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Fee Collections for Public Defense Services Not Keeping Pace with Record Expenditures

After Two Years of New Fee Collections, Counties Vary Widely in Remitting Funds to the State

(Indianapolis) – A new law designed to increase revenues to Indiana’s Public Defense Fund and county coffers is producing mixed results while public defense expenses continue to reach record heights.

Legislation from 2024, authored by State Senator Eric Koch with the support of the Commission on Court Appointed Attorneys (CCAA), increased the fees that able defendants are required to pay for public defense services. Counties are then required to remit a portion of those fees to the state’s Public Defense Fund. Recent reports show a wide variation, with some counties transmitting zero dollars.

When a court finds that a person cannot afford a private attorney in a criminal matter but finds that the person is able to contribute to the expense of a public defender, state statute requires the court to assess a \$100 fee on misdemeanor cases and a \$200 fee when the charge is a felony. Those fees are then split evenly between the county and the state to assist in offsetting the cost of the defendant’s legal representation. The fee is not required to be assessed if a court finds that the defendant cannot afford to contribute.

“Many Hoosiers charged with crimes cannot afford the full cost of their legal defense,” said Senator Koch, “We’re simply requiring those who are able to contribute a relatively small amount to do so.”

Both the U.S. and Indiana Constitutions require that the state provide lawyers to represent individuals accused of crimes if the person cannot afford the expense of legal representation on their own. State law requires counties to provide these attorneys. However, counties are eligible for 40% or 50% reimbursement from the state’s Public Defense Fund if the

counties agree to standards set by the CCAA, including standards on caseload limits, training, experience, and compensation. While it has not yet occurred in Indiana, some states have been forced to dismiss criminal charges due to a lack of funding for public defenders.

The new law requires county clerks to report on the collection and transfer of these fees to the CCAA in January of each year. The Office of Judicial Administration (OJA) generates that report on behalf of the county clerks. After two years of collections, the CCAA estimates that collections could amount to approximately \$2.9 million per year.¹ The OJA reported that actual collections for calendar year 2025 amounted to less than \$400,000.

“The CCAA is working diligently with courts, county clerks, and county auditors to identify issues with collection and transmission of these statutorily required fees,” said Derrick Mason, the CCAA’s executive director. “The state’s attorney shortage is contributing greatly to increased public defense costs. Public defense appointments by courts also increased in 2025. In the counties that participate in the state’s reimbursement system, these factors contributed to an increase of \$11 million in county public defense expenses in 2025 from 2024.”

Many counties have reported clerical errors in the auditor or clerk’s office, and some counties report that courts are not assessing the fees correctly or at all. IC 35-33-7-6 states the court “shall” assess the fees, unless the court finds the person is unable to pay. The statute further states that “the court shall inquire at sentencing whether the person has paid the required amount.” Courts may also require defendants to pay other amounts, in addition to the \$100/\$200 fee, if the person is able to pay a greater portion of the costs of their representation.

Disparities vary greatly via county. For instance, the OJA report shows Marion County collected approximately \$9,000 in funds earmarked for the Public Defense Fund in calendar year 2025 while the CCAA estimates that approximately \$446,000 could have reasonably been collected.² Other counties, such as Hendricks, are close to the top collection rate, collecting over \$44,000 for the Public Defense Fund. Twenty-four (24) counties reported no collections of these fees.

“We remain optimistic that by sounding the alarm and working with counties, we can avoid a crisis in funding that other states have encountered,” Mason continued.

To see a map of collections for calendar year 2025 by county, click [HERE](#). See the CCAA’s website (<https://www.in.gov/ccaa/>) for further information. Follow the CCAA on “X” at @IndianaCCAA.

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¹ The CCAA estimates that the Public Defense Fund could reasonably receive collections of approximately \$2.9 million annually if the fees were assessed and collected on 42.5% of cases, which is the average rate of collection of the highest five counties in Indiana that collected and transmitted fees, with up to \$6.9 million generated in the unlikely event that the fees were assessed on every case and paid in full.

² If the fees were assessed and collected in 42.5% of cases.