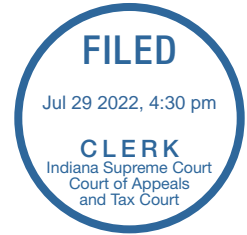


# In the Indiana Supreme Court



In the Matter of the Minimum Fees for  
Legal Services of the State Public Defender  
and Appointed Public Defenders

Supreme Court Case  
No. 22S-MS-261

## Order Approving Minimum Fees for Legal Services of the State Public Defender and Appointed Public Defenders

Pursuant to Indiana Code section 33-40-2-3, the State Public Defender has presented to this Court a schedule of minimum fees for attorneys appointed by that office in trial and appellate cases. The schedule aligns with changes directed by the Indiana Public Defender Commission to its [Standards for Indigent Defense Services in Non-Capital Cases](#), and specifically Standard H – Compensation of Assigned Counsel. The Commission standards will be made effective January 1, 2023, for counties participating in the Commission’s reimbursement program. **We approve the State Public Defender’s proposed schedule as set forth below.**

When the State Public Defender appoints public defenders in trial and appellate cases, with the concurring appointment of the requesting Judge as set forth in Indiana Code section 33-40-2-2, the reasonable fees are charged to the requesting county. When the State Public Defender appoints outside counsel to represent an indigent petitioner in a post-conviction matter, the reasonable fees are paid by the Office of the State Public Defender. Since criminal cases vary greatly in the time and labor required, depending upon complexity of evidence, legal issues, and other matters, a flat fee system is not workable. In both instances, reasonable fees shall be determined on the basis of the hours required to perform the service. Further, the appointing court and the Office of the State Public Defender shall require a bill which clearly states the services performed, the expenses incurred, and the reasons for same.

**Effective January 1, 2023, in Non-Capital Cases, all in-court and out-of-court work (including client consultation, legal research, witness interviewing, legal drafting, hearings, etc.) shall be compensated at the hourly rate of not less than 75% of the capital rate required under Indiana Criminal Rule 24(C)(1), rounded up or down to the nearest \$10/hour, with supporting documentation as to time spent. The effective date of any increases shall tier with the capital rate increases described below.** Where delay not due to appointed counsel occurs, such time may also be billed.

In Capital Cases all attorney time, in-court or out-of-court, will be billed at the rate established biennially by the Chief Administrative Officer of the Indiana Supreme Court, pursuant to Indiana Criminal Rule 24(C)(1) for cases filed or remanded after appeal on or after January 1 of each odd year. Post-conviction relief actions are initiated when post-conviction

counsel files an appearance, notice of intent to petition for post-conviction relief or request to extend stay of execution under Criminal Rule 24(H). A successive petition is initiated when the Supreme Court authorizes its filing under Indiana Post-Conviction Rule 1(12).

In both Non-Capital and Capital Cases use of an automobile, lodging, and meals when traveling for the client's business shall be compensated at the rates established by the Indiana Department of Administration and approved by the Indiana State Budget Agency. In addition, the attorney's salary for travel time is compensable. Costs and expenses incurred on the client's behalf shall be reimbursed where said costs were reasonably necessary for representation of the client. Charges for pre-authorized experts, accountants, investigators, medical doctors, and similar items will be borne by the county in cases where public defense counsel has been assigned at the court's requests and by the State Public Defender where the State Public Defender has appointed outside counsel.

Done at Indianapolis, Indiana, on 7/29/2022.



---

Loretta H. Rush  
Chief Justice of Indiana

All Justices concur.