

From: Public Defender Commission <pdcom@subscriptions.in.gov>
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January 2021 Quarterly Newsletter

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In this Issue:

- [Governor Proposes Budget Increase for Public Defender Commission](#)
- [Senate Bill 37: Misdemeanor Reimbursement](#)
- [Commission Welcomes Harrison County & Local Board Members](#)
- [New Federal CHINS/TPR Funding Source Tapped](#)
- [Board Training Spotlight: Open Door Statutes](#)
- [Topic: When may a defendant be ordered to reimburse a county for public defense services?](#)
- [Reimbursement Request Updates](#)
- [2019-2020 Commission Annual Report Released](#)
- [December Commission Meeting Draft Minutes](#)
- [Annual Training Materials & Videos Available](#)
- [2021 Reimbursement Request Deadlines & Commission Meeting Dates](#)

Governor Proposes Budget Increase for Public

Defender Commission



BUDGET REQUEST FY 22/23

Governor Eric Holcomb has recommended that the Commission should receive its full budget request of an additional \$2.9 million per year.

At this morning's January 13 meeting of the State Budget Committee, the Director of the

Office of Management and Budget and the State Budget Director recommended the Commission's full budget increase as part of the Governor's fiscal year '22-23 proposed biennial state budget. To our knowledge, this is the first time the Commission's budget increase request has been included in a Governor's proposed budget to the General Assembly. This announcement is very much welcomed.

The Commission voted to make this budget request the top priority this legislative session.

While very significant, this is only the first step in the state budget-writing process that will likely conclude at the end of April.

Due to the pandemic, many Executive Branch agencies have been required to propose 15% cuts to their budgets. The Commission did not propose a 15% cut but instead proposed the increase needed to avoid cuts to counties in the next two years.

[Please click here to see the Commission's Full FY '22-23 Budget Proposal.](#)

If you are willing to contact your local State Senator or Representative to support the Commission's request, please [contact Andrew Cullen](#). We rely on County Officials to stay in contact with your representatives in Indianapolis.

Senate Bill 37: Misdemeanor Reimbursement

[Senate Bill 37](#) has been filed for the 2021 session of the General Assembly. The bill would remove the statutory prohibition on the Commission's reimbursement of misdemeanor case expenses effective July 1, 2022. The bill was assigned to the Senate Judiciary Committee and was authored by [State Senator Jon Ford](#) (R-Terre Haute). [Click here to read the bill](#), which has a fiscal impact of approximately \$6.5 million per year.

The Commission has also developed a detailed document explaining why the quality of public defense in misdemeanor cases matters to Indiana's Criminal Justice System and how this funding is a net gain to taxpayers in the long run. [Click here to read the document.](#)

Contact [Andrew Cullen](#) for details or if you are willing to ask your local State Senator or Representative to support the bill this session.

Introduced Version

SENATE BILL No. 37

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-40.

Synopsis: Misdemeanor reimbursement. Provides that a county may be reimbursed for indigent services provided for misdemeanors in a superior or circuit court. (Current law excludes misdemeanor cases from reimbursement.)

Effective: July 1, 2022.

Ford Jon

January 4, 2021, read first time and referred to Committee on Judiciary.

Commission Welcomes Harrison County & Local Board Members

The Commission welcomed Harrison County at the December meeting, with the approval of its Comprehensive Plan for the delivery of public defense services. This brings the total number of "Commission Counties" to 66. [Click here for an updated map with the currently-participating and eligible counties.](#)

The Commission also unanimously appointed the following members for three-year terms on County Public Defender Boards. We appreciate their willingness to serve and welcome them (or welcome them back) to the public defense community.

County:	Appointment:
Floyd	Matthew Schad
Hendricks	Ryan Tanselle
Harrison	Maryland Austin
LaPorte	Dale Brown
Ripley	Ginger Bradford
Rush	Kevin Snyder
Washington	Marsha Dailey

New Federal CHINS/TPR Funding Source Tapped

In January 2019, the Federal Children's Bureau changed the guidelines contained in the Child Welfare Policy Manual to permit states to claim federal matching funds through Title IV-E of the Social Security Act to help pay the costs of attorneys representing certain children and their parents in child welfare proceedings. This new policy is a welcomed opportunity for the Commission and Indiana Counties to seek a funding source to cover the rapidly increasing cost of parental representation in CHINS and Termination of Parental (TPR) cases.



The 2019 Indiana State Budget Act permitted Indiana's Department of Child Services to enter into a Memorandum of Understanding (MOU) with the Commission to deliver these funds to counties.

We're happy to report that the MOU has been completed, and we've started the process of claiming these funds to provide to counties. We'll report more in the next newsletter.

Board Training Spotlight: Open Door Statutes

County public defender board trainings are in full swing! We've received several questions from board members throughout the state regarding how a county public defender board should handle confidential board meeting discussions in compliance with Indiana's Open Door Law ("ODL"). Examples of confidential topics that have come up include employee job performance and disciplinary issues. Hopefully, the information below will provide some guidance to all county public defender boards.



The ODL requires governing bodies of public agencies to open their official action to the public, unless otherwise expressly authorized by statute, so the public can be fully informed. I.C. § 5-14-1.5-1. The ODL recognizes, however, that some topics are sensitive in nature and could cause embarrassment or other undesirable consequences if exposed to the public. I.C. § 5-14-1.5-2(f) authorizes governing bodies to hold meetings called executive sessions from which the public is excluded. Further, I.C. § 5-14-1.5-6.1(b), contains a laundry-list of specific instances for which a governing body may hold an executive session and discuss topics in conformance with the statute's narrow scope. In other words, the governing body is only permitted to discuss topics that are specifically listed in the statute. Under Indiana law, executive sessions are permitted to discuss employee disciplinary issues under I.C. § 5-14-1.5-6.1(b)(6) or job performance under I.C. § 5-14-1.5-6.1(b)(9).

Please keep in mind, the ODL requires governing bodies of public agencies to provide notice to the public regarding the date, time and place for its meetings, including executive sessions. I.C. § 5-14-1.5-5. Public notices for executive sessions must specifically reference the enumerated instance or instances under I.C. § 5-14-1.5-6.1(b) for which the executive session is being held. *Op. of the Public Access Counselor 05-FC-233*. A sufficient notice may say something like, "To discuss a job performance evaluation of an individual employee, pursuant to I.C. § 5-14-1.5-6.1(b)(9)."

Please contact [Jennifer Shircliff](#) if you have any questions about board trainings or this issue.

[The Indiana Public Access Counselor's website](#) is also an excellent resource for questions relating to the ODL and Access to Public Records Act. You can find the Public Access Counselor's website [by clicking here](#). You may also find the Handbook on Indiana's Public Access Laws helpful. [You can find the Handbook by clicking here](#).

Topic: When may a defendant be ordered to reimburse a county for public defense services?

[Click here for an updated article](#) that provides guidance on current Indiana statute and caselaw clarifying when a defendant may be required to pay a portion of public defense fees.

Reimbursement Request Updates

- **Updated Manual:** [Click here to view our updated Reimbursement Request Instruction Manual.](#) Major updates include a more extensive self-insurance guide, starting on page 24.
- **Misdemeanor Case Reporting:** As of January 1, all misdemeanor appeals cases must be counted in the appropriate column on the reimbursement request form. They must be distinguished between misdemeanor guilty plea appeals or trial appeals. *All associated expenses are non-reimbursable.*
- **New Capital Case Hourly Rate:** As a reminder, in all capital (death penalty) cases, all counties may receive reimbursement for 50 percent of applicable expenses. In accordance with Criminal Rule 24(C)(1), the Chief Administrative Officer of the Office of Judicial Administration adjusts the hourly rate paid in capital cases biennially. The new rate is \$129/hour for cases filed, or remanded after appeal, on or after January 1, 2021 (previously \$124/hour). [Click here for more details.](#)

2019-2020 Commission Annual Report Released



[Click here to view the Commission's 2019-2020 Annual Report.](#)

It contains detailed data about the Commission's funding & reimbursement, a new section for interested counties on how to join the Commission, and profiles of the Commission Members and Staff.

The Commission is required to make this report annually to the Governor, the Chief Justice, and the General Assembly.

December Commission Meeting Draft Minutes

[Click here to read the *draft* minutes from the December 16, 2020 Commission Quarterly Meeting.](#)

Annual Training Materials & Videos Available

If you missed the Commission's October Annual Training, never fear. All the training materials and videos of the training sessions are [available by clicking here.](#)

2021 Reimbursement Request Deadlines & Commission Meeting Dates

2021 Reimbursement Request Due Dates:

4th Quarter '20 (October 1 - December 31): *February 14, 2021*

1st Quarter '21 (January 1 - March 31): *May 15, 2021*

2nd Quarter '21 (April 1 - June 30): *August 14, 2021*

3rd Quarter '21 (July 1 - September 30): *November 14, 2021*

2021 Commission Meeting Dates:

4th Quarter '20: *Friday, March 19, 2021*

1st Quarter '21: *Wednesday, June 16, 2021*

2nd Quarter '21: *Wednesday, September 22, 2021*

3rd Quarter '21: *Wednesday, December 15, 2021*

All meetings will be a 2 p.m. EST. Location TBD and may be virtual based on the public health emergency.

[^ Back to Top](#)

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