

ORDINANCE NO. 2013-12

OF THE BOARD OF COMMISSIONERS OF  
CASS COUNTY, INDIANA

WHEREAS, LC. 33-40-7-3 authorizes the establishment of county public defender boards, and

WHEREAS, the Board of Commissioners deems it advisable that the County of Cass establish such a board with all the rights and duties that attend thereto, as per state statute,

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS CASS COUNTY, INDIANA that:

**Section 1. Board Established.**

The Cass County Public Defender Board is hereby established for the purpose of providing legal representation to indigent defendants/respondents in criminal, juvenile, probation violation, extradition, child support, civil commitments and other proceedings where the right to counsel has been established by law.

**Section 2. Definitions.**

When used herein the following words and terms shall be defined as follows:

(1) *Board* means the County Public Defender Board created by this ordinance.

(2) *Indigent defendant/respondent* means a person who requests legal representation and is determined by the court to be entitled to legal representation at public expense.

(3) *Legal representation* means the services of an attorney provided to a defendant/respondent in a matter originating in a state court in Cass County involving:

- (a) a person charged with a crime as defined in IC 35-414-6;
- (b) an act of delinquency as defined in IC 31-37-1-2;
- (c) a violation of a condition of probation established as a part of a sentence in a juvenile or criminal matter;
- (d) detention of a person subject to extradition to another jurisdiction;
- (e) proceedings to collect unpaid child support pursuant to IC 31-16-17-12;
- (f) civil commitment and contempt proceedings; or
- (g) other proceedings where the right to counsel at public expense has been established by law.

The term *legal representation* includes services in connection with all pre-trial, trial and appellate proceedings in which an indigent defendant/respondent has a right to counsel.

### **Section 3. Board membership and appointment.**

(a) The Board shall consist of three (3) members: one (1) member appointed by the county commissioners; and two (2) members from different political parties appointed by majority vote of the judges who exercise felony or juvenile jurisdiction.

(b) The initial term of the member appointed by the county commissioners shall expire on 12-31-14, 2011. The initial term of one (1) member appointed by the judges shall expire on 12-31-15, 2012, and the initial term of the other member appointed by the judges shall expire on 12-31-16, 2013.

(c) After the initial term of each member, appointments shall be for three (3) year terms. Members of the Board shall serve until their successor is appointed. An appointment to fill a vacancy shall be made by the authority appointing the member vacating the position and shall be for the remainder of the unexpired term.

(d) The following persons shall be ineligible to serve as members of the board: a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.

(e) Board members shall serve without pay but may receive reimbursement for expenses incurred in connection with the member's duties if approved by the Board.

(f) Two members of the Board shall constitute a quorum for the purpose of conducting the business of the Board. Decisions of the Board shall be approved by a majority of the members present.

(g) The Board shall meet at least quarterly or upon call of its chairperson or any two members of the Board.

(h) The Board shall elect its chairperson by a majority vote of the Board.

### **Section 4. Powers and duties of the Board.**

The Board shall have the following powers and duties:

(1) Prepare a comprehensive plan for providing legal representation to indigent defendants/respondents in the county in accordance with I.C. 33-40-7-5. The comprehensive plan shall, at a minimum, provide for:

(a) legal representation to an indigent defendant/respondent at the earliest possible point in time;

(b) legal representation to an indigent defendant/respondent by the same attorney or attorneys through the pendency of the matter to the greatest extent possible;



(c) professional development, continuing legal education, and malpractice coverage for public defenders; and

(2) Establish policies and procedure for the provision of competent legal representation for indigent defendants/respondents in criminal, juvenile, probation violation, extradition, child support and criminal contempt, and other matters pursuant to the comprehensive plan.

(3) Establish guidelines and procedures for the determination of indigency and for the appropriate reimbursement for legal representation provided at public expense in accordance with I.C. 33-40-7-11.

(4) Recommend an annual operating budget for the Agency and monitor the expenditures of funds.

(5) Prepare and submit to the County Council and the general public an annual report on the operation of the Agency.

#### **Section 5. Authority of Judges.**

Nothing contained herein shall be deemed to abridge the authority of any judge of a state court of this county from appointing counsel for any person entitled thereto under the Constitution of the United States or the Constitution of the State of Indiana.

#### **Section 6. Scope of Ordinance.**

Nothing contained herein shall be deemed to create a right of reimbursement pursuant to I.C. 33-40-6, except to the extent that any claims for reimbursement comply with I.C. 33-40-6 and the Standards of the Indiana Public Defender Commission.

#### **Section 7. Effective Date. 10-21-13**

This ordinance shall be in full force and effect upon passage, approval, and publication.

BOARD OF COMMISSIONERS  
OF Cass COUNTY, INDIANA



Attest: Tamara M. M. M.