

Mark W. Rutherford, Chairman
Indianapolis
Larry Landis, Vice Chairman
Indianapolis

Richard Bray
Martinsville
Hon. Mary Ellen Diekhoff
Bloomington
Representative Ryan Dvorak
South Bend
Hon. Kelsey B. Hanlon
Spencer

309 W Washington Street Suite 501 • Indianapolis, IN 46204



David J. Hensel
Indianapolis
Senator Eric Koch
Bedford
Hon. Steven P. Meyer
Lafayette
Senator Gregory G. Taylor
Indianapolis
Representative John Young
Franklin

Public Defender Commission

www.in.gov/publicdefender • ph 317-233-6908

March 2019 Volume 11 Issue 2



Legislative Update

As the Indiana General Assembly begins to wrap up part two of a three-step legislative process (1st House, 2nd House, Conference), we would like to take an opportunity to update you on the progress of the Commission's 2019 Legislative Priorities.

As you may know, the Indiana Task Force on Public Defense released its final report in August, issuing 20 recommendations to strengthen and improve Indiana's public defense services. After careful evaluation and consideration, the Commission prioritized four of those recommendations, which, along with an increase to our base budget to avoid proration, became the basis for the five legislative priorities that are being actively pursued this legislative session.

Although at the printing of this newsletter nothing has been finalized, we have had some significant successes to report and a few areas where support is still needed as we head toward the end of session (*sine die*), which is currently scheduled for April 26.

Commission's Base Budget:

The Commission's top priority each budget session is advocating for the budgetary increase necessary to account for any new counties, upticks in reimbursement requests for specific case types such as CHINS and TPR, and to avoid even the possibility of proration in the next biennium or beyond.

Commission Chair Mark Rutherford

has stressed the importance of this request in testimony before both the House Ways and Means Committee and the Senate Appropriations Committee. A copy of the presentation given to the Ways and Means Committee by Chairman Rutherford, Vice Chair Larry Landis, and Senior Staff Attorney Derrick Mason may be found on our website.

We were very pleased that the Indiana House appropriated \$4.47 million more per year in the House version of HB 1001 (The State Biennial Budget Bill). This was the Commission's full request and will allow us to avoid proration in the next biennium. Thanks go to House Ways and Means Co-Chair Representative Todd Huston (District 37: Hamilton County) for supporting this request. We will continue to be vigilant in our discussions with the Senate about maintaining this increase as HB 1001 continues through the process.

Misdemeanor & Appellate Funding:

At the request of the Commission, State Representative John Young (District 47: Johnson & Morgan Counties) authored House Bill 1453 to remove the prohibition of misdemeanor reimbursement and to permit centralized appellate services. The state fiscal impact set for those two items by the nonpartisan Legislative Services Agency was \$10.27 million per year.

The bill was originally assigned to the House Courts and Criminal Code

Committee, where it passed by a vote of 12-0 on January 30. The bill was co-authored by Reps. Ryan Dvorak (District 8: LaPorte & St. Joseph), Greg Steuerwald (District 40: Hendricks), and Greg Porter (District 96: Marion). Although the bill later stalled in the Ways & Means Committee, we are still actively pursuing those items in the Senate version of the Budget, which will likely be released the week of April 8.



Commission Chair Mark Rutherford and Senior Staff Attorney Derrick Mason speak to the Senate Appropriations Committee

Regionalization & County Board Structure:

Senate Bill 488 completes the Commission's five priorities by creating an optional path for counties to establish regionalized offices. It also changes the structures of some county boards to permit the Commission to make an appointment in lieu of one of the current judicial appointments. Authored by Sen. Mike Young (District 35: Hendricks & Marion), the bill passed the Senate 48-0. The legislation was co-authored in the Senate by Sen. Eric Koch (District 44: Bartholomew, Brown, Jackson, Lawrence, and Monroe) and Sen. Greg Taylor (District 33: Marion). The bill later passed the House Courts Committee 12-0. At the time of printing, the bill is scheduled for a final vote in the House. We expect that it will

Legislative Update continued on page 4

In This Issue
Pages 2-3
2018 financial statistics

Page 4
Commission Meeting Update
Important Dates
Legislative Update (cont)

Commission Meeting Dates**June 12, 2019**

A brief executive session will begin at 2 pm with the regular meeting afterward

September 25, 2019**December 18, 2019**

All meetings are scheduled to begin at 2 pm.

A brief executive session may precede each meeting. Meetings are scheduled to be held at

our offices (309 W Washington Street, Suite

501, Indianapolis, IN 46204) Updates to meeting dates, times and locations are posted on our website: www.in.gov/publicdefender**Legislative Update** (continued from front page)

pass. The final step for the bill will be for the Senate to either agree to the House changes (concur) or take the bill to conference committee (dissent). We are encouraged by the broad-based support this bill has received in the process.

CHINS/TPR

The Commission also approved staff to pursue any additional funding items that may become available to assist counties with the increases they have been experiencing due to the exponential growth in CHINS/TPR court-involved cases. There are currently many discussions on the table about opportunities that may exist in the budget to strengthen funding for the defense of parents in CHINS/TPR cases. Staff would be happy to discuss this issue with anyone interested in learning more.

THANK YOU

The Commission would like to offer a special thank-you to our four legislative members, Senators Eric Koch and Greg Taylor and Representatives John Young and Ryan Dvorak. Their active support of the Commission's legislative agenda during the legislative session is very important. We would also like to thank Chief Justice Loretta Rush for her support of our agenda. The Chair of the Task Force, Judge John Tinder, has also been very active in communicating with legislators about the importance of these initiatives for the long-term health of Indiana's public defense services. Judge Tinder's expertise and dedication has been invaluable to the long-term success of our reform efforts.

As always, we welcome any questions about our legislative agenda at any time and appreciate your support of our efforts. We keep our policy agenda up to date with the latest information about our specific bills and policy agenda items. We are always interested in helping you advocate to your local legislators. Commission staff has developed specific talking points you may use to communicate with policy makers about the importance of these reform items. We would be happy to discuss those with you and also provide you with contact information for your specific legislators. If you are willing to help advocate for the success of our policy agenda, please contact Andrew Cullen at andrew.cullen@pdc.com or at 317-439-7565. We would love to have your help!

Commission Meeting Update

The Public Defender Commission met on Wednesday, March 20, 2019.

Board Member Removal

Extensive discussion regarding appointment and removal of county public defender board members was held, including input from county chiefs in attendance. The Commission voted to amend the guidelines to specifically note that appointments serve a three-year term and may only be removed for cause. Updated guidelines can be found on our website at: <https://www.in.gov/publicdefender/2340.htm>.

Training Approvals

Commission members reviewed the requests for training approvals related to Standards E and F qualifications. The submitted requests were approved and may now be used to qualify attorneys for their corresponding qualifications. The Public Defender Council's Trial Practice Institute (non-OWI) was formally approved as a felony trial substitution, which may be used as part of the qualification for adult felony levels 1-4. Additionally, the National Institute for Trial Advocacy (NITA) Building Trial Skills: *Indianapolis* training course was also approved as part of the same qualification standard. The Commission also noted that civil trial trainings can now qualify as approved trainings because the skills are transferable. If you would like a training program approved, please contact us at information@pdc.com.

Private Caseload Reporting

Private caseload reporting discussed at the December meeting had been deferred to the March meeting. Staff is now investigating performance-based standards, including a technical assistance grant to develop a proposal of performance-based standards, as well as private caseload data gathering from Odyssey and other publicly-available sources.

Hourly Attorneys

Historically, appointed (hourly) attorneys were considered part-time. However, there is no rule or standard otherwise preventing them from being full-time, so long as their total full-time equivalency (FTE) does not exceed 1.0. The Commission will be evaluating this issue going forward.

Financial Information

The Commission reviewed the status of the Public Defense Fund, noting the available funds for 4th quarter reimbursements. Mr. Mason pointed out the record high non-capital reimbursement request of over \$7M. The commission approved reimbursements of \$6,923,809.81, deferring one county's request until the next meeting. Capital claims totaling \$122,896.11 were also approved for five counties.

Derrick Mason, Senior Staff Attorney

derrick.mason@pdc.com

Andrew Cullen, Policy and

Communications Analyst

andrew.cullen@pdc.com

Paula Diaz, Administrative Assistant

paula.diaz@pdc.com

Torrin Liddell, Research and Statistics Analyst

torrin.liddell@pdc.com

Jennifer Pinkston, Fiscal Analyst

jennifer.pinkston@pdc.com

309 West Washington Street,

Suite 501

Indianapolis, IN 46204

ph. 317-233-6908

information@pdc.comwww.in.gov/publicdefender