation, a petition to

revoke your probation may be filed against you. If the judge decides to revoke your probation, a judgment will be entered against you for part of the cost of your appointed counsel. See the last line in the chart on page 2 for the amount of this judgment.

- c. Post-Conviction Relief Action. If you file an application for post-conviction relief under Criminal Rule 35.1 and the court denies your application, an additional judgment will be entered against you for part of the cost of your appointed counsel. See the last line in the chart on page 2 for the amount of this judgment.