

TO BE RESCINDED

5122:1-1-01 **Rule for payment of court costs.**

(A) Purpose.

The purpose of this rule is to establish the process to allocate payment to Ohio probate courts of costs, fees and expenses of proceedings held under Chapter 5122. of the Revised Code.

(B) Application.

The provisions of this rule shall apply to all Ohio county probate courts.

(C) Definitions.

- (1) "County" means an Ohio probate court.
- (2) "Department" means the Ohio department of mental health.

(D) Costs, fees, and expenses of all proceedings held under Chapter 5122. of the Revised Code shall be paid as follows, in accordance with section 5122.43 of the Revised Code:

- (1) To police and health officers, other than sheriffs or their deputies, the same fees allowed to constables, to be paid upon the approval of the probate judge.
- (2) To sheriffs or their deputies, the same fees allowed for similar services in the court of common pleas.
- (3) To physicians or licensed clinical psychologists acting as expert witnesses and to other expert witnesses designated by the court, an amount determined by the court.
- (4) To other witnesses, the same fees and mileage as for attendance at the court of common pleas, to be paid upon the approval of the probate judge.
- (5) To a person, other than the sheriff or the sheriff's deputies, for taking a mentally ill person to a hospital or removing a mentally ill person from a hospital, the actual necessary expenses incurred, specifically itemized, and approved by the probate judge.
- (6) To assistants who convey mentally ill persons to the hospital when authorized by the probate judge, a fee set by the probate court, provided the assistants are not drawing a salary from the state or any political subdivision of the state, and their

actual necessary expenses incurred, provided that the expenses are specifically itemized and approved by the probate judge.

- (7) To an attorney appointed by the probate division for an indigent person who allegedly is a mentally ill person pursuant to any section of this chapter, the fees that are determined by the probate division. When those indigent persons are before the court, all filing and recording fees shall be waived.
 - (8) To a referee who is appointed to conduct proceedings under this chapter that involve a respondent whose domicile is or, before the respondent's hospitalization, was not the county in which the proceedings are held, compensation as fixed by the probate division, but not more than the compensation paid for similar proceedings for respondents whose domicile is in the county in which the proceedings are held.
 - (9) To a court reporter appointed to make a transcript of proceedings under this chapter, the compensation and fees allowed in other cases under section 2101.08 of the Revised Code.
- (E) Each fiscal year, based on past allocations, historical utilization, and other factors the department considers appropriate, the department shall allocate for each county an amount for reimbursements authorized under section 5122.43 of the Revised Code. The total of all the allocations shall equal the amount appropriated for the fiscal year to the department specifically for the purposes of this rule.
- (F) The department shall distribute in writing the procedures for requesting reimbursement and the reimbursement request forms to each county probate court.
- On receipt of request for reimbursement in accordance with this rule, the department shall review each request for reimbursement and prepare a voucher for the amount of the costs, fees, and expenses incurred by the county, provided that the total amount of money paid to all counties in each fiscal year shall not exceed the total amount of moneys specifically appropriated to the department for these purposes. The department's total reimbursement to each county shall be the lesser of the full amount requested or the amount allocated for the county under section 5122.43 of the Revised Code.
- (G) At the conclusion of each fiscal year, the department assesses its ability to reimburse those courts that have expended amounts over their annual allocation. The department shall distribute any surplus remaining from the money appropriated for the fiscal year to the department for the purposes of this payment of costs, fees, and expenses to those counties whose full requests exceed their allocations. The department shall distribute any surplus as follows:

- (1) If the surplus is sufficient to reimburse such counties the full amount of their requests, each such county shall receive the full amount of its request.
- (2) If the surplus is insufficient, each such county shall receive a percentage of the surplus determined by dividing the difference between the county's full request and its allocation by the difference between the total of the full requests of all such counties and the total of the amounts allocated for all such counties.

Effective:

Five Year Review (FYR) Dates: 9/25/2017

Certification

Date

Promulgated Under: 119.03
Statutory Authority: 5122.43
Rule Amplifies: 5122.43
Prior Effective Dates: 04/24/1980, 03/22/2012