

From: Public Defender Commission <pdcom@subscriptions.in.gov>
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January 2023 Quarterly Newsletter

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Governor Eric Holcomb Proposes Funding and Authorization for Misdemeanor Reimbursement

Indiana Governor Eric Holcomb has proposed

funding and statutory authority to allow the Commission to reimburse for misdemeanor public defense costs in his proposed budget, presented to the General Assembly late last week.

As you may know, the Commission reimbursed for misdemeanor expenses when it was first established in 1989. However, the legislature removed that authority in 1997, when felony expense reimbursement was raised from 25% to 40%. It was always the intention to restore misdemeanor authority if funding was available. The state currently has a significant fiscal surplus.

The Governor proposed a budget that will allow the Commission to continue to fully fund felony reimbursement and add up to \$6.3 million in additional reimbursement to public defense regions and counties.

The Commission is very grateful to Governor Holcomb for this bold move, which the Commission believes will have a significant impact on improving Indiana’s criminal justice system.

This request will still require legislative consent during the current budget-writing session of the General Assembly. The introduced version of [HB 1001 \(The State Budget\)](#) is available online. The Commission’s budget is located on page 10 & 11 of the document.

Click [HERE](#) to read the Commission’s “Misdemeanors Matter” document, with the policy arguments about why raising the quality of legal representation to individuals charged with a misdemeanor crime is good public policy.

If you are willing to contact your legislator to encourage support for the Governor’s request, please contact [Andrew Cullen](#).

[Click here to read the Introduced Budget Bill.](#)

Legislation Filed to Merge Full-Time Chief PDs and Chief Deputies Into Current Prosecuting Attorney Retirement Fund

The Commission has partnered with the Chief PD Association and the PD Council to advocate for the creation of a PD Retirement Fund, similar to the fund currently available to prosecutors and judges.

The legislation has now been drafted and filed. At the time of this newsletter, the Chair of the House Employment and Pension Committee plans to

Introduced Version

HOUSE BILL No. 1001

DIGEST OF INTRODUCED BILL

Citations Affected: IC 4-1-6-8.6; IC 4-2-1; IC 4-3-26; IC 4-6-15; IC 4-7-1-1; IC 4-10-22-3; IC 4-12; IC 4-13-1-2-4; IC 5-10-8-8-5; IC 5-10-2-4-8-2; IC 5-10-3-11-1; IC 5-11-4-3; IC 5-13-12-11; IC 5-28; IC 6-1-1-39-1; IC 6-3-1; IC 6-7-1; IC 6-8-11-17; IC 8-23-3-8; IC 8-25-2-11; IC 9-14-14-1; IC 9-25; IC 10-11-2-13; IC 10-12; IC 10-21-1-2; IC 11-12-11; IC 12-12-7-2-22; IC 12-15-44-5-5; IC 12-22-2-11; IC 12-23-2-3; IC 12-29-2-14; IC 14-13-6-19; IC 16-18-2; IC 16-19-10-3; IC 16-20; IC 16-21-10-21; IC 16-22-8-60; IC 16-28-15-14; IC 16-46; IC 20-23-18-3; IC 20-24; IC 20-26; IC 20-26-5-2-3; IC 20-31; IC 20-33-5; IC 20-33-4-4; IC 20-40; IC 20-41; IC 20-42-3-10; IC 20-43; IC 20-51-4-5; IC 20-51-4; IC 21-18-16; IC 33-24; IC 33-34-8-3; IC 33-37; IC 33-38-5-8-1; IC 33-40-6; IC 36-7-14-1.7.

Synopsis: State budget. Appropriates money for capital expenditures, the operation of the state, K-12 and higher education, the delivery of Medicaid and other services, and various other distributions and purposes. Requires a researcher to execute a data sharing agreement that is approved by the management performance hub (MPH) to receive access to confidential records. Provides that the auditor of state is officially known as the state comptroller. Provides that, after June 30, 2023, the auditor of state shall use the title "state comptroller" in conducting state business, in all contracts, on business cards, on stationery, and with other means of communication as necessary. Provides that the change in title does not invalidate any documents or (Continued next page)

Effective: Upon passage; July 1, 2022 (retroactive); June 29, 2023; July 1, 2023; July 1, 2024.

Thompson, Porter, Cherry

HOUSE BILL No. 1605

DIGEST OF INTRODUCED BILL

Citations Affected: IC 5-10-8-8; IC 5-10-3-7; IC 5-10.5-2-2; IC 33-39-7.

Synopsis: Public defender participation in PARF. Adds a person who serves in one of the following positions on or after January 1, 2014, to the prosecuting attorneys retirement fund (PARF): (1) The state public defender or the second highest paid staff person employed by the state public defender. (2) The executive director of the public defender council of Indiana or the second highest paid staff person employed by the public defender council of Indiana. (3) The highest paid or the second highest paid staff person employed by the Indiana public defender commission. (4) A chief public defender or chief deputy public defender. Changes the name of the prosecuting attorneys retirement fund to the prosecuting attorneys and public defenders retirement fund. Makes corresponding changes.

Effective: July 1, 2023.

VanNatter, McNamara, Hatfield

January 19, 2023, read first time and referred to Committee on Employment, Labor and Pensions.

hear the bill (HB 1605 linked [HERE](#)) on Thursday, January 26.

The legislation is authored by the Chair of the House Employment and Labor Committee, [Rep. Heath VanNatter](#). It is co-authored by both the Chair of the House Criminal Law Committee [Rep. Wendy McNamara](#) and the Ranking Minority Member of the Employment Committee, [Rep. Ryan Hatfield](#). If these legislators represent you, please be sure to thank them.

The bill currently allows all full time Chiefs and Chief PDs who do not maintain a private practice to receive credit for years of service starting in 2014. They must be compensated according to Commission Standards. Upon vesting, those individuals would be eligible for the same pension benefit currently available to Prosecutors and Chief Deputy Prosecutors. It also includes the two top staffers at the PD Council, the PD Commission, and the State PD Office. Legislative Services estimates that approximately 38 current individuals would be eligible. However, the Commission believes this new benefit will serve as a recruiting tool to encourage more pay and resource parity in PD Offices going forward.

The first step in this process was to seek the endorsement of the Legislative Interim Study Committee on Pension Management Oversight (PMOC). Traditionally, the legislature requires this committee's endorsement prior to taking legislative action during the regular legislative session. The Committee endorsed the creation of the fund 17-0.

Questions may be directed to [Andrew Cullen](#).

[Click here to read the bill.](#)

Legislation Filed to Expand the Right to Counsel

As the legislative session gets underway, there are several pieces of legislation with potential impacts on the Public Defense Fund that Commission Staff will be monitoring. These bills are in addition to HB 1001 (the State Budget) and HB 1605 (Public Defender Participation in PARF), which are discussed in separate articles of this newsletter.



Senate Bill 26 (linked [HERE](#)), authored by Sen. Mike Bohacek, creates a new right to counsel for unlicensed relative caregivers in CHINS/TPR Actions. It passed out of the

Senate Judiciary Committee unanimously and has been re-committed to the Senate Appropriations Committee for further action.

Senate Bill 465 (linked [HERE](#)), authored by Sen. Scott Alexander, increases non-capital reimbursement from 40% to 60%, excluding misdemeanors. It has been assigned to the Senate Corrections & Criminal Law Committee.

Senate Bill 484 (linked [HERE](#)), authored by Sen. Jon Ford, creates a pilot program managed by the Supreme Court's Office of Court Services, to provide appointed counsel direct representation to certain juveniles in CHINS/TPR actions. It has been assigned to the Senate Family & Children Committee.

Senate Bill 485 (linked [HERE](#)), authored by Sen. Jon Ford, creates a new state agency called the Office of the Child Representative, to regulate appointed counsel direct representation for certain juveniles in CHINS/TPR actions. It has been assigned to the Senate Family & Children Committee.

House Bill 1172 (linked [HERE](#)), authored by Rep. Ed Clere, provides that a child who is 12 years of age during the pendency of certain CHINS/TPR proceedings is entitled to representation by counsel.

If you have any questions or comments about any pending legislation, contact [Derrick Mason](#) or [Andrew Cullen](#).

Updated Reimbursement Form Now Required

The Commission's updated reimbursement requests forms, which we have been rolling out over the past year, are now live in all counties/regions.

The form allows entities to prepare for the upcoming 2024 caseload changes and the potential impacts while basing compliance on current standards.



The new forms, part of the Commission's ongoing efforts to maximize the use of technology while also minimizing the reporting burdens on counties and regions, streamline several reporting data points. The form also begins to track attorney caseloads via the attorney number listed in the Roll of Attorneys. The new tracking opportunity will allow the Commission to notify attorneys and counties/regions if a particular attorney is exceeding caseload caps due to multi-county/region appointments.

The Commission is always open to feedback or comments on the efficiency of our reporting process. If you have any comments to share, please reach out to [Jennifer Pinkston](#) or [Torrin Liddell](#).

[Click here to see the new forms and instructions.](#)

Reminder: Send Us Your Open Positions

We know that recruitment of staff is an issue throughout

the state.

Please don't forget to send any open positions you may have to information@pdcom.in.gov.

We're happy to post your positions and publicize them on Twitter (linked [HERE](#)) and our website.



Commission Approves Agency Name Change

At the most recent Commission meeting, staff was authorized to request a statutory name change to "The Commission on Court Appointed Attorneys".



The general consensus was that a new name would help alleviate confusion between the Commission, the PD Council, and the State PD. Any change should also clarify the Commission's role.

The Commission decided not to make this a high priority. However, since it will require a statutory change, we should have a new name ready IF legislation is introduced in the 2023 Legislative Session where such a change might be housed.

2023 Federal Funding Agreement Coming Due

Commission staff has finalized the 2023 Title IV-E agreements, and you should have received your form.



Please sign the document and return it to us at information@pdcom.in.gov as soon as possible (by February 14) to ensure continued Title IV-E funding to your county/region.

Additionally, those counties/regions that received Title IV-E funds in 2022 are required to report to us how those funds were utilized. Participating counties/regions should have received a letter with instructions on reporting the information. Please complete both forms by February 14.

Click [HERE](#) to view the current map to determine if your county is benefitting.

If you did not receive the documents or have any questions, please contact [Jennifer Pinkston](#) or [Stephanie Lalani](#).

[Click here to see if your county is benefitting.](#)

Youth and Family Funding Remains Available

The Commission is continuing to accept and

evaluate proposals for projects designed to impact “At-Risk Youth and Families.” The Commission has already approved over \$1 million in county-based pilot projects that are now up and running. Future proposals will be evaluated on a rolling basis.



The intended goals of these projects are: (1) to create long-term improvements in systems that serve Indiana At-Risk Youth and Families involved with Indiana’s family/child welfare system, the juvenile delinquency system, or both, and (2) to create system improvements that proactively prevent such involvements. Projects should also have a clear intersection with the public defense system. Finally, projects will require a significant data component, which Commission staff will help you develop.

If you have any questions about this request for proposals, contact [Derrick Mason](#) or [Torrin Liddell](#). If you are unsure if your potential project meets the criteria above, we encourage you to reach out!

[Click here to read the Request for Proposal.](#)

Local Public Defender Board Appointments

The Commission welcomes the following new or re-appointed members to County Public Defender Boards. Their 3-year terms were approved at the December Commission meeting.

Re-Appointments

<u>County</u>	<u>Appointee</u>
DeKalb	Joe Dunn
Delaware	Ted Baker
Elkhart	Ian Forte
Hancock	Michael Adkins
Howard	R. Cartwright Ellis
Jackson	Joe Theole
Perry	James Tyler
Pulaski	Laura Bailey
Shelby	Brady Claxton
Steuben	Ronald Thomas
Vigo	Becky Buse
Warrick	Chad Groves

New Appointments

<u>County</u>	<u>Appointee</u>
Hendricks	Jennifer Stout
Madison	Jack Brinkman
Miami	Ryan Schmidt
Noble	Michael Yoder
Pike	Cheryl Deffendoll
Sullivan	Joanne Davis

At the March meeting, the Commission will consider appointments to the following county boards:

- Gibson
- Greene
- Jennings
- Monroe
- Orange
- Scott
- Wabash

If you have any questions about this or any matters regarding local public defender boards, contact [Andrew Cullen](#) or [Linda Hunter](#).

[Click here to read the state statute regarding local boards.](#)

December Commission Meeting Draft Minutes

[Click here to read the draft minutes from the prior Commission Meeting.](#)

Commission 2021-2022 Annual Report

[Click here to read the report.](#)

Public Defense Employment Opportunities

[Click here for a list of current Public Defense Employment Opportunities.](#)

2023 Reimbursement Request Due Dates

<u>Quarter</u>	<u>Reimbursement Request Due Date</u>	<u>Commission Meeting</u>
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4th 2022	Tuesday, February 14	Friday, March 24
1st 2023	Monday, May 15	Wednesday, June 14
2nd 2023	Monday, August 14	Wednesday, September 20
3rd 2023	Tuesday, November 14	Wednesday, December 13

Commission meetings begin at 2 p.m. Eastern and comply with the Indiana Open Door Law ([IC § 5-14-1.5](#)). Meetings are held at the Commission Office (309 W. Washington Street, Suite 501, Indianapolis, IN, 46204) unless otherwise stated on the meeting notice and agenda. The public is invited to attend in person or via electronic means permitted under [IC § 5-14-1.5-3.6](#) excluding any Executive Sessions that may be scheduled as permitted under [IC § 5-14-1.5-6.1](#). To view the Commission's Electronic Meeting Policy, click [here](#).

Notice of Executive Sessions & meetings will be posted at the entrance to the Commission Office (309 W. Washington Street, Suite 501, Indianapolis, IN, 46204) and will be posted on [the front page of the Commission's website under "News & Announcements"](#) at least 48 hours in advance. Meeting materials and agendas will be posted at least 24 hours in advance.

If you have any questions about the Commission meetings, contact [Derrick Mason](#).

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