

NOTICE

Recent legislation may affect information reported on Criminal Justice Act forms in this case. Though the meaning of cases 'filed' is not clear, *See United States v. Kunzman*, 125 F.3d 1363, 1364 n.2 (10th Cir. 1997)(pending cases those filed in **district court** before effective date of act), in the event that the statute applies to appeals filed after the effective date (January 25, 1998), the relevant portion is set out below.

18 U. S. C. § 3006A(d)(4) Disclosure of fees.--

(A) In general.--Subject to subparagraphs (B) through (E), **the amounts paid under this subsection for services in any case shall be made available to the public** by the court upon the court's approval of the payment. [Emphasis supplied.]

(B) Pre-trial or trial in progress.--If a trial is in pre-trial status or still in progress and after considering the defendant's interests as set forth in subparagraph (D), the court shall--

(i) redact any detailed information on the payment voucher provided by defense counsel to justify the expenses to the court; and

(ii) make public only the amounts approved for payment to defense counsel by dividing those amounts into the following categories:

- (I) Arraignment and or plea.
- (II) Bail and detention hearings.
- (III) Motions.
- (IV) Hearings.
- (V) Interviews and conferences.
- (VI) Obtaining and reviewing records.
- (VII) Legal research and brief writing.
- (VIII) Travel time.
- (IX) Investigative work.
- (X) Experts.
- (XI) Trial and appeals.
- (XII) Other.

(C) Trial completed.--

(i) In general.--If a request for payment is not submitted until after the completion of the trial and subject to consideration of the defendant's interests as set forth in subparagraph (D), the court shall make available to the public an unredacted copy of the expense voucher.

(ii) Protection of the rights of the defendant.--If the court determines that defendant's interests as set forth in subparagraph (D) require a limited disclosure, the court shall disclose amounts as provided in subparagraph (B).

(D) Considerations.--The interests referred to in subparagraphs (B) and (C) are--

- (i) to protect any person's 5th amendment right against self-incrimination;
- (ii) to protect the defendant's 6th amendment rights to effective assistance of counsel;
- (iii) the defendant's attorney-client privilege;
- (iv) the work product privilege of the defendant's counsel;
- (v) the safety of any person; and
- (vi) any other interest that justice may require.

(E) Notice.--The court shall provide reasonable notice of disclosure to the counsel of the defendant prior to the approval of the payments in order to allow the counsel to request redaction based on the considerations set forth in subparagraph (D). Upon completion of the trial, the court shall release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court. If there is an appeal, the court shall not release unredacted copies of the vouchers provided by defense counsel to justify the expenses to the court until such time as the appeals process is completed, unless the court determines that none of the defendant's interests set forth in subparagraph (D) will be compromised.

(F) Effective date.--The amendment made by paragraph (4) shall become effective 60 days after enactment of this Act, will apply only to cases filed on or after the effective date, and shall be in effect for no longer than 24 months after the effective date.