



## Ensuring Access to Counsel in Ohio: Estimated Waiver Rates by County

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As a preliminary note, it is important to recognize that there is no completely accurate way to calculate the rate at which youth waive the right to counsel in Ohio. There are many reasons for this, but primarily it is the result of inconsistent methodology among counties as to how this information is kept, if it is kept at all. Cases are not counted in the same manner by the court, or by the counties submitting for reimbursement to the Office of the Ohio Public Defender. Public Defenders and Appointed Counsel also have different methods of tracking each case. Finally, these numbers also do not account for private lawyers who may be retained in some cases.

The estimates here are calculated two ways. The first column calculates the total number of delinquency and unruly cases terminated in 2015 by county,<sup>i</sup> reduced by 20% to account for private counsel,<sup>ii</sup> and compares that against the total number of cases in which the child was represented by a public defender or appointed counsel who actually billed the Office of the Ohio Public Defender for reimbursement. The second column takes the total number of all delinquency and unruly cases without the 20% reduction. Accordingly, since the data gathered from OPD on appointed counsel includes data for all cases, including traffic, rather than merely delinquency and unruliness, the number may actually indicate a higher percentage of represented children than actually true.

In 2006, The ACLU of Ohio, The Children's Law Center & The Office of the Ohio State Public Defender released a Fact Sheet regarding the rate of waiver across Ohio's counties using data from 2004. Since 2004, the rate of waiver has decreased

significantly, although there is still room for improvements in order to ensure equal access to counsel for Ohio's children. In 2004, it was estimated that 67% of children in Ohio who were the subject of delinquency or unruly complaints resolved faced those proceedings without an attorney, or there was no claim for reimbursement by the attorney. Now, in 2015, it is estimated that between 28% - 42% of children faced delinquency or unruly complaints without an attorney, or there was no claim for reimbursement by the attorney. Improvements have been made, but many Ohio children go through proceedings without the benefit of counsel, with wide variance by geography. The chart which follows provide the data described above.

### Given the data below, it appears that:

- **Some counties show a negative amount of waiver, indicating a higher amount of representation, likely due to the fact that information is not provided in the same manner across the state.**
- **In 15-20 of Ohio's 88 counties, 60% of juveniles or more lacked legal representation, or there was no claim for reimbursement by the attorney, compared to 73 counties in 2004.**
- **But in only 2-3 of those counties, 90% or more went without counsel or there was no claim for reimbursement, compared to 24 counties in 2004.**
- **Statewide, 28%-42% of juveniles who were subject of delinquency or unruly complaints resolved in 2015 faced those proceedings without an attorney, or there was no claim for reimbursement by the attorney.**

County.....	Est. Waiver Rate w/ 20% Reduction .....	Est. Waiver Rate w/o 20% Reduction .....
Adams.....	-103%.....	-63%
Allen.....	46%.....	57%
Ashtabula.....	41%.....	53%
Athens.....	43%.....	54%
Auglaize.....	26%.....	41%
Belmont.....	66%.....	73%
Brown.....	66%.....	72%
Butler.....	32%.....	46%
Carrroll.....	97%.....	98%
Clark.....	72%.....	78%
Clermont.....	19%.....	36%
Clinton.....	74%.....	79%
Columbiana.....	27%.....	41%
Coshocton.....	-46%.....	-17%
Cuyahoga.....	-49%.....	-19%
Darke.....	89%.....	92%
Erie.....	79%.....	83%
Fayette.....	58%.....	67%
Franklin.....	3%.....	23%
Gallia.....	45%.....	56%
Geauga.....	10%.....	28%
Greene.....	62%.....	70%
Guernsey.....	39%.....	51%
Hamilton.....	59%.....	67%
Hancock.....	-8%.....	13%
Harrison.....	20%.....	36%
Huron.....	13%.....	31%
Jackson.....	49%.....	59%
Jefferson.....	42%.....	54%
Knox.....	79%.....	83%
Lake.....	22%.....	38%
Lucas.....	-53%.....	-22%
Medina.....	18%.....	34%
Meigs.....	77%.....	82%
Miami.....	67%.....	73%
Monroe.....	90%.....	92%
Montgomery.....	3%.....	22%
Pickaway.....	-5%.....	16%
Pike.....	-3%.....	18%
Portage.....	54%.....	63%
Ross.....	-49%.....	-19%
Shelby.....	67%.....	73%
Stark.....	11%.....	71%
Summit.....	23%.....	38%
Trumbull.....	81%.....	85%

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County	Est. Waiver Rate w/o 20% Reduction	Est. Waiver Rate w/ 20% Reduction
Tuscarawas.....	50%.....	60%
Union.....	-36%.....	-9%
Van Wert.....	41%.....	53%
Washington.....	1%.....	21%
Wayne.....	9%.....	27%
Williams.....	68%.....	74%
Wood.....	49%.....	59%

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<sup>i</sup> The data kept by all these sources also did include the same dates. The information from the Supreme Court was gathered for 2015. The information from the OPD Commission for Public Defenders was gathered from February 2015 through Jan. 2016 and the information for Assigned Counsel was gathered from September 2014 through August 2015.

<sup>ii</sup> National experts estimate that 80% of all criminal defendants and juveniles in delinquency proceedings are indigent and therefore eligible for public defender services. Arguably, this is even higher for juveniles since all youth are presumed to be indigent.