

OHIO PUBLIC DEFENDER

STANDARDS AND GUIDELINES FOR APPOINTED COUNSEL REIMBURSEMENT

Revised January 1, 2000



STATE MAXIMUM FEE SCHEDULE FOR APPOINTED COUNSEL REIMBURSEMENT

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COUNTY PUBLIC DEFENDER OFFICE REIMBURSEMENT STANDARDS

Revised January 1, 2000

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DAVID H. BODIKER
Ohio Public Defender

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SECTION I

STANDARDS AND GUIDELINES FOR APPOINTED COUNSEL REIMBURSEMENT

A. General Procedures and Responsibilities

1. Office of the Ohio Public Defender

The Office of the Ohio Public Defender reimburses counties for their appointed counsel costs. Reimbursement is made once per month. Each month, after the county pays appointed counsel, the county must send the completed forms to the Office of the Ohio Public Defender. The Office of the Ohio Public Defender then audits each request to ensure compliance with the *Ohio Public Defender Standards and Guidelines and State Maximum Fee Schedule for Appointed Counsel Reimbursement*, calculates the allowable total cost for appointed counsel for that month, and makes reimbursement for up to 50 percent of that amount pursuant to Section 120.33 and 120.35 of the Ohio Revised Code.

2. County Responsibilities

Counties are responsible for paying attorneys and guardians *ad litem* for appointed counsel services. The county auditor makes payment after the attorney or guardian *ad litem* has submitted the appropriate forms to the court, and the court has approved payment of requested fees and expenses. The county may then seek reimbursement for these expenses from the Office of the Ohio Public Defender.

To receive reimbursement, the county must ensure all necessary materials are correctly completed and submitted in ascending numerical order by county warrant number to the Office of the Ohio Public Defender within the allowable time limits.

Because the county is responsible for obtaining reimbursement from the state and must comply with these standards in doing so, the county may make local standards governing the appointed counsel fee billing and payment process. These local standards are intended to increase individual compliance with all state imposed standards and to ensure that payments made by the county will qualify for reimbursement from the Ohio Public Defender. County standards may include, but are not limited to time limits on the submission of forms to the county and withholding payments to attorneys until all necessary forms are completed and correctly filed.

3. Court Responsibilities

Courts are responsible for determining indigency and appointing counsel and/or guardians *ad litem* on a case-by-case basis to represent indigent persons who qualify for representation. Courts are also responsible for approving fees and expenses requested by appointed counsel or guardians *ad litem*.

4. Attorney/Guardian *Ad litem* Responsibilities

To receive payment for fees and expenses, an attorney or guardian *ad litem* must correctly complete the form(s) prescribed pursuant to Section (E) of these standards for *each case* for which they were appointed, and submit the form(s) to the court for approval. The Appendices to this document include instructions for completing the necessary forms.

B. Determination of Indigency and the Financial Disclosure /Affidavit of Indigency Form

1. An applicant's indigency or eligibility for a reimbursement, recoupment, contribution, or partial payment program shall be determined by the courts. Pursuant to rule 22 of the *Supreme Court Rules of Superintendence for the Courts of Ohio*, the court shall require the applicant to complete a financial disclosure form, and shall follow rules promulgated by the Ohio Public Defender Commission pursuant to section 120.03(b)(1) of the Ohio Revised Code.
2. Pursuant to section 120-1-03 of the Ohio Administrative Code, in determining indigency, the court shall use form *OPD-206R: Financial Disclosure/Affidavit of Indigency* form. See Section (E) below. Pursuant to Section 120.33(A)(4) of the Ohio Revised Code, each request for reimbursement must be accompanied by this form, or a county version of the form developed and approved pursuant to Administrative Code Section 120-1-03, or the Ohio Public Defender by statute may not pay the requested reimbursement. All *Financial Disclosure/Affidavit of Indigency* forms submitted to the Ohio Public Defender must be notarized. Clerks or bailiffs who notarize the form are to list their title under their signature.
3. In cases where the applicant is unable to complete the Financial Disclosure section and/or sign the Affidavit of Indigency section, the form may be completed and signed by the parent, a person *in loco parentis*, or the guardian *ad litem*, or the judge hearing the case may complete and sign the Certification section in lieu of a signature on the affidavit. Magistrates who certify the form are to list their title under their signature.
4. No applicant shall be denied counsel based on the financial status of a member of the client's household when that household member has no legal duty to support the applicant, or when that household member refuses to provide or pay for counsel.
5. No child shall be denied counsel solely because the child's parents or guardians are unwilling to disclose their financial status or to provide or pay for counsel.

C. Reimbursement, Recoupment, Contribution, Partial Payment, and Marginally Indigent Programs

Pursuant to Administrative Code Section 120-1-05, counties may adopt recoupment, contribution, partial payment, marginally indigent, and other programs. Upon establishment of such a program, counties may appoint counsel for persons with incomes between 125 percent and 187.5 percent of the poverty threshold. Reimbursement in cases where the client qualifies for such programs will be made only if the county has an approved, **up to date** program on file with the Office of the Ohio Public Defender pursuant to Administrative Code Section 120-1-03(J). The Office of the Ohio Public Defender will make reimbursement only for the portion of the costs of representation paid by the county.

D. Persons Becoming Indigent During Their Case

Reimbursement will be made for persons who were initially determined to be not indigent, but during the course of their case, become indigent or eligible for a reimbursement, recoupment, contribution, or partial payment program subject to the provisions of Section (B)(1-3) of these standards. Reimbursement is limited to those costs paid by the county for the period of time when the applicant was determined to be indigent.

E. Prescribed Forms

1. To receive reimbursement, counties must properly complete and submit the prescribed forms(s) to the Office of the Ohio Public Defender.

The prescribed forms are:

<u>Activity/Case Type</u>	<u>Form No.</u>
All Common Pleas, Municipal, Appeals, Juvenile, Domestic Relations, and County Courts	OPD-1026R (& 1027R if needed)
Supreme Court of Ohio	OPD-E-1031
Transcript Expenses	OPD-E-205
Experts Paid Directly by the Court	OPD-209
Financial Disclosure/ Affidavit of Indigency	OPD-206R (Required in <u>all</u> cases)
Attorney Time Log	OPD-1028 See Section (F) below.

Copies of and instructions for completing each form are included in the Appendices of these standards.

3. Forms submitted must be originals or photocopies of forms prescribed by the Ohio Public Defender, or be produced using the software issued by the Ohio Public Defender. See Section (E)(5) below. No other reproductions will be accepted except for a county version of a *Financial Disclosure/Affidavit of Indigency Form* as outlined in Ohio Administrative Code Section 120-01-03 (K). Photocopies submitted in lieu of original forms must meet the following requirements:
 - a. All pages of the form must be included and must be in the proper numerical order.
 - b. Copies must be of good quality, be of original size, (not reduced on a copy machine) and be made on 8½" x 11" paper.
4. All forms for reimbursement must be properly completed. Forms that are incomplete or are completed improperly will be returned unreimbursed to the county. See Section (R).

5. The Office of the Ohio Public Defender has available free software that will produce form OPD-1026R and continuation sheets and the time logs. To obtain a copy of the software, write or call the office at (614) 466-5394 and ask for the reimbursement section.

F. Itemization of Attorney Hours/Time Logs

1. The itemization of hours spent in-court and out-of-court by the attorney is required on every Motion, Entry, and Certification form submitted. *Hours must be itemized on all forms in tenth of an hour (6 minute) increments.*
2. Attorneys are also required to prepare and maintain time records for each appointed case showing the date of service, nature of services rendered, and hours worked. These records should **not** be turned in with the billing, but may be requested from the attorney in the event that the court or the Ohio Public Defender has questions about the billing. The suggested format for maintaining such time is on form OPD-1028: *Attorney Time Log*. Using this form is optional. Attorneys may use their own forms or billing programs so long as equivalent data can be produced, if requested. Such records should be kept by the attorney for a minimum of five years from the date the related Motion, Entry and Certification form was submitted to the Court.

G. Judge's Signature

1. All Motion, Entry, and Certification forms must be signed by the judge hearing the case for which the reimbursement request is being made. The Ohio Public Defender has discretion to allow the signing of the form by the administrative judge for a particular case in the event the judge hearing the case is unavailable to sign, when the judge is a visiting judge, or for other acceptable reasons.
2. In appellate proceedings, the signature of one or more of the appellate judges hearing the appeal must appear on the Motion, Entry, and Certification forms.

H. Maximum Attorney's Fees

1. Except in cases involving extraordinary fees, reimbursement for attorney fees is limited to the maximums established by the Ohio Public Defender under the authority of Section 120.04(B)(8) of the Ohio Revised Code. Such maximums are promulgated in the *Ohio Public Defender State Maximum Fee Schedule for Appointed Counsel Reimbursement*. See Section (II) below. The actual fees paid to the attorney by the county are determined by each board of county commissioners pursuant to Section 120.33 of the Ohio Revised Code. If maximum allowable fees under a county's fee schedule are lower than the state's maximum, reimbursement shall be made based on the county's maximum.
2. In cases involving extraordinary fees, the standards outlined in Section (G) of the *Ohio Public Defender State Maximum Fee Schedule for Appointed Counsel Reimbursement* must be followed before reimbursement will be made.

I. Multiple Charges, Counts, and Co-Defendants

1. An appointed counsel is entitled to one fee when one complete proceeding or trial is held in one court (e.g. Municipal, Common Pleas, Juvenile, etc.) for a single client on charges or counts arising out of a single incident or a series of related incidents.
2. In cases involving multiple charges where only one fee is payable, the fee maximum shall be based on the highest degree of offense charged.
3. An attorney representing multiple clients who are charged with conduct arising out of a single incident shall submit only one Motion, Entry, and Certification form for the case. The attorney shall list all clients and their respective case numbers on one Motion, Entry, and Certification form.
4. Time billed on one Motion, Entry, and Certification form cannot be billed on any other form for which payment or reimbursement is being requested.
5. When one client is charged with multiple offenses that are assigned at the same time and are dealt with simultaneously, the attorney shall submit only one Motion, Entry, and Certification form. The maximum fee shall be based on the highest degree of offense charged.
6. In juvenile court cases involving multiple parties, regardless of whether the attorney represented the children, parents, or other parties in an abuse, dependency, neglect, custody, non-support contempt, or visitation contempt action, the attorney shall list all children and their respective case numbers on one Motion, Entry, and Certification form.

J. Juvenile Court

1. Reimbursement will be made for attorneys appointed to represent juveniles or adults, or for attorneys who are appointed as guardian *ad litem*, in juvenile courts.
2. In abuse, dependency, and neglect cases, the attorney is entitled to bill the maximum fee allowed by the county for the initial dispositional hearing and each subsequent review hearing before the court. Such billings are not considered "periodic billings" pursuant to Section (S) of these standards.
3. Beginning with appointment dates of January 1, 2000 and later, the Ohio Public Defender will no longer reimburse for the cost of providing social workers (non-attorneys) as guardians *ad litem*.
4. Whenever a guardian *ad litem* determines legal work needs to be done on behalf of the child, the guardian *ad litem*, should ask the court to appoint an attorney to represent the child's wishes and/or legal interests, and to file motions on the child's behalf. The attorney appointed to represent the child is entitled to bill for this kind of appointment in the same manner as for any other abuse, dependency, or neglect cases.

K. Domestic Relations Court

In Domestic Relations Court, reimbursement will be made only in cases involving contempt and parentage, and where such requests are in compliance with all other provisions of these standards.

L. Municipal or County Court

1. Reimbursement will be made for representation in municipal or county courts for any violations of the Ohio Revised Code. Reimbursement for violations of municipal or village ordinances will be made only when such violations involve both a potential loss of liberty for the accused and where the municipality or village has contracted with the county commissioners of that county for such representation pursuant to Section 120.33(A)(4) of the Ohio Revised Code.
2. No reimbursement will be made for municipal or village ordinance cases unless an **up to date** copy of the pertinent contract between the municipality or village and the county commissioners is on file with the Office of the Ohio Public Defender pursuant to Rule 120-1-09 of the Ohio Administrative Code. No retroactive payments on municipal contracts will be made by the Ohio Public Defender.

M. Capital Offense Cases

1. Reimbursement for capital offense cases will be made only to those counties where a provision for such representation is included in the county's fee resolution.
2. Reimbursement in capital offense cases will not be made unless the attorneys appointed were certified as qualified under Rule 20 of the *Supreme Court Rules of Superintendence for the Courts of Ohio*, or were granted a waiver by the Ohio Supreme Court Rule 20 Committee at the time the representation was provided. (For appellate cases, the attorneys must qualify under Rule 21 of the *Supreme Court Rules of Superintendence for the Courts of Ohio*.) This also applies to the role of the attorney and the level of the case for which reimbursement is being requested. (e.g., lead counsel must be lead counsel certified, appellate counsel must be appellate counsel certified, etc.) If a waiver was granted, a copy of the waiver must accompany the Motion, Entry, and Certification form.
3. **Requests for reimbursement in capital offense cases must also be accompanied by a completed copy of either the *Supreme Court of Ohio-Appointment of Trial Counsel in Capital Cases* or *Supreme Court of Ohio-Appointment of Appellate Counsel in a Capital Case*, whichever court level is applicable. Copies of these forms are included in Appendix K.**

N. Minor Misdemeanors

Reimbursement will be made for minor misdemeanors when the minor misdemeanor is among two or more charges in a single case for which one of the other charges carries the possibility of jail time. Otherwise, no reimbursement will be made for representation in minor misdemeanor cases without prior written approval from the Ohio Public Defender. Approval for reimbursement may be granted only when such cases involve a substantial constitutional question or are of public or great general interest.

O. Change in Appointed Attorney(s)

In the event that one attorney withdraws or is removed from a case, the newly appointed attorney is entitled to bill up to the maximum for that particular proceeding.

P. Reimbursement of Expenses

1. General Rules for Reimbursement of Expenses

The Office of the Ohio Public Defender shall reimburse up to 50 percent of certain expenses reasonably related and necessary to the defense of an indigent client. These expenses include travel, transcripts, expert services, and certain other miscellaneous expenses. All reimbursement for expenses is subject to the following general rules:

- a. Pursuant to Section 120.33(A)(4) of the Ohio Revised Code, expenses must be specifically allowed in the pertinent county's fee resolution adopted pursuant to Section 120.33(A)(3) of the Ohio Revised Code.
- b. The appointing court must approve the expenses.
- c. All expenses must be itemized on the proper form(s). Unless otherwise provided for in these standards, pursuant to Rule 126-1-02 of the Ohio Administrative Code, a receipt must accompany all expenses that exceed \$1.00. If the identification of the payee or the nature of the expense raises questions of confidentiality or of attorney-client privilege, the applicant may make such indication on the form, and attach an appropriate entry of approval from the court.
- d. All requests for reimbursement of expenses are subject to final approval by the Ohio Public Defender. Unusual requests may be audited to determine if reimbursement will be made.

2. Travel Time and Expenses

Pursuant to Rule 126-1-02 of The Ohio Administrative Code, travel time and expense reimbursement is subject to the following conditions:

- a. The attorney must itemize on the Motion, Entry, and Certification form all travel expenses including mileage, airfare, lodging, meals, and other miscellaneous items. A receipt must accompany all travel expenses exceeding \$1.00 except for road tolls, bus, boat, ferry, subway service, and personal mileage.
- b. Expenses for lodging and meals are reimbursable only when the attorney travels over 45 miles, one way, from the attorney's home or office for purposes of representing an indigent client, and when an overnight stay is required. If travel expenses are claimed, the dates traveled and points of departure and destination must be specified in the expenses section of the Motion, Entry, and Certification form.

- c. Attorney fees for time spent in-transit and expenses for mileage and parking are reimbursable only when the attorney travels to a city outside of the city in which the attorney resides or maintains an office. Reimbursement will not be made for attorney fees and/or expenses incurred between the attorney's home and office, the attorney's home and a court in the same city, or the attorney's office and a court in the same city.
- d. Except as limited by this section, an attorney may bill for hours spent in-transit between a specified point of departure and destination. Once the destination has been reached, the attorney may not bill for hours spent at the destination as hours in-transit. Hours spent working on a case at the specified destination, however, may be billed accordingly.
- e. Lodging, meals, mileage, and travel by common carrier are eligible expenses for reimbursement subject to the current rates prescribed by Ohio Administrative Rule 126-1-02, or the applicable county rate, if lower. For a copy of the current rates, write or call the office of the Ohio Public Defender. The rates at the time of this publication are as follows:
 - 1) Lodging expenses when incurred during travel within the state of Ohio will be reimbursed at actual cost up to \$60.00 plus applicable tax per day. Lodging expenses incurred during travel outside the state of Ohio will be reimbursed at actual cost when such cost is reasonable as determined by the Ohio Public Defender.
 - 2) Meal expenses shall be reimbursed at actual cost up to \$6.00 for breakfast, \$6.00 for lunch, and \$13.00 for dinner.
 - 3) Expenses for travel by commercial carrier will be reimbursed at the lowest fare available for the trip and only when the attorney travels outside Ohio.
 - 4) Reimbursement for travel by personal auto shall be made at:
 - \$ 0.28 (twenty-eight cents) per mile effective July 1, 1999.
 - \$ 0.29 (twenty-nine cents) per mile effective July 1, 2000.
 - \$ 0.30 (thirty cents) per mile effective July 1, 2001.
- f. No reimbursement shall be made for lodging, meals, mileage, and travel by common carrier for the client, the client's family, the client's friends, or for the attorney's employees.

3. Transcripts

Transcript expenses for one (1) original and one (1) copy of a transcript are reimbursable subject to the following provisions:

- a. Reimbursement for transcript expenses will be made only for the case for which the transcript was prepared.
- b. The maximum amount subject to reimbursement shall be the set county maximum for the original, and 50 percent of that amount for the copy.

- c. Requests seeking reimbursement for transcript expenses that were paid out-of-pocket by the attorney are to be itemized in the expenses section of the appropriate Motion, Entry, and Certification form and submitted with a receipt or an invoice.
- d. Reimbursement for transcript expenses that were paid directly by a court are to be requested using form OPD-E-205, *Clerk's/Auditor's Transcript Fee for an Indigent Defendant*.
- e. Requests for transcript expense reimbursement must be submitted to the Office of the Ohio Public Defender within ninety (90) days after the end of the month in which the case for which the transcript was prepared was finally disposed of or terminated by the court handling the case.

Example: A case is terminated in an Appellate Court on January 5, 2000. The request is due to the Office of the Ohio Public Defender by April 30, 2000.

- f. If transcript expenses will be requested for a case where no Motion, Entry, and Certification form will be filed, a *Financial Disclosure/Affidavit of Indigency* form (OPD-206R) completed pursuant to Section (B) of these standards must accompany the Transcript Expense form (OPD-E-205).
4. Experts

Reimbursement for expert costs will be made subject to the following:

- a. Requests seeking reimbursement for expert expenses that were paid out-of-pocket by the attorney are to be itemized in the expenses section of the appropriate Motion, Entry, and Certification form and submitted with either a receipt, or a copy of the expert's invoice, or both.
- b. Expert expenses paid directly by a court are to be requested using the *Request for Court Paid Experts and/or Expenses* form (OPD-209). Either a receipt, or a copy of the expert's invoice, or both must accompany the form. The number of hours worked and the hourly rate charged must both be listed on the invoice or receipt.
- c. If expert expenses will be requested for a case where no Motion, Entry, and Certification form will be filed, a *Financial Disclosure/Affidavit of Indigency* form (OPD-206R) completed pursuant to Section (B) of these standards must accompany the *Request for Court Paid Experts and/or Expenses* form (OPD-209).
- d. Reimbursement for experts shall be made only when the expert is used only for the defense of the client, and when the expert is answerable only to the defense counsel. Experts ordered for use by the court (e.g., an initial competency exam) shall not be reimbursed.

5. Miscellaneous Other Expenses

Reimbursement for certain miscellaneous other expenses will also be made pursuant to the provisions outlined in this section. These expenses include:

- a. Polygraph Examinations
- b. Phone Calls
- c. Photocopies at up to \$0.05 (five cents) per page if made in-house or at actual cost (with receipt) if a service is used. The number of copies must be listed.
- d. Other expenses reasonably related and necessary to the defense of an indigent client, (e.g. clothing for the client, haircuts for the client, etc.)

Q. Court Fees, Fines, Costs, and Items Subject to Waiver

No reimbursement will be made for any court fees, fines, or costs that are subject to waiver due to the indigency of the client (e.g., the \$40.00 filing fee for the Supreme Court). The attorney is responsible for filing a motion to waive filing fees and a *Financial Disclosure/Affidavit of Indigency* form with the court. Some courts require their own affidavit to waive costs. The court in turn has the jurisdiction to ensure no fees or costs are assessed against the indigent client. In no case are subpoena fees, processor fees, jury fees, court costs, or fines reimbursable expenses.

R. Timely Submission of Forms

1. Pursuant to Section 120.33(A)(4) of the Ohio Revised Code, all requests for reimbursement are due to the Office of the Ohio Public Defender within ninety (90) days after the end of the month in which the case was finally disposed of or terminated.

Example: A case is terminated on January 5, 2000. The request is due to the Office of the Ohio Public Defender by April 30, 2000.

This standard is subject to the following exceptions:

- a. **Trial Level-** If the attorney intends to file a notice of appeal, a motion for a new trial, a motion for shock probation, or a motion for judicial release, the Motion, Entry, and Certification form is due to the Office of the Ohio Public Defender within ninety (90) days after the end of the month in which the last action or hearing indicated on the form was held.
- b. **Appellate Level-** Each Motion, Entry, and Certification form submitted is due to the Office of the Ohio Public Defender within ninety (90) days after the end of the month in which either the oral argument was held or the appellate decision was handed down, as indicated on the form.
- c. **Juvenile Proceedings-** In abuse, dependency, and neglect cases, where more than one hearing is held over an extended period of time, the attorney may submit individual Motion, Entry, and Certification forms for the initial dispositional hearing and for each subsequent review hearing or after a series of hearings, and is entitled to fees and expenses as outlined in Section (J) of these standards. Each Motion, Entry, and Certification form submitted is due to

the Office of the Ohio Public Defender within ninety (90) days after the end of the month in which the latest hearing indicated on the form was held.

- d. **Attorney Withdraws or Is Removed from Case-** When an attorney either withdraws or is removed from a case, the Motion, Entry, and Certification form is due within 90 days from the end of the month in which the attorney withdrew or was removed from the case.
2. Any form returned to a county because the form is incomplete, needs corrections, or is otherwise unacceptable, must be corrected and returned to the Office of the Ohio Public Defender within ninety (90) days from the date the form was first returned to the county. If a form is returned to the state within the original ninety (90) day period correction period, but is still found to be incomplete, incorrect or otherwise unacceptable, it will again be returned to the county for corrections. Counties may resubmit a form up to two times within the 90 day period. Any forms resubmitted more than twice, or any forms resubmitted after the 90 day period, whether correctly completed or not, will not be paid nor returned to the county.

S. Periodic Billings

1. In cases where proceedings are carried out over an extended period of time, or where multiple trials are held for one case, an attorney may submit more than one bill over the duration of the case.
2. Where two or more bills for the same case number are submitted, those with hours listed only under the categories "out-of-court and/or "pre-trial hearings" will be considered periodic billings. When a bill for that case number is then received that contains hours listed as "other in-court", or that has a disposition marked "dismissed", it is considered a final billing.
3. To determine the maximum amount payable, the totals of all such billings will be added together. Once the maximum has been reached, no additional reimbursement will be paid unless the billing is accompanied by an order granting extraordinary fees.
4. **JUVENILE COURT:** In abuse, dependency, and neglect cases, attorneys are entitled to bill the maximum fee for the initial dispositional hearing and for each subsequent in-court review hearing. These are **not** considered "periodic billings" unless two or more bills are submitted for services provided for a single hearing.

T. State Recoupment of Fees or Expenses Paid by Indigent Clients

Pursuant to R.C. 2941.51(D) and R.C. 120.33(A)(4), if a client has paid any money under a reimbursement, recoupment, contribution, or partial payment program for any case in which the county received reimbursement from the state, then the county must pay to the state a portion of the amount collected from the client. Of the funds collected, the county shall pay to the State Public Defender the amount proportionate to the percentage of the costs of the case which were reimbursed by the state.

Example: If a county collects \$100.00 from a client for an appointed counsel case that was reimbursed by the state at 45 percent, the county must pay the State Public Defender \$45.00 of the \$100.00 collected.

Such payments are to be remitted by the county auditor to the Ohio Public Defender by check or warrant payable to the order of "Treasurer, State of Ohio."

U. Underpayment/Overpayment of Reimbursement

If a county receives a reimbursement payment either less than or greater than the amount it should have received as a result of errors, omissions, or other factors, the Office of the Ohio Public Defender shall either make a supplementary payment or a recoupment of funds. This will be done by making an adjustment in the county's reimbursement payment in the month following discovery and verification of the error. For underpayments, at the request of the county, the Office of the Ohio Public Defender may issue a supplemental warrant prior to the following month's disbursement. The Office of the Ohio Public Defender reserves the right to verify whether or not an adjustment shall be made.

V. Amendment of Standards

The Ohio Public Defender may amend these standards at any time. Whenever the standards are amended or revised, the Ohio Public Defender will give notice to the appropriate county offices including, but not limited to: county commissioners, auditors, judges, and clerks of courts.

SECTION II

STATE MAXIMUM FEE SCHEDULE FOR APPOINTED COUNSEL REIMBURSEMENT

A. General Provisions

1. The *Ohio Public Defender State Maximum Fee Schedule for Appointed Counsel Reimbursement* contains the hourly rates and maximum amounts that the Ohio Public Defender will reimburse counties for representation of indigents in criminal cases.
2. Pursuant to Section 120.33(A)(3) of the Ohio Revised Code, to receive reimbursement, a board of county commissioners must adopt a resolution to pay counsel appointed by the court, and must establish a fee schedule. The county is responsible for filing an **up to date** fee schedule with the Office of the Ohio Public Defender. Reimbursement will be based on the latest fee schedule filed with the Ohio Public Defender.
3. Reimbursement to the counties shall be based on the most serious offense with which the defendant is charged and will be made at up to 50 percent of either the state or county rate, whichever is lower. Reimbursement shall not exceed the established hourly or maximum rates unless otherwise provided for by statute.

B. Trial Level Proceedings

1. Reimbursement for representation in trial level cases not involving a death penalty specification will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services. Reimbursement for representation in trial level cases involving a death penalty specification will be made based on the maximum rate of \$95.00 per hour for both in-court and out-of-court services.
2. The prescribed maximum fees permitted in trial level proceedings are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Aggravated Murder (w/specs) per O.R.C. 2929.04(A) and 2941.14(B)	* \$75,000
* Ohio Supreme Court Rule 20 of the Rules of Superintendence for the Courts of Ohio requires the appointment of two (2) attorneys in capital offense cases. This fee is the maximum that will be paid on the combined bills of both attorneys appointed to the case.	
Aggravated Murder (w/o specs)	\$ 8,000 /1 attorney \$ 10,000 /2 attorneys
Murder	\$ 5,000

<u>Offense/Proceeding (continued)</u>	<u>Fee Maximum</u>
Felony with Possible Life Sentence/Repeat Violent Offender/Major Drug Offender	\$ 5,000
Felonies (degrees 1-3)	\$ 3,000
Felonies (degrees 4 & 5)	\$ 2,500
Misdemeanors (degrees 1-4)	\$ 1,000
Contempt of Court	\$ 300
Parole, Probation, and all other proceedings not elsewhere classified	\$ 500

3. Reimbursement for guilty or no contest pleas will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services up to the prescribed maximums for each classification, or if selected by the board of commissioners, at a flat rate for non-homicide felonies, misdemeanors, and juvenile proceedings.

C. Juvenile Proceedings

1. Reimbursement for representation in juvenile proceedings will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services.
2. Beginning with appointment dates of January 1, 2000 and later, reimbursement will no longer be made for social workers (non-attorneys) appointed as guardian *ad litem*.
3. In abuse, dependency, and neglect cases, both the attorney and the guardian *ad litem* are entitled to bill the maximum fee allowed by the county for the initial dispositional hearing and each subsequent review hearing before the court.
4. The prescribed maximum fee permitted in juvenile proceedings, including guardian *ad litem* is \$1,000.

D. Appellate Level Proceedings

1. Reimbursement for representation in appellate level proceedings not involving a death sentence shall be made based on the maximum rate of \$50.00 per hour for out-of-court and \$60.00 per hour for in-court services.
2. Reimbursement for representation of appellate level proceedings involving a death sentence will be made based on the maximum rate of \$95.00 per hour for both out-of-court and in-court services.
3. The prescribed maximum fees permitted in appellate level proceedings are listed below. The rates apply to each level of appeal.

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Aggravated Murder (death sentence imposed)	\$25,000*
Aggravated Murder (sentence other than death)	\$ 5,000
Murder with Life Sentence/Repeat Violent Offender/Major Drug Offender/Sexually Violent Predator	\$ 3,000
Felonies/S.B. 2 & H.B. 1 Appeals	\$ 1,500
Misdemeanors	\$ 1,000
Other/Juvenile	\$ 1,000

* Ohio Supreme Court Rule 21 of the Rules of Superintendence for the Courts of Ohio requires the appointment of two (2) attorneys in capital cases. This fee is the maximum that will be paid on the combined bills of both attorneys appointed to the case.

E. Postconviction and Habeas Corpus Proceedings

1. Reimbursement for postconviction and state habeas corpus proceedings not involving a death sentence will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services.
2. The prescribed maximum fees permitted in postconviction and habeas corpus proceedings not involving a death sentence are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Postconviction Proceeding with Evidentiary Hearing	\$1,500
Postconviction Proceeding without Evidentiary Hearing	\$ 750
Habeas Corpus with Evidentiary Hearing	\$1,500
Habeas Corpus without Evidentiary Hearing	\$ 750

3. Reimbursement for postconviction and state habeas corpus proceedings involving a death sentence shall be made based on the maximum rate of \$95.00 per hour for both out-of-court and in-court services to a maximum of \$25,000 to be divided among services in the trial court, the Court of Appeals, and the Ohio Supreme Court.

F. Flat Rate Fee Resolutions and Guaranteed Minimum Fees

1. A county board of commissioners may choose to adopt a fee schedule which compensates attorneys at a flat rate instead of at an hourly rate for certain types of offenses. Flat rate fee schedules are subject to the following:
 - a. Schedules incorporating flat rate fees must be approved by the Ohio Public Defender.
 - b. Requests for reimbursement must include a completed Itemized Fee Statement section on form OPD-1026R regardless of the use of flat rates. Incomplete forms will be returned to the county for completion.
 - c. The box indicating that a flat rate fee has been used must be clearly checked on the front of the form.
2. Beginning with appointment dates of January 1, 2000 or later, reimbursement based on guaranteed minimum fees schedules is no longer permitted. Counties who continue to use guaranteed minimum rates may still receive reimbursement, however, reimbursement will be based on the amount calculated from multiplying the hours worked by the applicable hourly rate(s), plus approved expenses. Fees paid to attorneys beyond those supported by actual hours worked are not reimbursable.

G. Extraordinary Fees

Cases eligible for extraordinary fees are ones which, because of extraordinarily complex issues, multiple offenses, lengthy trials, or other reasons, warrant compensation at a rate which exceeds the maximums established by a county or the Ohio Public Defender. Reimbursement to the county for extraordinary fees is subject to the following requirements:

1. Counties must provide for extraordinary fees in their fee resolution adopted pursuant to R.C. 120.33(A)(3).
2. Extraordinary fees must be clearly documented in the appropriate sections on the Motion, Entry, and Certification form.
3. The Judge hearing the case must indicate approval of the extraordinary fees by checking the "Extraordinary Fees Granted" box in the Judgment Entry section on the front of the form, and a copy of the journal entry must be attached.

H. Amendments to the Fee Schedule

The Ohio Public Defender may amend this fee schedule at any time. Whenever the schedule is amended or revised, the Ohio Public Defender will give notice to the appropriate county offices including, but not limited to: county commissioners, auditors, judges, and clerks of courts.

SECTION III

COUNTY PUBLIC DEFENDER OFFICE REIMBURSEMENT STANDARDS

Following are the reimbursement standards applying to County Public Defender Offices, Joint County Public Defender Offices, and for counties that have contracted with non-profit organizations for provision of indigent defense services.

A. Determination of Indigency and the Financial Disclosure/Affidavit of Indigency Form

1. Pursuant to Sections 120.15(D) and 120.25(D) of the Ohio Revised Code, the county public defender shall determine indigency of persons, subject to review by the court, in the same manner as provided in section 120.05 of the Revised Code. Each monthly report submitted to the board of county commissioners and the State Public Defender shall include a certification by the county public defender that all clients provided representation by the county public defender's office during the month covered by the report were indigent under the standards of the Ohio Public Defender Commission.
2. In determining indigency, county public defenders shall use Ohio Public Defender form OPD-206R, *Financial Disclosure/Affidavit of Indigency* or a county version of the form developed and approved pursuant to Administrative Code Section 120-1-03. One form must be completed for each client who receives representation. All *Financial Disclosure/Affidavit of Indigency* forms must be notarized. The forms should not be forwarded to the Ohio Public Defender, but should be kept on file by the county public defender for purposes of an audit. Form OPD-206R and instructions for completing the form are included in Appendix E of these standards.
3. In cases where the applicant is unable to complete the Financial Disclosure section and/or sign the Affidavit of Indigency section, the form may be completed and signed by the parent, a person *in loco parentis*, or the guardian *ad litem*, or the judge hearing the case may complete and sign the Certification section in lieu of a signature on the affidavit. Magistrates who certify the form are to list their title under their signature.
4. No applicant shall be denied counsel based on the financial status of a member of the client's household when that household member has no legal duty to support the applicant, or when that household member refuses to provide or pay for counsel.
5. No child shall be denied counsel solely because the child's parents or guardians are unwilling to disclose their financial status or to provide or pay for counsel.

B. Reimbursement, Recoupment, Contribution, Partial Payment, and Marginally Indigent Programs

Pursuant to Administrative Code Section 120-1-05, counties may adopt recoupment, contribution, partial payment, marginally indigent, and other programs. Upon establishment of such a program, county public defenders may provide counsel for persons with incomes between 125 percent and 187.5 percent of the poverty threshold. Reimbursement in cases where the client qualifies for such programs will be made only if the county has an approved, **up to date** program on file with the Office of the Ohio Public Defender pursuant

to Administrative Code Section 120-1-03 (J). The Office of the Ohio Public Defender will make reimbursement only for the portion of the costs of representation incurred by the county.

C. Persons Becoming Indigent During their Case

Reimbursement will be made for persons who were initially determined to be not indigent, but during the course of their case, become indigent or eligible for a reimbursement, recoupment, contribution, or partial payment program. Reimbursement is limited to the costs incurred by the county public defender office for the period of time when the applicant was determined to be indigent.

D. Prescribed Forms

1. To receive reimbursement, counties must submit to the Office of the Ohio Public Defender form OPD-E-501 *Monthly Operating Expenses and Caseload Report for County Public Defender Offices*. A copy of and instructions for completing the form are included in Appendix F of these standards.
2. The form must be an original or photocopy of the one prescribed by the Ohio Public Defender, or be produced using the Public Defender Case Management computer program distributed by the Office of the Ohio Public Defender. No other reproductions will be accepted. Photocopies submitted in lieu of original forms must meet the following requirements:
 - a. All pages of the form must be included and must be in the proper numerical order.
 - b. Copies must be of good quality, be of original size, (not reduced on a copy machine) and be made on 8½" x 11" paper.
3. All forms for reimbursement must be properly completed in full. Forms that are incomplete or are improperly filled out will be returned unreimbursed to the county.

E. Definition of a Case for Purposes of Completing form OPD-E-501

1. A single case includes all applicable proceedings when one defendant is charged or indicted for one offense or a series of offenses arising from a single event. A single case is also counted when one defendant is charged or indicted with offenses resulting from a series of events that occur in the course of one scheme of conduct happening over a period of time, regardless of the number of counts or charges.
2. When there are multiple defendants charged with the same offense(s), whether tried separately or together, each defendant shall be counted as a separate case.
3. Whenever a public defender office represents an individual charged with a felony at the preliminary hearing stage in county or municipal court, the preliminary hearing stage shall not be counted as a case, but rather shall be counted in the category "Felonies filed in Municipal Court." If the county public defender continues to represent the individual after the preliminary hearing stage, the common pleas court case shall be counted as a case.

4. Once a case is closed, if it is later re-opened, it shall be counted as a separate case.
5. When one defendant is charged with unrelated acts happening at separate times, each act or charge shall be counted as a separate case whether tried separately or together.
6. When one defendant is charged with different counts from different court jurisdictions, the number of cases counted shall be equal to the number of jurisdictions (i.e. municipal, county, common pleas, juvenile division) in which the defendant is being charged, or pursuant to paragraph 1 of this definition.
7. In abuse, dependency, neglect, parentage, non-support contempt, and visitation contempt court actions, a case shall be counted each time the court evokes its continuing jurisdiction. Unless there is a conflict, all children in an abuse, dependency or neglect court action shall be counted as a single case.

F. Cost Allocations

County and joint county public defender offices may recover a portion of their indirect costs associated with operating a county public defender office by including an amount for cost allocation in the appropriate space on form OPD-E-501. To qualify, counties must prepare a cost allocation plan in accordance with *OMB Circular A-87*, and forward a copy to the Ohio Public Defender. Upon receipt, the Ohio Public Defender will review the plan, determine the amount of recoverable indirect costs, and send a letter to the county public defender verifying and approving the amount to be claimed.

G. Time Limits for Submission of OPD-E-501

1. Pursuant to Section 120.18 and 120.28 of the Ohio Revised Code, requests for reimbursement from county and joint county public defender offices are due to the Office of the Ohio Public Defender within sixty (60) days after the end of the month in which the expenditures were incurred.

Example: Expenditures were incurred in January 2000. The request is due to the Office of the Ohio Public Defender by March 31, 2000.

2. Any form returned to a county because the form is incomplete, needs corrections, or is otherwise unacceptable, must be corrected and returned to the Office of the Ohio Public Defender within sixty (60) days from the date the form was first returned to the county. If a form is returned to the state within the original sixty day correction period, but is still found to be incomplete, incorrect, or otherwise unacceptable it will again be returned to the county for corrections. Forms returned to the state after the sixty day period, whether correctly completed or not, will not be paid nor returned to the county.

H. Applicability of Standards and Guidelines for Appointed Counsel Reimbursement

Where applicable, the *Standards and Guidelines for Appointed Counsel Reimbursement* shall also apply to indigent defense representation provided by county or joint county public defender offices. These include specifically, but are not limited to the standards regarding the following:

1. Juvenile Court
2. Domestic Relations Court
3. Minor Misdemeanors

I. State Recoupment of Fees or Expenses Paid by Indigent Clients

Pursuant to R.C. 120.15(B)(3), the county public defender is responsible for collecting all moneys due for reimbursement of legal services provided under Chapter 120 of the Ohio Revised Code. All money collected or received by the county public defender must be paid into the county treasury to the credit of the general revenue fund.

Pursuant to R.C. 2941.51(D), if a client has paid any money under a reimbursement, recoupment, contribution, or partial payment program for any case in which the county received reimbursement from the state, then the county must pay to the state a portion of the amount collected from the client. Of the funds collected, the county shall pay to the State Public Defender the amount proportionate to the percentage of the costs of the case that were reimbursed by the state.

Example: If a county collects \$100.00 from a client for which public defender services were provided, and the county was subsequently reimbursed by the state at 45 percent, the county must pay the State Public Defender \$45.00 of the \$100.00 collected.

Such payments are to be remitted by the county auditor to the Ohio Public Defender by check or warrant payable to the order of "Treasurer, State of Ohio."

J. Underpayment/Overpayment of Reimbursement

If a county receives a reimbursement payment either less than or greater than the amount it should have received as a result of errors, omissions, or other factors, the Office of the Ohio Public Defender shall either make a supplementary payment or a recoupment of funds. This will be done by making an adjustment in the county's reimbursement payment in the month following discovery and verification of the error. For underpayments, at the request of the county, the Office of the Ohio Public Defender may issue a supplemental warrant prior to the following month's disbursement. The Office of the Ohio Public Defender reserves the right to verify whether or not an adjustment shall be made.

K. Amendment of Standards

The Ohio Public Defender may amend these standards at any time. Whenever the standards are amended or revised, the Ohio Public Defender will give notice to the appropriate county offices including, but not limited to: county public defenders, county commissioners, auditors, common pleas judges, and clerks of courts.

APPENDICES



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**Instructions for Completing
Motion, Entry, and Certification for Appointed Counsel Fees
Form OPD-1026R**

The following instructions are for the *Motion, Entry, and Certification for Appointed Counsel Fees* form (OPD-1026R). For the purpose of these instructions, the form is divided into eight sections, A - H, and spaces requiring an entry have been numbered.

TO BE COMPLETED BY THE ATTORNEY



(1) Enter the name of the court in which the services are being rendered. Appropriate entries in this space are limited to the following:

- Common Pleas
- Municipal
- Domestic Relations
- Juvenile
- County
- Appeals

(2) Enter the name of the county or city in which services are being rendered.

The following are examples of how the completed line might read:

- In the Common Pleas Court of Montgomery County, Ohio
- In the Juvenile Court of Cuyahoga County, Ohio
- In the Municipal Court of Akron, Ohio
- In the County Court of Erie County, Ohio
- In the Appeals Court of Butler County, Ohio
- In the Domestic Relations Court of Madison County, Ohio

(3) Clearly identify the plaintiff. If the plaintiff is the State of Ohio, write "State of Ohio" in this space. If the plaintiff is a municipality, village, etc., write in the name of the city, village, etc.

The following are examples of how entries in this space might read:

- State of Ohio
- City of Akron
- Village of Arlington

If there is no plaintiff, leave this space blank.

(4) Enter the name of the defendant or the party being represented.

(5) Complete the "In re:" section, if applicable, for juvenile cases.

(6) Enter the case number. If it is an appeals case, see (7) below.

APPENDIX A

- (7) For appeals cases, enter the appellate case number in this space and enter the lower court case number in space (6). Otherwise, leave blank.
- (8) Check the box if the person is charged with a capital offense. Be sure to enter the co-counsel's name on the back of the form. See Section (F)(37).
- (9) Check the box if the attorney was appointed as Guardian *Ad Litem* (GAL).
- (10) Enter the name of the judge hearing the case.

- 
- (11) Check the box only if this is a periodic bill as described in Section (S) of the *Ohio Public Defender Standards and Guidelines for Appointed Counsel Attorneys*. Do not check this box if the case is an abuse, dependency, or neglect case as described in Section (Q)(3) of the standards.
 - (12) Enter the date the attorney was appointed to the case. This date must match the date of the journal entry appointing counsel.
 - (13) Enter the date the case was terminated and/or was disposed of by the court.
 - (14) Enter the date the attorney submitted the form.
 - (15) Print or type the name of the attorney.
 - (16) The attorney must sign the form.
 - (17) Enter the address of the attorney (include P.O. Box, Apt #, or Suite, if applicable).
 - (18) Enter the social security or federal Tax I.D. number of the attorney, or the Tax I.D. of the legal association or firm, whichever is to be used.
 - (19) Enter the attorney's Ohio Supreme Court registration number.



Numbers (20) - (23) detail the completion of one line of the Offense/Charge/Matter grid in Section (C). Please continue to enter information into the grid (if necessary) in the same manner for additional lines. If there are more than three charges against the defendant, list only the three most serious charges beginning with the one of greatest severity and continuing in descending order.

- (20) Enter the name of the offense with which the defendant was initially charged or for which the defendant was indicted.
- (21) Enter the ORC Section or Municipal Ordinance Section.
- (22) Enter the degree of the offense (e.g., F1, M4, etc.).

- (23) Indicate how the charge was disposed. Use only the following categories:
- **Pled:** Client pleads guilty, no contest, or admits to the charge.
 - **Lesser:** Client pleads guilty, no contest, or admits to a lesser charge.
 - **TG:** Trial - found guilty/delinquent/unruly.
 - **TN:** Trial - found not guilty/delinquent/unruly.
 - **TO:** Trial - other (hung jury, etc.).
 - **Dismissal:** The case is dismissed by the judge hearing the case.
 - **Other:** Any other types of case disposal.
 - **WD:** Counsel withdrew from case
 - **TC:** Agency is given temporary custody.
 - **PC:** Agency is given permanent custody.
 - **PS:** Child is placed under protective supervision.
 - **CD:** Custody is denied to agency.
 - **AFF:** Affirmed
 - **REV:** Reversed
- (24) The figures for the boxes in the Summary of Hours, Expenses, and Billing grid are to be copied from the grand totals in Section (G) of side two of this form. The figures show the total number of hours spent on each type of service provided, and the total number of hours spent out-of-court and in-court. See Section (G) on side two of the form for a listing of the different types of services and their associated numbers.
- (25) Check this box if a flat fee is used. **When a flat fee is used, the attorney must still record the number of hours of service.**
- (26) Check this box if a minimum fee is used. **When a minimum fee is used, the attorney must still record the number of hours of service. Note: see Section (F) of the State Maximum Fee Schedule for new standards regarding minimum fees.**
- (27) Enter the total number of in-court hours.
- (28) Enter the county's in-court hourly rate.
- (29) Enter the product of the total in-court hours and county hourly rate for in-court services.
- (30) Enter the total number of out-of-court hours.
- (31) Enter the county's out-of-court hourly rate.
- (32) Enter the product of the total out-of-court hours and the county hourly rate for out-of-court services.
- (33) Enter the sum of the in-court and out-of-court totals for legal fees.
- (34) Enter the total expenses incurred in the representation of the client. This figure should be copied from the grand total in Section (H) on side two of the form.
- (35) Enter the grand total of legal fees plus expenses being requested.

Section (D), Judgment Entry, and Section (E), Certification are to be completed by the court and by the county respectively. If local practice permits, the attorney may complete (44) and (45) in the Judgment Entry section before submitting the form to the court.

(36) Enter the case number. If the case is an appeal, be sure to enter the appellate case number rather than the lower court case number.

(37) Enter the name of the attorney.

(38) If the case is a Capital Offense case, enter the name of co-counsel for the case. Be sure the box on the front of the form is checked. See Section (A)(9).

(39) Complete the Itemized Fee Statement grid according to the following guidelines:

- Use **only** the Itemized Fee Statement to record hours worked in- and out-of-court. If additional space is needed, use form OPD-1027R, *Itemized Fee Statement Continuation Sheet*. If form OPD-1027R is used, put the grand total of all hours worked only on the last continuation sheet used. Per page totals are not necessary. Otherwise, put the grand total in the "Grand Total" row of the Itemized Fee Statement on form OPD-1026R. Grand totals must also be recorded in the "Grand Total Hours" row on the front of the form.
- For each date services were performed, enter in the appropriate boxes the date of service, the number of hours spent performing each type of service, and the total hours. On the form, two sets of columns are provided. When the bottom of the first set of columns is reached, continue at the top of the second. Use continuation sheets in the same manner.
- Record all out-of-court hours in the "Out-of-Court Total" column. There are no longer separate out-of-court categories.
- For in-court hours, specify time between two categories: "pre-trial hearings" and "all other in-court", then add the two and enter the sum in the "In-Court Total" column.
- Add the out-of-court total and the in-court total and enter the sum in the "Daily Total" column.
- In the Grand Total row, enter the sum of each column.
- Be sure to enter a number for hours of service performed. Entering a check mark, an "X," or other non-numerical markings is not allowed. **Hours are to be itemized in tenth of an hour (6 minute) increments.**

- Attorneys are also required to prepare and maintain time records for each appointed case showing the date of service, nature of services rendered, and hours worked. These records should **not** be turned in with the billing, but may be requested from the attorney in the event that the court or the Ohio Public Defender has questions about the billing. The suggested format for maintaining such time is on form OPD-1028: *Attorney Time Log*. Using this form is optional. Attorneys may use their own forms or billing programs so long as equivalent data can be produced, if requested. Records should be kept for five years after the date the Motion, Entry, and Certification form is submitted to the court for payment.

[REDACTED]

The following instructions detail the completion of one line (one expenditure) of the Itemized Expense grid. Please continue to enter information into the grid (if necessary) in the same manner for additional expenditures. If additional lines for recording expenses are necessary, use an additional sheet of paper. Do not record a per page total or grand total of expenses on the additional sheet. Per page totals are not necessary. The grand total must appear only in spaces (33) and (43) of the Itemized Expense grid on form OPD-1026R.

- (40) Assign a category using one of the six categories listed above the grid. Use only these categories.
- (41) Enter the name of the individual or organization to which the expense was paid.
- (42) Enter the total amount (include applicable taxes) of the expense.
- (43) After all expenses have been entered, write the grand total in this space. This is the total dollar amount of expenses that will be used in determining the total billing amount.

Be sure to attach a receipt for each expenditure over \$1.00 when required. Please refer to Section (P) of the Ohio Public Defender Standards and Guidelines for Appointed Counsel Reimbursement for a detailed listing of reimbursable expenses.

TO BE COMPLETED BY THE COURT

- [REDACTED]**
- (44) Enter the name of the county.
 - (45) Enter the dollar amount of fees and expenses approved by the court.
 - (46) Check the box if the court has granted extraordinary fees for this case. Be sure to attach a copy of the relevant journal entry if extraordinary fees have been granted.
 - (47) The judge hearing the case must sign and date the form.

TO BE COMPLETED BY THE COUNTY



- (48) Enter the county number (1-88).
- (49) Enter the number of the warrant issued to the attorney.
- (50) Enter the date the warrant was issued.
- (51) The county auditor must sign or stamp the form.

Section A MOTION, ENTRY, AND CERTIFICATION FOR APPOINTED COUNSEL FEES

In the _____ (1) Court of _____ (2), Ohio

Plaintiff: _____ (3) Case No. _____ (6)

Appellate Case No. (if app.) _____ (7)

v. _____ (4) (8) ? Capital Offense Case (check if Capital Offense case)

Defendant/Party Represented _____ (9) ? Guardian Ad Litem (check if appointed as GAL)

In re: _____ (5) Judge: _____ (10)

Section B MOTION FOR APPROVAL OF PAYMENT OF APPOINTED COUNSEL FEES AND EXPENSES

The undersigned having been appointed counsel for the party represented moves this Court for an order approving payment of fees and expenses as indicated in the itemized statement herein. I certify that I have received no compensation in connection with providing representation in this case other than that described in this motion or which has been approved by the Court in a previous motion, nor have any fees and expenses in this motion been duplicated on any other motion. I, or an attorney under my supervision, have performed all legal services itemized in this motion.

(11) ? Periodic Billing (check if this is a periodic bill)

As attorney/guardian ad litem of record, I was appointed on _____ (12), _____. This case terminated and/or was Disposed of on _____ (13), _____. I am submitting this application on _____ (14), _____. Name _____ (15) Signature _____ (16)

Address _____ (17) SSN/Tax ID _____ (18)

No. and Street City State Zip OSC Reg. No. _____ (19)

Section C SUMMARY OF CHARGES, HOURS, EXPENSES, AND BILLING

OFFENSE/CHARGE/MATTER	ORC/CITY CODE	DEGREE	DISPOSITION
1.) _____ (20)	_____ (21)	_____ (22)	_____ (23)
2.) _____			
3.) _____			

*List only the three most serious charges beginning with the one of greatest severity and continuing in descending order.

(24)

OUT-OF-COURT	IN-COURT		IN-COURT TOTAL	GRAND TOTAL
	PRE-TRIAL HEARINGS	ALL OTHER IN-COURT		
Grand Total Hours From Other Side:				

(25) Flat Fee Hrs:In _____ (27) X Rate _____ (28) = \$ _____ (29) Tot. Fees \$ _____ (33)

(26) Min Fee Hrs:Out _____ (30) X Rate _____ (31) = \$ _____ (32) Expenses \$ _____ (34) Total \$ _____ (35)

Section D JUDGMENT ENTRY

The Court finds that counsel performed the legal services set forth on the itemized statement on the reverse hereof, and that the fees and expenses set forth on this statement are reasonable, and are in accordance with the resolution of the Board of County Commissioners of _____ (44) County, Ohio relating to payment of appointed counsel, that all rules and standards of the Ohio Public Defender Commission and State Public Defender have been met.

IT IS THEREFORE ORDERED that counsel fees and expenses be, and are hereby approved, in the amount of \$ _____ (45). It is further ordered that the said amount be, and hereby is, certified by the Court to the County Auditor for payment.

(46) ? Extraordinary fees granted (copy of journal entry attached) Judge _____ (47)

Signature _____ Date _____

Section E CERTIFICATION

The County Auditor, in executing this certification, attests to the accuracy of the figures contained herein. A subsequent audit by the Ohio Public Defender Commission and/or Auditor of the State which reveals unallowable or excessive costs may result in future adjustments against reimbursement or repayment of audit exceptions to the Ohio Public Defender Commission.

County Number _____ (48) Warrant Number _____ (49) Warrant Date _____ (50)

County Auditor _____ (51)

**Instructions for Completing
Supreme Court of Ohio
Motion, Entry, and Certification for Appointed Counsel Fees
Form OPD-E-1031**

The following instructions are for the *Supreme Court of Ohio: Motion, Entry, and Certification for Appointed Counsel Fees* form (OPD-E-1031). For the purpose of these instructions, the form is divided into five sections, A - E, and spaces requiring an entry have been numbered.

TO BE COMPLETED BY THE ATTORNEY

Section A

- (1) Enter the name of the defendant.
- (2) Enter the case number assigned by the Supreme Court.
- (3) Enter the case number assigned by the Appeals Court.
- (4) Enter the case number assigned by the Trial Court.

Section B

- (5) Enter the number of in-court hours claimed. This number must equal the total number of in-court hours listed in the space provided on side two of the form.
- (6) Enter the number of out-of-court hours claimed. This number must equal the total number of out-of-court hours listed in the space provided on side two of the form.
- (7) Enter the total amount for expenses other than legal fees. This amount must match the total of all expenses listed in the space provided on side two of the form.
- (8) List the offense(s), the degree of the offense(s), and the applicable R.C. Section being considered in the appeal. If there are more than three charges against the client, list only the three most serious charges beginning with the one of greatest severity and continuing in descending order.
- (9) Enter the decision handed down by the Supreme Court at the termination of the case.
- (10) Enter the date on which the case was terminated by the Supreme Court.
- (11) Enter the name of the attorney.
- (12) Enter the social security or federal tax ID number of the attorney.
- (13) The attorney must sign the form in this space.
- (14) Enter the mailing address of the attorney.

Section (C), Judgment Entry, and Section (D), Certification are to be completed by the court and by the county respectively. The attorney should not write in these sections.

Section E

- (24) For each activity, enter the date, type of activity, and total time. Time must be recorded in tenth of an hour (6 minute) increments.
- (25) For each expense, enter the type of expense, the name of the individual or organization to which the expense was paid, and the amount of the expense. Reimbursement for expenses shall be made pursuant to Section (P) of the *Ohio Public Defender Standards and Guidelines for Appointed Counsel Reimbursement*.
- (26) The attorney must sign the back of the form in the space provided.

TO BE COMPLETED BY THE COURT

Section C

- (15) Enter the dollar amount of fees approved by the court.
- (16) Enter the dollar amount of expenses approved by the court.
- (17) Enter the sum of the fees and expenses approved by the court. This is the total amount that will be paid to the attorney.
- (18) Enter the name of the county responsible for paying the attorney fees and expenses.
- (19) The Chief Justice of the Supreme Court must sign the form.

TO BE COMPLETED BY THE COUNTY

Section D

- (20) Enter the county number (1 - 88).
- (21) Enter the number of the warrant issued to the attorney.
- (22) Enter the date the warrant was issued.
- (23) The county auditor must sign or stamp the form.

Section A**SUPREME COURT OF OHIO
MOTION, ENTRY, AND CERTIFICATION FOR APPOINTED COUNSEL FEES**State of Ohio,
Plaintiff,

Supreme Court No. _____ (2) _____

V.

Appeals Court No. _____ (3) _____

Defendant (1)

Trial Court No. _____ (4) _____

Section B**MOTION FOR APPROVAL OF PAYMENT OF APPOINTED COUNSEL FEES AND EXPENSES**

The undersigned, having been previously appointed counsel for the defendant for the appeal to this court, as evidenced by the attached entry of appointment, now moves for an order approving payment of fees earned and expenses incurred as reflected by the itemized statement of the reverse hereof, pursuant to R.C. 2941.51.

Hours Worked:

IN COURT

(5)

OUT OF COURT

(6)

Expenses (if any):

\$

(7)

O.R.C. charge section number, name and classification

A.
(8)

B.

C.

SUPREME COURT DECISION
(9)TERMINATION DATE
(10)ATTORNEY'S NAME
(11)SOC. SEC. NO.
(12)ATTORNEY'S SIGNATURE
(13)ATTORNEY'S ADDRESS NUMBER AND STREET
(14)

CITY

STATE

ZIP

INFORMATION BELOW TO BE COMPLETED BY SUPREME COURT AND COUNTY AUDITOR ONLY**Section C****JUDGMENT ENTRY**

This court finds that counsel performed the legal services set forth in the itemized statement on the reverse hereof, and that the fees and expenses hereinafter approved are reasonable. IT IS THEREFORE ORDERED that appointed counsel fees are approved in the sum of \$ _____ (15) _____ and expenses in the sum of \$ _____ (16) _____ for a total allowance of \$ _____ (17) _____, which amount is ordered certified to the _____ (18) _____ County Auditor for payment.

CHIEF JUSTICE (19)**Section D****CERTIFICATION**

The County Auditor, in executing this certification, attests to the accuracy of the figures contained herein. A subsequent audit by the Ohio Public Defender Commission and/or Auditor of the State which reveals unallowable or excessive costs may result in future adjustments against reimbursement or repayment of audit exceptions to the Ohio Public Defender Commission.

COUNTY NUMBER
(20)WARRANT NUMBER
(21)WARRANT DATE
(22)COUNTY AUDITOR
(23)

**Instructions for Completing
Clerk's / Auditor's Transcript Fee for an Indigent Defendant
Form OPD-E-205**

The following instructions are for the *Clerk's/Auditor's Transcript Fee for an Indigent Defendant* form (OPD-E-205). For the purpose of these instructions, the form is divided into four sections, A - D, and spaces requiring an entry have been numbered.

TO BE COMPLETED BY THE CLERK OF COURTS



- (1) Enter the name of the court in which the case was heard. Appropriate entries in this space are limited to the following:
- Common Pleas
 - Municipal
 - Domestic Relations
 - Supreme
 - Juvenile
 - County
 - Appeals

- (2) Enter the name of the county or city in which services are being rendered.

- (3) Clearly identify the plaintiff. If the plaintiff is the State of Ohio, write "State of Ohio" in this space. If the plaintiff is a municipality, village, etc., write the name of the city, village, etc. in the space.

The following are examples of how entries in this space might read:

- State of Ohio
- City of Akron
- Village of Arlington

If there is no plaintiff, leave this space blank.

- (4) Enter the name of the defendant or the party being represented.
- (5) In juvenile cases, complete the "In re:" section, if applicable.
- (6) Enter the case number.
- (7) Enter the name(s) of the attorney(s).



- (8) Enter the name of the official court stenographer.

- (9) Enter the tax identification number of the official court stenographer.
- (10) Describe the nature of the transcript being ordered.
- (11) The clerk of courts must sign the form in the space provided.
- (12) The clerk of courts must date the form in the space provided.
- (13) Put a check mark or "X" in front of one of the seven categories indicating the type of proceeding for which the transcript was ordered.
- (14) Enter the number of pages in the original transcript.
- (15) Enter the per page rate for the original transcript.
- (16) Enter the cost of the original transcript (cost = number of pages x per page rate).
- (17) Enter the number of pages in the copy of the transcript.
- (18) Enter the per page rate for the copy of the transcript.
- (19) Enter the cost of the copy of the transcript (cost = number of pages x per page rate).
- (20) Enter the total transcript fees being billed.



- (21) Enter the total transcript fees approved by the court.
- (22) Print or type the name of the judge hearing the case or proceeding for which the transcript is being ordered.
- (23) The judge must sign and date the form in this space.

TO BE COMPLETED BY THE COUNTY



- (24) Enter the county number.
- (25) Enter the number of the warrant issued to the official stenographer.
- (26) Enter the date the warrant was issued.
- (27) The county auditor must sign or stamp the form in this space.

Section A**CLERK'S/AUDITOR'S TRANSCRIPT FEE FOR AN INDIGENT DEFENDANT**

Revised Code 2301.24-25

In the _____ (1) Court of _____ (2) _____, Ohio.

Plaintiff: _____ (3)

Case No. _____ (6)

v. _____ (4)
Defendant/Party Represented

Attorney(s) for the Defendant/Party Represented:

_____ (7)

In re: _____ (5)

Section B**CLERK OF COURTS CERTIFICATION**I, the Clerk of Courts, hereby certify that _____ (8)
(Court Reporter's Name), _____ (9)
(Court Reporter's Tax ID), is hereby an official stenographer of said court and is entitled to the following fees for making transcript(s) of:

_____ (10)

_____ (11)
Clerk's Signature_____ (12)
Date

The transcript is ordered by the court for use by the Defendant or the Defendant's attorney in the following type of proceeding:

_____ (13) Felony, misdemeanor, or juvenile proceeding	_____ Capital Offense trial proceeding
_____ Appeals proceeding	_____ Capital Offense appeals proceeding
_____ Postconviction proceeding	_____ Capital Offense postconviction proceeding
_____ Other (explain) _____	

Date which above checked proceeding terminated: _____ OR **? Still Pending** (check if pending)

Original transcript of _____ (14) pages or folio at the rate of \$ _____ (15) per page or folio, = \$ _____ (16)

Copy of transcript of _____ (17) pages or folio at the rate of \$ _____ (18) per page or folio, = \$ _____ (19)

TOTAL \$ _____ (20)

NOTE: A COPY OF THE COURT REPORTER'S BILLING MUST BE ATTACHED**Section C****JUDGMENT ENTRY**

The court finds that the transcript was ordered for use in the case of an indigent person, that all rules and standards of the Ohio Public Defender Commission and the Ohio Public Defender have been met and that a Financial Disclosure/Affidavit of Indigency form for the above referenced client has been sent to the Office of the Ohio Public Defender or is attached to this document.

IT IS THEREFORE ORDERED that the transcript fees be, and are hereby approved in the amount of \$ _____ (21). It is further ordered that the said amount be, and hereby is, certified by the Court to the County Auditor for payment.

_____ (22)
Judge's Name (type or print)_____ (23)
Judge's Signature Date**Section D****CERTIFICATION**

The County Auditor in executing this certificate attests that the transcript was a true and accurate expense of said county's court.

County Number _____ (24) Warrant Number _____ (25) Warrant Date _____ (26)

_____ (27)
County Auditor's Signature



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**Instructions for Completing
Request for Court Paid Experts and/or Expenses
Form OPD-209**

The following instructions are for the *Request for Court Paid Experts and/or Expenses* form (OPD-209). For the purpose of these instructions, the form is divided into three sections, A, B and C, and spaces requiring an entry have been numbered.

TO BE COMPLETED BY THE COURT



- (1) Enter the name of the court in which the services are being rendered. Appropriate entries in this space are limited to the following:
 - Common Pleas
 - Municipal
 - Domestic Relations
 - Juvenile
 - County
 - Appeals
- (2) Enter the name of the county or city in which services are being rendered.
- (3) Clearly identify the plaintiff. If the plaintiff is the State of Ohio, write "State of Ohio" in this space. If the plaintiff is a municipality, village, etc., write in the name of the city, village, etc. If there is no plaintiff, leave this space blank.
- (4) Enter the name of the defendant or the party being represented.
- (5) Complete the "In re:" section, if applicable, for juvenile cases.
- (6) Enter the case number.
- (7) Enter the name of the attorney(s) for the defendant or party represented.



- (8) Enter the name of the offense with which the defendant was initially charged or for which the defendant was indicted.
- (9) Enter the ORC Section or Municipal Ordinance Section.
- (10) Enter the degree of the offense (e.g., F1, M4, etc.).
- (11) Indicate how the offense was disposed. Use only the following fourteen categories:
 - **Pled:** Client pleads guilty, no contest, or admits to the charge.
 - **Lesser:** Client pleads guilty, no contest, or admits to a lesser charge.
 - **TG:** Trial - found guilty/delinquent/unruly.
 - **TN:** Trial - found not guilty/delinquent/unruly.
 - **TO:** Trial - other (hung jury, etc.).

- **Dismissal:** The case is dismissed by the judge hearing the case.
- **Other:** Any other types of case disposal.
- **WD:** Counsel withdrew from case
- **TC:** Agency is given temporary custody.
- **PC:** Agency is given permanent custody.
- **PS:** Child is placed under protective supervision.
- **CD:** Custody is denied to agency.
- **AFF:** Affirmed
- **REV:** Reversed



- (12) Enter the amount of the approved expert fees or expenses being paid directly by the court.
- (13) Type or print the name of the judge presiding over the case.
- (14) The judge presiding over the case must sign and date the form.

TO BE COMPLETED BY THE COUNTY AUDITOR



- (15) Enter the name of the payee.
- (16) Enter the payee's tax identification number.
- (17) Enter the warrant date of the warrant issued to the payee.
- (18) Enter the warrant number issued to the payee.
- (19) Enter the amount paid to the payee.
- (20) Enter the total of all warrants paid.
- (21) Enter the county number (1-88).
- (15) The County Auditor must sign or stamp the form.

Section A**REQUEST FOR COURT PAID EXPERTS AND/OR EXPENSES**

In the _____ (1) _____ Court of _____ (2) _____, Ohio.

Plaintiff: _____ (3) Case No. _____ (6)

v. _____ (4) Attorney(s) for the Defendant/Party Represented:

Defendant/Party Represented _____ (7)

In re: _____ (5)

Section B**CHARGES**

OFFENSE/CHARGE/MATTER	ORC/CITY CODE	DEGREE	DISPOSITION
1.) _____ (8)	_____ (9)	_____ (10)	_____ (11)
2.) _____	_____	_____	_____
3.) _____	_____	_____	_____

List only the three most serious charges beginning with the one of greatest severity and continuing in descending order.*Section C****JUDGMENT ENTRY**

The Court finds that the following experts and/or expenses were ordered for use in the case of an indigent person, that all rules and standards of the Ohio Public Defender Commission and State Public Defender have been met, and that a Financial Disclosure/Affidavit of Indigency Form for the above referenced person has been sent to the Office of the Ohio Public Defender, or is attached to this document.

IT IS THEREFORE ORDERED that the expert fees and/or expenses attached are hereby approved in the amount of \$ _____ (12). It is further ordered that the said amount is certified by the Court to the County Auditor for payment.

_____ (13) _____ (14)
 Judge's Name (type or print) Judge's Signature Date

Section D**COUNTY AUDITOR'S CERTIFICATION**

The County Auditor in executing this certificate attests to the accuracy of the figures contained herein. A subsequent audit by the Ohio Public Defender Commission and/or Auditor of State that reveals unallowable or excessive costs may result in future adjustments against reimbursement or repayment of audit exceptions to the Ohio Public Defender.

PAYEE	TAX ID	WARRANT NO.	WARRANT DATE	AMOUNT
_____ (15)	_____ (16)	_____ (17)	_____ (18)	_____ (19)
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

(If necessary, continue on separate sheet.) **TOTAL** _____ (20)

County Number _____ (21) _____ (22)
 County Auditor's Signature



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**Instructions for Completing
Financial Disclosure/Affidavit of Indigency
Form OPD-206R**

The following instructions are for the *Financial Disclosure/Affidavit of Indigency* form (OPD-206R). The form is divided into ten sections, I-X. For the purpose of these instructions, spaces requiring an entry have been numbered.

TO BE COMPLETED BY THE APPLICANT



- (1) Enter the name of the applicant.
- (2) Enter the case number for which representation is being provided.
- (3) Enter the date of birth of the applicant. Use the format Month/Day/Year.
- (4) Enter the street address where the applicant receives mail. Include P.O. Box number, street number, and apartment number where applicable, as well as the city, state, and zip code.
- (5) Enter the home telephone number of the applicant. If there is no home telephone, write "none" in this space.
- (6) Enter the residential address of the applicant if it is different from the mailing address. If the mailing address and the residential address are the same, leave this space blank.
- (7) Enter the number of a telephone where the applicant may receive messages within 48 hours after the caller leaves them. This is especially important if there is no home telephone. There must be a way for the courts and the appointed attorney(s) to contact the applicant by telephone if necessary.



- (8) Enter the names of other persons living in the applicant's household. These other persons may include children and other dependents as well as other financially contributing members of the household.
- (9) Enter the ages of the other persons living in the applicant's household.
- (10) Enter the relationship to the applicant of the other persons living in the household. For example, to indicate the relationship of a female child of the applicant, this space should read "daughter," not "father" or "mother."

If there are more than four other persons living in the applicant's household, attach an additional sheet that provides the same information for those not listed on the form.

III. MONTHLY INCOME / EMPLOYMENT

For each type of income, the applicant must enter their own earnings in the "Self" column, the spouse's earnings in the "Spouse" column, and the total earnings of other financially contributing persons living in the household in the "Household Members" column. In the "Total" column, enter the total income from each type by adding the amounts across each row.

List monthly income figures for the following:

- (11) Earnings or wages before taxes.
- (12) Unemployment compensation received.
- (13) Workers' compensation received.
- (14) Pension benefits received.
- (15) Social security benefits received.
- (16) Child support received from a parent not living in the household. Do not include ADC in the calculation of this amount.
- (17) Works First/TANF.
- (18) Disability pay.
- (19) Any other income source. **Note: Food stamps can no longer be considered as income. 51 USC 2107 (b).**
- (20) Any other income source.
- (21) Enter the total income for the household by adding together the amounts in the "Total" column.
- (22) Enter the name of the applicant's employer and the name(s) of the employer(s) of any other employed household member(s).
- (23) Enter the address and phone number of the employer(s).

List monthly household expenses for the following:

- (24) Child support actually paid for children not residing in the applicant's household.
- (25) Child care. This expense may not be claimed if any adult member of the applicant's household is unemployed.

APPENDIX E

- (26) Transportation to and from work. This may include bus fare or gasoline and parking expenses, but not auto insurance or repairs.
- (27) All types of insurance. This should include medical, dental, life, homeowners insurance, renters insurance, automobile insurance, etc.
- (28) Health and dental care that is over and above the amount paid for medical and dental insurance. This may include prescription medications, co-payments, the payment of deductibles, etc.
- (29) Medical expenses and other expenses incurred in caring for sick or injured family members.
- (30) Enter the total of monthly expenses by adding together the entries in the "Amount" column.

- 
- (31) Enter the amount shown at "Subtotal A," the space identified in these instructions as number (20).
 - (32) Enter the amount shown at "Subtotal B," the space identified in these instructions as number (30).
 - (33) Enter the total monthly income at "Grand Total C" by subtracting the amount in space (32) from the amount in space (31).



For each "Type of Asset" listed in this section, the applicant must describe the item(s) in the center column including length of ownership and the make, model, and year of the asset whenever applicable, and indicate the value of that item in the "Estimated Value" column. The following instructions clarify the types of assets about which information is requested.

- (34) "Real Estate/Home" includes any and all property and buildings owned or mortgaged by the applicant. The description of the property or buildings should include the length of ownership. The estimated current market value of the property or buildings should be entered in the "Estimated Value" column.
- (35) List the total of all "Stocks/Bonds/CD's" owned by the applicant.
- (36) "Automobiles" includes cars only.
- (37) "Trucks/Boats/Motorcycles" includes any type of mechanically powered vehicle other than cars used for transportation.
- (38) Other Valuable Property may include precious metals and/or stones, works of art, valuable collections, electronic equipment, farm equipment, etc. This category does not include home furnishings and clothing.

APPENDIX E

- (39) "Cash on Hand" includes any U.S. currency immediately available to the applicant.
- (40) "Money owed to applicant" includes tax refunds, anticipated dividends, or any accounts payable expected from an individual or an organization for which agreed upon services or goods were provided by the applicant for an agreed upon price.
- (41) "Other" refers to any other type of asset owned by the applicant to which a dollar value can be attached.
- (42) Enter the name of the bank at which the checking account is held, the account number, and the current balance of the checking account.
- (43) Enter the name of the bank at which the savings account is held, the account number, and the current balance of the savings account.
- (44) Enter the name of the credit union at which an account is held, the account number, and the current balance of the account.
- (45) Enter the "Grand Total" of the applicant's assets by adding together the amounts entered in the "Estimated Value" column.


The applicant must enter the monthly amount of each "Type of Liability" listed in this section. The following instructions clarify the liabilities about which information is requested.

- (46) "Rent/Mortgage" refers to any payment made for living quarters. The total amount paid must be entered in this space.
- (47) "Food" refers to the amount spent on food by the applicant's household. The dollar value of food purchased with food stamps should be included in the amount entered.
- (48) "Electric" refers to the cost of electricity purchased from a regulated electricity provider. If the cost of electricity is included in the monthly rent, no dollar amount should be entered here.
- (49) "Gas" refers to the cost of natural gas or L.P. gas purchased from a regulated natural gas or L.P. gas provider. If this cost is included in the monthly rent, no dollar amount should be entered here.
- (50) "Fuel" refers to the cost of gasoline purchased for purposes other than transportation to and from work, plus the amount of other fuels purchased for other necessary reasons such as heating and the operation of farm machinery.
- (51) "Telephone" refers to the cost of all local and long distance telephone calls.
- (52) "Cable" refers to the cost of cable television service.

APPENDIX E

- (53) "Water/Sewer/Trash" refers to the cost of each of these services. If the applicant is not billed directly for one or more of these services, no dollar amount should be entered here.
- (54) "Credit Cards" refers to the total of the minimum monthly payments currently owed on all major credit cards, department store cards, or independent credit cards held by the applicant.
- (55) "Loans" refers to the total monthly payments on all loans including student loans, automobile loans, and loans for other purposes. Home mortgages are not to be included in this category.
- (56) "Taxes Owed" refers to the monthly amount of federal, state, and local taxes owed by the applicant. These include current taxes withheld by the employer as well as past tax debt that is currently being repaid.
- (57) "Other" refers to any other regular monthly expenditure (e.g. education for children or self, rent-to-own items, etc.).
- (58) Enter the "Grand Total E" by adding together all the liabilities and other expenses in the section.

- ████████████████████
- (59) Enter the "Total Monthly Income." This is the same number found at "Grand Total C," or number (33) of these instructions.
 - (59) Enter the "Total Assets." This is the same number found at "Grand Total D," or number (45) of these instructions.
 - (61) Enter the "Total Monthly Liabilities/Other Expenses." This is the same amount found at "Grand Total E," or number (61) of these instructions.

- ████████████████████
- (62) Print or type the name of the applicant.
 - (63) Enter the signature of the applicant and the date of signature as witnessed by a notary public.

TO BE COMPLETED BY A NOTARY PUBLIC

- (64-65) Enter the date the signing of the affidavit was witnessed.
- (66) Enter the county in which the signing of the affidavit was witnessed.
- (67) Enter the state in which the signing of the affidavit was witnessed.

- (68) The notary public must sign and stamp the form.

TO BE COMPLETED BY THE JUDGE



This section of the form should only be completed if the applicant is unable to fill out the financial disclosure form and/or sign the affidavit of indigency. In such a case, the judge may indicate by his or her signature that the applicant is indeed indigent.

- (69) List the reason the client is unable to sign the form.
- (70) The judge must sign any form that cannot be properly completed by the applicant.

FINANCIAL DISCLOSURE/AFFIDAVIT OF INDIGENCY

I. PERSONAL INFORMATION

Name (1)	Case No. (2)	D.O.B. (3)
Mailing Address (4)	City (4)	State (4) ZIP (4) Phone () (5)
Residence (if different from above) (6)		Message Phone (within 48 hours) () (7)

II. OTHER PERSONS LIVING IN HOUSEHOLD

Name (8)	Age (9)	Relationship (10)	Name (3)	Age	Relationship
1)			3)		
2)			4)		

III. MONTHLY INCOME/EMPLOYMENT INFORMATION

Type of Income	Self	Spouse	Household Members	Total
Employment (Gross)	(11)			
Unemployment	(12)			
Worker's Comp.	(13)			
Pension	(14)			
Social Security	(15)			
Child Support	(16)			
Works First/TANF	(17)			
Disability	(18)			
Other	(19)			
Other	(20)			

Employer's Name (for all household members) (22)	SUBTOTAL A	\$ (21)
--	-------------------	---------

Address (23)	Phone () (23)
--------------	----------------

IV. ALLOWABLE EXPENSES

Type of Expense	Amount
Child Support Paid Out	(24)
Child Care (if working only)	(25)
Transportation for Work	(26)
Insurance	(27)
Medical/Dental	(28)
Medical & Associated Costs Of Caring for Infirm Family Members	(29)
SUBTOTAL B	\$ (30)

V. TOTAL INCOME

Total Monthly Income – Total Allowable Expenses = Total Income

SUBTOTAL A	\$ (31)
- SUBTOTAL B	\$ (32)
GRAND TOTAL C	\$ (33)

VI. ASSET INFORMATION

Type of Asset	Describe / Length of Ownership / Make, Model, Year (where applicable)	Estimated Value
Real Estate / Home	Price:\$ Date Purchased: (34) Equity:	
Stocks / Bonds / CD's	(35)	
Automobiles	(36)	
Trucks / Boats / Motorcycles	(37)	
Other Valuable Property	(38)	
Cash on Hand	(39)	
Money Owed to Applicant	(40)	
Other	(41)	
Checking Acct. (Bank / Acct. #)	(42)	
Savings Acct. (Bank / Acct. #)	(43)	
Credit Union (Name / Acct. #)	(44)	

GRAND TOTAL D	\$ (45)
----------------------	----------------

**Instructions for Completing
Monthly Operating Expenses and Caseload Report
for County Public Defender Offices
Form OPD-E-501**

The following instructions are for the *Monthly Operating Expenses and Caseload Report for County Public Defender Offices* form (OPD-E-501). For the purpose of these instructions, the form is divided into five sections, A - E, and spaces requiring an entry have been numbered. *These instructions also apply to Joint County Public Defender Offices and non-profit organizations with which counties have contracted to serve as the County Public Defender Office.*

TO BE COMPLETED BY THE COUNTY AUDITOR

Section A

- (1) Enter the name of the county served by the public defender office.
- (2) Enter the month and year for which reimbursement is requested on this form.

For each type of expenditure indicated in spaces numbered (3) through (18), please enter expenditures for only the month and year indicated at number (2).
- (3) Enter total expenditures for salaries for employees.
- (4) Enter total expenditures for employee benefits for employees including PERS or other retirement benefits.
- (5) Enter total expenditures for supplies.
- (6) Enter total expenditures for the purchase or non-contractual repair of equipment.
- (7) Enter total expenditures for contract services such as experts, investigation, and temporary help.
- (8) Enter total expenditures for office space and facilities.
- (9) Enter total expenditures for repair and maintenance contracts for equipment.
- (10) Enter total expenditures for travel costs.
- (11) Enter approved monthly cost allocation.
- (12) Enter any other expenses not included in the above categories. Please attach a separate sheet detailing these expenses.
- (13) Enter the subtotal of expenses listed in spaces (3) through (13).
- (14) Enter total expenditures for transcripts.

(15) Enter the amount of federal funds expended during the month. This figure represents the amount of total expenditures listed in (13) above that were from federal funds. Federal funds are those which were received in either the current or a prior month, but which were expended in the current month. This adjustment to “total cost” is required pursuant to R.C. 120.18(A).

(16) Enter the amount of non-governmental funds from other sources expended during the month. This figure represents the amount of total expenditures listed in (13) above which were either non-federal grants or gifts. This adjustment to “total cost” is required pursuant to R.C. 120.18(A).

Note: This does not include funds collected from clients. A portion of all funds collected from clients under reimbursement, recoupment, contribution, or partial payment programs must be paid directly to the Ohio Public Defender. See Section (G) of the Ohio Public Defender County Public Defender Office Reimbursement Standards.

(17) Enter the grand total of allowable expenditures. Add space (13) to space (14) and subtract spaces (15) and (16) from the sum.

Section B

- (1) Enter the date the form is submitted to the Office of the Ohio Public Defender.
- (2) Enter the name of the county served by the public defender office.
- (3) Enter the number of the county served by the public defender office.
- (4) The county auditor must sign the form in this space.

Section C

Spaces (22) and (23) are to be completed by the Office of the Ohio Public Defender only. The rate of reimbursement employed for the month indicated in space (2) shall be entered in space (22) and the total amount to be reimbursed to the county shall be entered in space (23).

TO BE COMPLETED BY THE COUNTY PUBLIC DEFENDER

Section D

- (24) Enter the name of the county being served by the public defender office.
- (25) Enter the month and year corresponding to the caseloads listed on the form.

For each type of case in spaces (26) through (63) please enter the caseloads for the month indicated at number (25) only.

- (26) Enter the number of felony trial cases closed.
- (27) Enter the number of felony pleas or plea bargain cases closed.

- (28) Enter the number of felony cases dismissed.
- (29) Enter the number of other dispositions for felony cases closed.
- (30) Enter the total number of felony cases closed.
- (31) Enter the number of felony cases pending at the end of the month.
- (32) Enter the number of misdemeanor trial cases closed.
- (33) Enter the number of misdemeanor pleas or plea bargain cases closed.
- (34) Enter the number of misdemeanor cases dismissed.
- (35) Enter the number of other dispositions for misdemeanor cases closed.
- (36) Enter the total number of misdemeanor cases closed.
- (37) Enter the number of misdemeanor cases pending at the end of the month.
- (38) Enter the number of juvenile delinquency and/or unruliness cases closed.
- (39) Enter the number of juvenile custody, dependency, neglect or abuse cases closed.
- (40) Enter the number of juvenile parentage cases closed.
- (41) Enter the number of juvenile non-support contempt cases closed.
- (42) Enter the number of other juvenile cases closed.
- (43) Enter the total number of juvenile cases closed.
- (44) Enter the number of juvenile cases pending at the end of the month.
- (45) Enter the number of parentage cases closed in domestic relations court.
- (46) Enter the number of non-support contempt cases closed in domestic relations court.
- (47) Enter the number of other cases closed in domestic relations court.
- (48) Enter the total number of cases closed in domestic relations court.
- (49) Enter the number of cases pending in domestic relations court at the end of the month.
- (50) Enter the number of appeals closed.
- (51) Enter the number of appeals pending at the end of the month.
- (52) Enter the number of post conviction motions filed.

- (53) Enter the number of post conviction motions pending.
- (54) Enter the number of parole and probation revocations represented.
- (55) Enter the number of parole and probation revocations pending.
- (56) Enter the number of Habeas Corpus cases closed.
- (57) Enter the number of Habeas Corpus cases pending at the end of the month.
- (58) Enter the number of Extradition cases closed.
- (59) Enter the number of Extradition cases pending at the end of the month.
- (60) Enter the number of other cases closed.
- (61) Enter the number of other cases pending at the end of the month.
- (62) Enter the total number of cases closed. Add spaces (30), (36), (43), (48), (50), (52), (53), (54) (56), and (58) to find the sum.
- (63) Enter the total number of cases pending at the end of the month. Add spaces (31), (37), (44), (49), (51), (55), (57), (59), and (61) to find the sum.
- (64) Enter the number of felonies filed in Municipal Court. Report only cases which continued on to Common Pleas Court. If a felony case is filed and plead as a misdemeanor in Municipal Court, count the case as a felony plea in item 27 above.
- (65) Enter the number of cases in which the client was found to be not indigent, those clients for which the office handled the arraignment only, and those cases that were referred to appointed counsel due to a conflict of interest.

Section E

- (66) Enter the name of the County Public Defender or designee.
- (67) The County Public Defender or his or her designee must sign the form.
- (68) Enter the date the form was signed by the County Public Defender.

Monthly Operating Expenses and Caseload Report for County Public Defender Office

OPD-E-501 (Revised 1/96)

Section A

Operating Expenses Report for: County _____(1)_____ Month _____(2)_____ Year _____(2)_____

	OBJECT CLASSIFICATION	EXPENSES
6-G-2	Salaries:	_____ (3) _____
	Fringes:	_____ (4) _____
6-G-3	Supplies:	_____ (5) _____
6-G-4	Equipment:	_____ (6) _____
6-G-5	Contract Services:	_____ (7) _____
6-G-6	Rental & Facilities:	_____ (8) _____
6-G-7	Contract Repairs:	_____ (9) _____
6-G-8	Travel:	_____ (10) _____
6-G-9	Cost Allocation:	_____ (11) _____
6-G-10	Other Expenses (Please Specify):	_____ (12) _____
	SUB TOTAL	_____ (13) _____
	Transcripts:	_____ (14) _____
	Less Federal Funds Expended:	(_____ (15) _____)
	Less Other Funds Expended:	(_____ (16) _____)
	GRAND TOTAL	_____ (17) _____

Section B

The County Auditor in executing this certification attests to the accuracy of the figures contained herein and further certifies that the County Commissioners have approved this sum for payment. A subsequent audit by the Ohio Public Defender Commission and/or the Auditor of State which reveals unallowable or excessive costs may result in future adjustment against reimbursement or repayment of audit exceptions to the Ohio Public Defender Commission.

Date Submitted: _____ (18) _____

_____ (19) _____ _____ (20) _____ _____ (21) _____
 County County Number County Auditor

Section C

To be completed by the Office of the Ohio Public Defender:

Percent of Reimbursement: _____ (22) _____

Amount Reimbursed to County: _____ (23) _____

Section D

Caseload Report for: County _____ (24) _____ Month _____ (25) _____ Year _____ (25) _____

	<i>CLOSED</i>	<i>PENDING</i>
Felonies:		
Trials:	____ (26) ____	
Pleas or Plea Bargains:	____ (27) ____	
Dismissals:	____ (28) ____	
Other Dispositions:	____ (29) ____	
Total Felonies:	____ (30) ____	____ (31) ____
Misdemeanors:		
Trials:	____ (32) ____	
Pleas or Plea Bargains:	____ (33) ____	
Dismissals:	____ (34) ____	
Other Dispositions:	____ (35) ____	
Total Misdemeanors:	____ (36) ____	____ (37) ____
Juvenile Proceedings:		
Delinquency and Unruliness:	____ (38) ____	
Custody, Dependency, Neglect, and Abuse:.....	____ (39) ____	
Parentage:	____ (40) ____	
Non-Support Contempt:	____ (41) ____	
Other Juvenile:	____ (42) ____	
Total Juvenile:	____ (43) ____	____ (44) ____
Domestic Relations:		
Parentage:	____ (45) ____	
Non-Support Contempt:	____ (46) ____	
Other:	____ (47) ____	
Total Domestic Relations:	____ (48) ____	____ (49) ____
Appeals:	____ (50) ____	____ (51) ____
Postconviction Motions:	____ (52) ____	____ (53) ____
Parole and Probation Revocations:	____ (54) ____	____ (55) ____
Habeas Corpus:	____ (56) ____	____ (57) ____
Extraditions:	____ (58) ____	____ (59) ____
Miscellaneous:	____ (60) ____	____ (61) ____
TOTAL CASES	____ (62) ____	____ (63) ____
Felonies filed in Municipal Court:	____ (64) ____	
Not indigent, arraignment only, or conflicts:	____ (65) ____	

Section E

CERTIFICATION

I _____ (66) _____ hereby certify that all persons provided representation by this office during the month covered by this report were indigent under the standards of the Ohio Public Defender Commission, Ohio Revised Code Section 120.15(D).

Signature: _____ (67) _____ Date: _____ (68) _____

OHIO REVISED CODE

Selected Provisions current through July 1, 1999, showing HB 283 changes

- §120.04 Powers And Duties Of State Public Defender; Funds
- §120.05 Determination of Indigency
- §120.14 County Public Defender Commission: Powers and Duties
- §120.15 County Public Defender: Powers and Duties
- §120.16 County Public Defender: When Representation to be Provided
- §120.18 Cost of County Public Defender's Office: Reimbursement
- §120.33 Court-Appointed Or Selected Counsel; Payment
- §120.34 Reimbursements Limited To Appropriated Amounts; Adjustments Required
- §120.35 State Reimbursement in Capital Cases
- § 2941.51 Payment of Appointed Counsel

Note: The law governing joint county public defender offices is virtually identical to that governing public defender offices. For the specific language that applies to joint county public defender offices, see Sections 120.23-28, respectively, of the Ohio Revised Code.

§120.04 POWERS AND DUTIES OF STATE PUBLIC DEFENDER; FUNDS

(A) The state public defender shall serve at the pleasure of the Ohio public defender commission and shall be an attorney with a minimum of four years of experience in the practice of law and be admitted to the practice of law in this state at least one year prior to appointment

(B) The state public defender shall do all of the following:

(1) Maintain a central office in Columbus. The central office shall be provided with a library of adequate size, considering the needs of the office and the accessibility of other libraries, and other necessary facilities and equipment.

(2) Appoint assistant state public defenders, all of whom shall be attorneys admitted to the practice of law in this state, and other personnel necessary for the operation of the state public defender office. Assistant state public defenders shall be appointed on a full-time basis. The state public defender, assistant state public defenders, and employees appointed by the state public defender shall not engage in the private practice of law.

(3) Supervise the compliance of county public defender offices, joint county public defender offices, and county appointed counsel systems with standards established by rules of the Ohio public defender commission pursuant to division (B) of section 120.03 of the Revised Code;

(4) Keep and maintain financial records of all cases handled and develop records for use in the calculation of direct and indirect costs, in the operation of the office, and report periodically, but not less than annually, to the commission on all relevant data on the operations of the office, costs, projected needs, and recommendations for legislation or amendments to court rules, as may be appropriate to improve the criminal justice system;

(5) Collect all moneys due the state for reimbursement for legal services under this chapter and under section 2941.51 of the Revised Code and institute any actions in court on behalf of the state for the collection of such sums that the state public defender considers advisable. Except as provided otherwise in division (D) of section 120.06 of the Revised Code, all moneys collected by the state public defender under this chapter and section 2941.51 of the Revised Code shall be deposited in the state treasury to the credit of the client payment fund, which is hereby created. All moneys credited to the fund shall be used by the state public defender to appoint assistant state public defenders and to provide other personnel, equipment, and facilities necessary for the operation of the state public defender office, to reimburse counties for the operation of county public defender offices, joint county public defender

APPENDIX G

offices, and county appointed counsel systems pursuant to sections 120.18, 120.28, and 120.33 of the Revised Code, or to provide assistance to counties in the operation of county indigent defense systems.

(6) With respect to funds appropriated to the commission to pay criminal costs, perform the duties imposed by Sections 2949.19 and 2949.201 of the Revised Code;

(7) Establish standards and guidelines for the reimbursement, pursuant to sections 120.18, 120.28, 120.33, 2941.51, and 2949.19 of the Revised Code, of counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems and for other costs related to felony prosecutions;

(8) Establish maximum amounts that the state will reimburse the counties pursuant to sections 120.18, 120.28, 120.33, and 2941.51 of the Revised Code;

(9) Establish maximum amounts that the state will reimburse the counties pursuant to section 120.33 of the Revised Code for each specific type of legal service performed by a county appointed counsel system;

(10) Administer sections 120.18, 120.28, 120.33, 2941.51, and 2949.19 of the Revised Code and make reimbursements pursuant to those sections;

(11) Administer the program established pursuant to sections 120.51 to 120.55 of the Revised Code for the charitable public purpose of providing financial assistance to legal aid societies. Neither the state public defender nor any of the state public defender's employees who is responsible in any way for the administration of that program and who performs those administrative responsibilities in good faith is in any manner liable if a legal aid society that is provided financial assistance under the program uses the financial assistance other than in accordance with sections 120.51 to 120.55 of the Revised Code or fails to comply with the requirements of those sections.

(12) Establish an office for the handling of appeal and postconviction matters;

(13) Provide technical aid and assistance to county public defender offices, joint county public defender offices, and other local counsel providing legal representation to indigent persons, including representation and assistance on appeals.

(C) The state public defender may do any of the following:

(1) In providing legal representation, conduct investigations, obtain expert testimony, take depositions, use other discovery methods, order transcripts, and make all other preparations which are appropriate and necessary to an adequate defense or the prosecution of appeals and other legal proceedings;

(2) Seek, solicit, and apply for grants for the operation of programs for the defense of indigent persons from any public or private source, and may receive donations, grants, awards, and similar funds from any lawful source. Such funds shall be deposited in the state treasury to the credit of the public defender gifts and grants fund, which is hereby created.

(3) Make all the necessary arrangements to coordinate the services of the office with any federal, county, or private programs established to provide legal representation to indigent persons and others, and to obtain and provide all funds allowable under any such programs;

(4) Consult and cooperate with professional groups concerned with the causes of criminal conduct, the reduction of crime, the rehabilitation and correction of persons convicted of crime, the administration of criminal justice, and the administration and operation of the state public defender's office;

(5) Accept the services of volunteer workers and consultants at no compensation other than reimbursement for actual and necessary expenses;

(6) Prescribe any forms that are necessary for the uniform operation of this chapter;

(7) Contract with a county public defender commission or a joint county public defender commission to provide all or any part of the services that a county public defender or joint county public defender is required or permitted to provide by this chapter, or contract with a board of county commissioners of a county that is not served by a county public defender commission or a joint county public defender commission for the provision of services in accordance with section 120.33 of the Revised Code. All money received by the state public defender pursuant to such a contract shall be credited to either Multi-County: County Share fund or, if received as a result of a contract with Trumbull County, the Trumbull County: County Share fund.

(8) Authorize persons employed as criminal investigators to attend the Ohio peace officer training academy or any other peace officer training school for training;

(9) Procure a policy or policies of malpractice insurance that provide coverage for the state public defender and assistant state public defenders in connection with malpractice claims that may arise from their actions or omissions related to responsibilities derived pursuant to this chapter.

(D) No person employed by the state public defender as a criminal investigator shall attend the Ohio peace officer training academy or any other peace officer training school unless authorized to do so by the state public defender.

§120.05 DETERMINATION OF INDIGENCY

(A) The determination of indigency shall be made by the state public defender, subject to review by the court. This section does not apply in relation to sections 120.51 to 120.55 of the Revised Code.

(B) The state public defender shall investigate the financial status of each person to be represented, at the earliest time the circumstances permit, and may require the person represented to disclose the records of public or private income sources and property, otherwise confidential, which may be of aid in determining indigency. The state public defender may obtain information from any public record contained in any office of the state, or any political subdivision or agency thereof, on request without payment of any fees ordinarily required by law. He shall make the results of the investigation available to the court upon request. The court, before whom a person seeking representation is taken, may determine the person's eligibility for legal representation by the state public defender.

(C) If a determination of eligibility cannot be made before the time when the first services are to be rendered by the state public defender, he shall render such services on a provisional basis. If the state public defender, or the court on review, subsequently determines that the person receiving the services is ineligible, the public defender shall notify the person of the termination of his services.

(D) Where the person represented has, or may reasonably be expected to have, the means to meet some part of the cost of the services rendered to him, he shall reimburse the state public defender in an amount which he can reasonably be expected to pay.

(E) If it is determined by the state public defender, or by the court, that the legal representation was provided to a person not entitled thereto, the person may be required to reimburse the public defender for the costs of the representation provided. Any action filed by the state public defender to collect legal fees hereunder, must be brought within two years from the last date legal representation was provided.

§120.14 COUNTY PUBLIC DEFENDER COMMISSION: POWERS AND DUTIES

(A)(1) Except as provided in division (A)(2) of this section, the county public defender commission shall appoint the county public defender and may remove him from office only for good cause.

(2) If a county public defender commission contracts with the state public defender or with one or more nonprofit organizations for the state public defender or the organizations to provide all of the services that the county public defender is required or permitted to provide by this chapter, the commission shall not appoint a county public defender.

(B) The commission shall determine the qualifications and size of the supporting staff and facilities and other requirements needed to maintain and operate the office of the county public defender.

(C) In administering the office of county public defender, the commission shall:

(1) Recommend to the county commissioners an annual operating budget which is subject to the review, amendment, and approval of the board of county commissioners;

(2)(a) Make an annual report to the county commissioners and the Ohio public defender commission on the operation of the county public defender's office, including complete and detailed information on finances and costs that separately states costs and expenses that are reimbursable under section 120.35 of the Revised Code, and any other data and information requested by the state public defender;

(b) Make monthly reports relating to reimbursement and associated case data pursuant to the rules of the Ohio public defender commission to the board of county commissioners and the Ohio public defender commission on the total costs of the public defender's office.

(3) Cooperate with the Ohio public defender commission in maintaining the standards established by rules of the Ohio public defender commission pursuant to divisions (B) and (C) of section 120.03 of the Revised Code, and cooperate with the state public defender in his programs providing technical aid and assistance to county systems.

(D) The commission may accept the services of volunteer workers and consultants at no compensation except reimbursement for actual and necessary expenses.

(E) The commission may contract with any municipal corporation, within the county served by the county public defender, for the county public defender to provide legal representation for indigent persons who are charged with a violation of the ordinances of the municipal corporation.

(F) A county public defender commission, with the approval of the board of county commissioners regarding all provisions that pertain to the financing of defense counsel for indigent persons, may contract with the state public defender or with any nonprofit organization, the primary purpose of which is to provide legal representation to indigent persons, for the state public defender or the organization to provide all or any part of the services that a county public defender is required or permitted to provide by this chapter. A contract entered into pursuant to this division may provide for payment for the services provided on a per case, hourly, or fixed contract basis. The state public defender and any nonprofit organization that contracts with a county public defender commission pursuant to this division shall do all of the following:

(1) Comply with all standards established by the rules of the Ohio public defender commission;

(2) Comply with all standards established by the state public defender;

(3) Comply with all statutory duties and other laws applicable to county public defenders.

§120.15 COUNTY PUBLIC DEFENDER: POWERS AND DUTIES

(A) The county public defender shall be appointed by the county public defender commission for a term not to exceed four years. He shall be an attorney with a minimum of two years experience in the practice of law and be admitted to the practice of law in Ohio at least one year prior to his appointment.

(B) In carrying out the responsibilities and performing the duties of his office, the county public defender shall:

(1) Maintain an office, approved by the commission, provided with a library of adequate size, considering the needs of the office and the accessibility of other libraries, and other necessary facilities and equipment;

(2) Keep and maintain financial records of all cases handled and develop records for use in the calculation of direct and indirect costs in the operation of the office and report monthly pursuant to the rules of the Ohio public defender commission to the county public defender commission and to the Ohio public defender commission on all relevant data on the operations of the office, costs, projected needs, and recommendations for legislation or amendments to court rules, as may be appropriate to improve the criminal justice system;

(3) Collect all moneys due from contracts with municipal corporations or for reimbursement for legal services under this chapter and institute such actions in court for the collection of such sums as he considers advisable. All moneys collected or received by the public defender shall be paid into the county treasury to the credit of the general revenue fund.

(4) Appoint assistant county public defenders and all other personnel necessary to the functioning of the county public defender's office, subject to the authority of the county public defender commission to determine the size and qualifications of the staff pursuant to division (B) of section 120.14 of the Revised Code. All assistant county public defenders shall be admitted to the practice of law in Ohio, and may be appointed on a full or part-time basis.

(C) The county public defender may exercise the rights authorized in division (C) of section 120.04 of the Revised Code.

(D) The county public defender shall determine indigency of persons, subject to review by the court, in the same manner as provided in section 120.05 of the Revised Code. Each monthly report submitted to the board of county commissioners and the state public defender shall include a certification by the county public defender that all persons provided representation by the county public defender's office during the month covered by the report were indigent under the standards of the Ohio public defender commission.

§120.16 COUNTY PUBLIC DEFENDER: WHEN REPRESENTATION TO BE PROVIDED

(A)(1) The county public defender shall provide legal representation to indigent adults and juveniles who are charged with the commission of an offense or act that is a violation of a state statute and for which the penalty or any possible adjudication includes the potential loss of liberty and in postconviction proceedings as defined in this section.

(2) The county public defender may provide legal representation to indigent adults and juveniles charged with the violation of an ordinance of a municipal corporation for which the penalty or any possible adjudication includes the potential loss of liberty, if the county public defender commission has contracted with the municipal corporation to provide legal representation for indigent persons charged with a violation of an ordinance of the municipal corporation.

(B) The county public defender shall provide the legal representation authorized by division (A) of this section at every stage of the proceedings following arrest, detention, service of summons, or indictment.

(C) The county public defender may request the state public defender to prosecute any appeal or other remedy before or after conviction that he decides is in the interests of justice, and may provide legal representation in parole and probation revocation matters.

(D) The county public defender shall not be required to prosecute any appeal, postconviction remedy, or other proceeding, unless he is first satisfied there is arguable merit to the proceeding.

(E) Nothing in this section shall prevent a court from appointing counsel other than the county public defender or from allowing an indigent person to select his own personal counsel to represent him. A court may also appoint counsel or allow an indigent person to select his own personal counsel to assist the county public defender as co-counsel when the interests of justice so require.

(F) Information as to the right to legal representation by the county public defender or assigned counsel shall be afforded to an accused person immediately upon arrest, when brought before a magistrate, or when formally charged, whichever occurs first.

§120.18 COST OF COUNTY PUBLIC DEFENDER'S OFFICE: REIMBURSEMENT

(A) The county public defender commission's report to the board of county commissioners shall be audited by the county auditor. The board of county commissioners, after review and approval of the audited report, may then certify it to the state public defender for reimbursement. If a request for the reimbursement of any operating expenditure incurred by a county public defender office is not received by the state public defender within sixty days after the end of the calendar month in which the expenditure is incurred, the state public defender shall not pay the requested reimbursement, unless the county has requested, and the state public defender has granted, an extension of the sixty-day time limit. Each request for reimbursement shall include a certification by the county public defender that the persons provided representation by the county public defender's office during the period covered by the report were indigent and, for each person provided representation during that period, a financial disclosure form completed by the person on a form prescribed by the state public defender. The state public defender shall also review the report and, in accordance with the standards, guidelines, and maximums established pursuant to divisions (B)(7) and (8) of section 120.04 of the Revised Code, prepare a voucher for fifty per cent of the total cost of each county public defender's office for the period of time covered by the certified report and a voucher for fifty per cent of the costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any, or, if the amount of money appropriated by the general assembly to reimburse counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems is not sufficient to pay fifty per cent of the total cost of all of the offices and systems, for the lesser amount required by section 120.34 of the Revised Code. For the purposes of this section, "total cost" means total expenses minus costs and expenses reimbursable under section 120.35 of the Revised Code and any funds received by the county public defender commission pursuant to a contract, except a contract entered into with a municipal corporation pursuant to division (E) of section 120.14 of the Revised Code, gift, or grant.

(B) If the county public defender fails to maintain the standards for the conduct of the office established by rules of the Ohio public defender commission pursuant to divisions (B) and (C) of section 120.03 or the standards established by the state public defender pursuant to division (B)(7) of section 120.04 of the Revised Code, the Ohio public defender commission shall notify the county public defender commission and the board of county commissioners of the county that the county public defender has failed to comply with its rules or the standards of the state public defender. Unless the county public defender commission or the county public defender corrects the conduct of the county public defender's office to comply with the rules and standards within ninety days after the date of the notice, the state public defender may deny payment of all or part of the county's reimbursement from the state provided for in division (A) of this section.

§120.33 COURT-APPOINTED OR SELECTED COUNSEL; PAYMENT

(A) In lieu of using a county public defender or joint county public defender to represent indigent persons in the proceedings set forth in division (A) of section 120.16 of the Revised Code, the board of county commissioners of any county may adopt a resolution to pay counsel who are either personally selected by the indigent person or appointed by the court. The resolution shall include those provisions the board of county commissioners considers necessary to provide effective representation of indigent persons in any proceeding for which counsel is provided under this section. The resolution shall include provisions for contracts with any municipal corporation under which the municipal corporation shall reimburse the county for counsel appointed to represent indigent persons charged with violations of the ordinances of the municipal corporation.

(1) In a county that adopts a resolution to pay counsel, an indigent person shall have the right to do either of the following:

(a) To select the person's own personal counsel to represent the person in any proceeding included within the provisions of the resolution;

(b) To request the court to appoint counsel to represent the person in such a proceeding.

(2) The court having jurisdiction over the proceeding in a county that adopts a resolution to pay counsel shall, after determining that the person is indigent and entitled to legal representation under this section, do either of the following:

(a) By signed journal entry recorded on its docket, enter the name of the lawyer selected by the indigent person as counsel of record;

(b) Appoint counsel for the indigent person if the person has requested the court to appoint counsel and, by signed journal entry recorded on its dockets, enter the name of the lawyer appointed for the indigent person as counsel of record.

(3) The board of county commissioners shall establish a schedule of fees by case or on an hourly basis to be paid to counsel for legal services provided pursuant to a resolution adopted under this section. Prior to establishing the schedule, the board of county commissioners shall request the bar association or associations of the county to submit a proposed schedule. The schedule submitted shall be subject to the review, amendment, and approval of the board of county commissioners.

(4) Counsel selected by the indigent person or appointed by the court at the request of an indigent person in a county that adopts a resolution to pay counsel, except for counsel appointed to represent a person charged with any violation of an ordinance of a municipal corporation that has not contracted with the county commissioners for the payment of appointed counsel, shall be paid by the county and shall receive the compensation and expenses the court approves. Each request for payment shall be accompanied by a financial disclosure form and an affidavit of indigency that are completed by the indigent person on forms prescribed by the state public defender. Compensation and expenses shall not exceed the amounts fixed by the board of county commissioners in the schedule adopted pursuant to division (A)(3) of this section. No court shall approve compensation and expenses that exceed the amount fixed pursuant to division (A)(3) of this section.

The fees and expenses approved by the court shall not be taxed as part of the costs and shall be paid by the county. However, if the person represented has, or may reasonably be expected to have, the means to meet some part of the cost of the services rendered to the person, the person shall pay the county an amount that the person reasonably can be expected to pay. Pursuant to section 120.04 of the Revised Code, the county shall pay to the state public defender a percentage of the payment received from the person in an amount proportionate to the percentage of the costs of the person's case that were paid to the county by the state public defender pursuant to this section. The money paid to the state

public defender shall be credited to the client payment fund created pursuant to division (B)(5) of section 120.04 of the Revised Code.

The county auditor shall draw a warrant on the county treasurer for the payment of counsel in the amount fixed by the court, plus the expenses the court fixes and certifies to the auditor. The county auditor shall report periodically, but not less than annually, to the board of county commissioners and to the Ohio public defender commission the amounts paid out pursuant to the approval of the court. The board of county commissioners, after review and approval of the auditor's report, may then certify it to the state public defender for reimbursement. If a request for reimbursement is not accompanied by a financial disclosure form and an affidavit of indigency completed by the indigent person on forms prescribed by the state public defender, the state public defender shall not pay the requested reimbursement. If a request for the reimbursement of the cost of counsel in any case is not received by the state public defender within ninety days after the end of the calendar month in which the case is finally disposed of by the court, unless the county has requested and the state public defender has granted an extension of the ninety-day limit, the state public defender shall not pay the requested reimbursement. The state public defender shall also review the report and, in accordance with the standards, guidelines, and maximums established pursuant to divisions (B)(7) and (8) of section 120.04 of the Revised Code, prepare a voucher for fifty per cent of the total cost of each county appointed counsel system in the period of time covered by the certified report and a voucher for fifty per cent of the costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any, or, if the amount of money appropriated by the general assembly to reimburse counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel systems is not sufficient to pay fifty per cent of the total cost of all of the offices and systems other than costs and expenses that are reimbursable under section 120.35 of the Revised Code, for the lesser amount required by section 120.34 of the Revised Code.

(5) If any county appointed counsel system fails to maintain the standards for the conduct of the system established by the rules of the Ohio public defender commission pursuant to divisions (B) and (C) of section 120.03 or the standards established by the state public defender pursuant to division (B)(7) of section 120.04 of the Revised Code, the Ohio public defender commission shall notify the board of county commissioners of the county that the county appointed counsel system has failed to comply with its rules or the standards of the state public defender. Unless the board of county commissioners corrects the conduct of its appointed counsel system to comply with the rules and standards within ninety days after the date of the notice, the state public defender may deny all or part of the county's reimbursement from the state provided for in division (A)(4) of this section.

(B) In lieu of using a county public defender or joint county public defender to represent indigent persons in the proceedings set forth in division (A) of section 120.16 of the Revised Code, and in lieu of adopting the resolution and following the procedure described in division (A) of this section, the board of county commissioners of any county may contract with the state public defender for the state public defender's legal representation of indigent persons. A contract entered into pursuant to this division may provide for payment for the services provided on a per case, hourly, or fixed contract basis.

(C) If a court appoints an attorney pursuant to this section to represent a petitioner in a postconviction relief proceeding under section 2953.21 of the Revised Code, the petitioner has received a sentence of death, and the proceeding relates to that sentence, the attorney who represents the petitioner in the proceeding pursuant to the appointment shall be certified under Rule 65 of the Rules of Superintendence for Common Pleas Courts to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.

§120.34 REIMBURSEMENTS LIMITED TO APPROPRIATED AMOUNTS; ADJUSTMENTS REQUIRED

The total amount of money paid to all counties in any fiscal year pursuant to sections 120.18, 120.28, and 120.33 of the Revised Code for the reimbursement of a percentage of the counties' cost of operating county public defender offices, joint county public defender offices, and county appointed counsel systems shall not exceed the total amount appropriated for that fiscal year by the general

assembly for the reimbursement of the counties for the operation of the offices and systems. If the amount appropriated by the general assembly in any fiscal year is insufficient to pay fifty per cent of the total cost in the fiscal year of all county public defender offices, all joint county public defender offices, and all county appointed counsel systems, the amount of money paid in that fiscal year pursuant to sections 120.18, 120.28, and 120.33 of the Revised Code to each county for the fiscal year shall be reduced proportionately so that each county is paid an equal percentage of its total cost in the fiscal year for operating its county public defender system, its joint county public defender system, and its county appointed counsel system.

The total amount of money paid to all counties in any fiscal year pursuant to section 120.35 of the Revised Code for the reimbursement of a percentage of the counties' costs and expenses of conducting the defense in capital cases shall not exceed the total amount appropriated for that fiscal year by the general assembly for the reimbursement of the counties for conducting the defense in capital cases. If the amount appropriated by the general assembly in any fiscal year is insufficient to pay fifty per cent of the counties' total costs and expenses of conducting the defense in capital cases in the fiscal year, the amount of money paid in that fiscal year pursuant to section 120.35 of the Revised Code to each county for the fiscal year shall be reduced proportionately so that each county is paid an equal percentage of its costs and expenses of conducting the defense in capital cases in the fiscal year.

If any county receives an amount of money pursuant to section 120.18, 120.28, 120.33, or 120.35 of the Revised Code that is in excess of the amount of reimbursement it is entitled to receive pursuant to this section, the state public defender shall request the board of county commissioners to return the excess payment and the board of county commissioners, upon receipt of the request, shall direct the appropriate county officer to return the excess payment to the state.

Within thirty days of the end of each fiscal quarter, the state public defender shall provide to the office of budget and management and the legislative budget office of the legislative service commission an estimate of the amount of money that will be required for the balance of the fiscal year to make the payments required by sections 120.18, 120.28, 120.33, and 120.35 of the Revised Code.

§120.35 STATE REIMBURSEMENT IN CAPITAL CASES

The state public defender shall, pursuant to section 120.18, 120.28, 120.33, or 2941.51 of the Revised Code, reimburse fifty per cent of all costs and expenses of conducting the defense in capital cases. If appropriations are insufficient to pay fifty per cent of such costs and expenses, the state public defender shall reimburse such costs and expenses as provided in section 120.34 of the Revised Code.

§ 2941.51 PAYMENT OF APPOINTED COUNSEL

(A) Counsel appointed to a case or selected by an indigent person under division (E) of section 120.16 or division (E) of section 120.26 of the Revised Code, or otherwise appointed by the court, except for counsel appointed by the court to provide legal representation for a person charged with a violation of an ordinance of a municipal corporation, shall be paid for their services by the county the compensation and expenses that the trial court approves. Each request for payment shall be accompanied by a financial disclosure form and an affidavit of indigency that are completed by the indigent person on forms prescribed by the state public defender. Compensation and expenses shall not exceed the amounts fixed by the board of county commissioners pursuant to division (B) of this section.

(B) The board of county commissioners shall establish a schedule of fees by case or on an hourly basis to be paid by the county for legal services provided by appointed counsel. Prior to establishing such schedule, the board shall request the bar association or associations of the county to submit a proposed schedule. The schedule submitted shall be subject to the review, amendment, and approval of the board of county commissioners.

(C) In a case where counsel have been appointed to conduct an appeal under Chapter 120. of the Revised Code, such compensation shall be fixed by the court of appeals or the supreme court, as provided in divisions (A) and (B) of this section.

(D) The fees and expenses approved by the court under this section shall not be taxed as part of the costs and shall be paid by the county. However, if the person represented has, or reasonably may be expected to have, the means to meet some part of the cost of the services rendered to the person, the person shall pay the county an amount that the person reasonably can be expected to pay. Pursuant to section 120.04 of the Revised Code, the county shall pay to the state public defender a percentage of the payment received from the person in an amount proportionate to the percentage of the costs of the person's case that were paid to the county by the state public defender pursuant to this section. The money paid to the state public defender shall be credited to the client payment fund created pursuant to division (B)(5) of section 120.04 of the Revised Code.

(E) The county auditor shall draw a warrant on the county treasurer for the payment of such counsel in the amount fixed by the court, plus the expenses that the court fixes and certifies to the auditor. The county auditor shall report periodically, but not less than annually, to the board of county commissioners and to the Ohio public defender commission the amounts paid out pursuant to the approval of the court under this section, separately stating costs and expenses that are reimbursable under section 120.35 of the Revised Code. The board, after review and approval of the auditor's report, may then certify it to the state public defender for reimbursement. The request for reimbursement shall be accompanied by a financial disclosure form completed by each indigent person for whom counsel was provided on a form prescribed by the state public defender. The state public defender shall review the report and, in accordance with the standards, guidelines, and maximums established pursuant to divisions (B)(7) and (8) of section 120.04 of the Revised Code, pay fifty per cent of the total cost, other than costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any, of paying appointed counsel in each county and pay fifty per cent of costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any, to the board.

(F) If any county system for paying appointed counsel fails to maintain the standards for the conduct of the system established by the rules of the Ohio public defender commission pursuant to divisions (B) and (C) of section 120.03 of the Revised Code or the standards established by the state public defender pursuant to division (B)(7) of section 120.04 of the Revised Code, the commission shall notify the board of county commissioners of the county that the county system for paying appointed counsel has failed to comply with its rules. Unless the board corrects the conduct of its appointed counsel system to comply with the rules within ninety days after the date of the notice, the state public defender may deny all or part of the county's reimbursement from the state provided for in this section.

OHIO ADMINISTRATIVE CODE

Selected Provisions from

CHAPTER 120-1. GENERAL PROVISIONS

Current through January 1, 2000, showing recent amendments

120-1-01	Declaration of Policy
120-1-03	Standards of Indigency
120-1-04	Hiring of Other Counsel
120-1-05	Recoupment, Contribution, Partial Payment, and Marginally Indigent Programs
120-1-06	Facilities for a County or Joint County Public Defender Office
120-1-07	Caseload Standards, Workload, Budget , and Logistics of a County or Joint County Public Defender Office
120-1-09	Contracts With Municipal Corporations
120-1-10	Qualifications for Assigned/Appointed Counsel and Public Defenders in Cases where Reimbursement for Defense Costs is Sought by a County from the Ohio Public Defender
120-1-11	Time Limits for Reimbursement of County Expenditures for Assigned/Appointed Counsel and Public Defender Offices
120-1-12	Standards Governing Contracts Between County and Joint County Public Defender Commissions and Non-Profit Organizations for the Provision of Indigent Defense Representation
120-1-13	Denial of Reimbursement to the Counties in Capital Cases
120-1-15	Adequate Fee Schedule for Assigned/Appointed Counsel and Public Defender Salaries
120-1-16	Public Defenders Accepting Retainers In A Case In Which He/She Has Previously Been Appointed

120-1-01 DECLARATION OF POLICY

It is the intent of the commission to adopt rules to govern the manner and form under which the Ohio public defender commission shall conduct its programs of providing, supervising, and coordinating legal representation pursuant to Chapter 120. of the Revised Code. It is the intent of the commission that such rules will apply to assigned/appointed counsel and county or joint county public defender systems. It is also the intent of the commission that the rules be applied in a uniform manner that will insure proper and adequate legal services for the indigent and other persons entitled to such services in Ohio.

120-1-03 STANDARDS OF INDIGENCY

Ohio Public Defender Commission's rules are promulgated pursuant to divisions (B)(1), (B)(6), (B)(7), and (B)(8) of section 120.03 of the Revised Code. Further considerations include *State vs. Tymcio* (1975), 42 Ohio St.2d. 39 and the Ohio supreme court rules of superintendence.

- (A) General statement of policy. When required by rule or law to appoint counsel for indigent persons, the criteria for determining indigency shall include: ownership and ready availability of real or personal property; all household income, inheritance, expectancies, and other assets; number and age of dependents; outstanding debts, obligations and liabilities; and any other relevant considerations. The pivotal issue in determining indigency is not whether the applicant ought to be able to employ counsel but whether the applicant is, in fact, able to do so. Possible sources of income, assets, and liabilities are listed on the financial disclosure form attached hereto in appendix A.

(B) Income Standards.

- (1) Presumptive eligibility. Without other substantial assets, individuals whose income is not greater than 125 per cent of the current poverty threshold established by the United States Office of Management and Budget may be presumed to require the appointment of counsel. An individual whose income is between 125 percent and 187.5 per cent of the federal poverty guidelines may still be presumed to require the appointment of counsel if any of the following apply:
 - (a) Applicant's household income, minus allowable expenses, yields no more than 125 per cent of the federal poverty income guidelines.
 - (b) Allowable expenses are the cost of medical care, childcare, transportation, and other costs required for work, or the cost associated with the infirmity of a resident family member incurred during the preceding twelve months and child support actually paid from household income.
 - (c) The applicant has liabilities and or expenses, including unpaid taxes, the total of which exceeds the applicant's income.
- (2) Presumptive ineligibility. Applicants having liquid assets that exceed one thousand dollars for misdemeanor cases and five thousand dollars in felony cases shall be presumed to be not indigent. For purposes of this rule, "liquid assets" are defined as those resources that are in cash or payable upon demand. The most common types of liquid assets are cash on hand, savings accounts, checking accounts, trusts, stocks, and mortgages. Applicants with an income over 187.5 per cent of the federal poverty level shall be deemed not indigent.
- (3) The poverty income thresholds (125 per cent-187.5 per cent) are updated annually by the United States Office of Management and Budget and may be found in the Federal Register. These income thresholds are based on gross income. They will be available, on request, from the Ohio public defender commission.
- (4) Applicants being detained in a state institution shall have only their own income and assets considered, as they have no "household" for purposes of this rule.

(C) Other Factors.

- (1) Seriousness of charge weighed against possession of liquid assets. In determining whether a defendant is indigent, the seriousness of the charge shall be taken into consideration. A defendant may be found not indigent if the individual possesses liquid assets in excess of the assigned/appointed counsel fees paid for a case of equal seriousness in the county in which the charges are brought. In lieu of using the assigned/appointed counsel fee, other methods of determining fees for competent counsel may be used, including a survey of attorneys representing defendants in criminal cases.
- (2) The equity value in the applicant's principal residence and other valuable assets may be included in the consideration.
- (3) Release on bail shall not prevent a person from being determined indigent.
- (4) Counsel shall not be denied solely because an applicant's friends or relatives have resources adequate to retain counsel.

- (D) Juvenile court. In determining eligibility of a child for court-appointed counsel in juvenile court, only the child's income shall initially be considered. The court is encouraged to order parents who are not indigent to pay for the necessary costs of representation for the child in delinquency, unruly, and traffic cases. In no case shall a child be denied appointed counsel because a parent refuses to disclose their financial information or to participate in a reimbursement, recoupment, contribution, or partial payment program.
- (E) Redetermination. A preliminary determination of ineligibility for legal representation shall not foreclose a redetermination of eligibility when, at a subsequent stage of a proceeding, new information or changes in circumstances concerning the financial inability to retain competent counsel becomes available.
- (F) Waiver. The person or agency determining indigency in individual cases has the authority to waive these guidelines in unusual or meritorious situations. In such situations, the waiver decision shall be documented and included in the client's file. However, despite the income and assets of the individual requesting court-appointed counsel, the person or agency making the determination of indigency must consider *State vs. Tymcio* (1975) 42 Ohio St. 2D. 39, which states "to make the right of court-appointed counsel a factual reality, the determination of need must turn, not upon whether an accused ought to be able to employ counsel, but whether he is, in fact, able to do so." *id.* at 45.
- (G) Confidentiality. Rules, regulations, and procedures concerning the determination of initial eligibility and/or continued eligibility shall not require assigned/appointed counsel and/or public defenders to make any disclosures concerning the client's financial status beyond disclosures mandated by the binding ethical rules of the jurisdiction, the court's determination of indigency, and section 120.38 of the Revised Code.
- (H) Other prohibitions. The procedure whereby it is determined whether or not a person is entitled to have publicly provided counsel shall not deter a person from exercising any constitutional, statutory, or procedural right. Specifically, such rights shall not be deprived by any means, including, but not limited to the following:
 - (1) By such stringency of application of financial eligibility standard as may cause a person to waive representation of counsel rather than incur the expense of retained counsel;
 - (2) By unnecessarily conditioning the exercise of the right to counsel on the waiver of some other constitutional, statutory, or procedural right.
- (I) Requests for specific appointed counsel. When a defendant makes a request for a specific appointed counsel pursuant to Section 120.33(A) of the Revised Code, such request shall be acted upon promptly.
- (J) Those counties that appoint counsel for persons with incomes between 125 per cent and 187.5 per cent of the current poverty threshold, shall establish a reimbursement, recoupment, contribution, or partial payment program that includes a fee for the cost of income verification.
- (K) Financial disclosure form. A form requesting information from the applicant shall be completed for each client prior to appointment of counsel or as soon thereafter as practicable. Each county shall use the application for court-appointed representation form as set forth in appendix A of this rule.

The financial disclosure/affidavit of indigency form set forth in appendix A shall be used unless the county submits their own form to the Ohio public defender commission for review and approval. The form must include the information listed in paragraph (D) of this rule. The form must also contain an affidavit of indigency and the judge certification as set forth in appendix A. Counties that are already using their own form may continue to use this form during the review

process. The commission shall, in turn, notify such jurisdiction of the approval or disapproval of the financial disclosure form within ninety days of submission.

- (L) Review and approval. Any programs established pursuant to paragraph (J) of this rule shall be sent to the Ohio public defender commission for review and approval before the program becomes effective. In counties that already have such a program, the program may continue during the review process. The commission shall, in turn, notify such jurisdiction of the approval or disapproval of local programs within ninety days of submission.
- (M) Partial reimbursement. The ability to contribute a portion of the cost of adequate legal representation shall not preclude eligibility for assigned/appointed counsel. All programs developed to seek reimbursement for the cost of assigned/appointed counsel from the defendant shall be subject to guidelines established for such programs in other commission rules. Programs established for those who fall above income/asset levels shall be approved by the Ohio public defender commission.
- (N) Verification procedures. All counties shall have an income verification process. This process shall be used to verify the financial information provided by the applicant on the financial disclosure form. Income verification need not be done on every case, but may be done randomly based on complaints, or by any other method that is practical.

APPENDIX A (of rule 120-1-03)

NOTE: Although not replicated here, Appendix A is the *Affidavit of Indigency/Financial Disclosure Form* which is also included in Appendix E of the *Ohio Public Defender Standards and Guidelines for Appointed Counsel Reimbursement*. This form is the same as the “application for court appointed representation” referred to in paragraph (K) of Ohio Public Defender Commission Rule 120-01-03.

120-1-04 HIRING OF OTHER COUNSEL

Subject to prior approval of the court, other counsel should be employed whenever necessary to protect the rights of the client, including, but not limited to the following:

- (A) When dealing with matters involving highly technical areas requiring special expertise;
- (B) When needed to depose a witness not located in the immediate area;
- (C) When necessary to resolve conflicts of interest;
- (D) When the assistance of other counsel is necessary to provide an adequate and effective defense.

120-1-05 RECOUPMENT, CONTRIBUTION, PARTIAL PAYMENT, AND MARGINALLY INDIGENT PROGRAMS

The commission supports the development of recoupment programs, contribution programs, partial payment programs, marginally indigent programs, and other efforts to contain costs. However, any such program should not jeopardize the quality of defense provided or act to deny representation to qualified defendants. Examples of such programs will be available through the office of the Ohio public defender. In no case shall such a program require or include direct payment(s) from the applicant to appointed counsel. No payments, compensation, or in-kind services shall be required from an applicant or client whose income falls under 125 per cent of the federal poverty guidelines.

120-1-06 FACILITIES FOR A COUNTY OR JOINT-COUNTY PUBLIC DEFENDER OFFICE

The supporting staff, facilities, and other requirements needed to maintain and operate an office of a county or joint county public defender shall be sufficient to allow effective representation and shall be substantially equivalent to that provided for other public components of the justice system. In applying this rule, the following criteria shall be governing:

- (A) The budget of a public defender shall include:
 - (1) Adequate quarters and other facilities;
 - (2) An adequate library to meet the needs mandated by the duties of the office, considering the needs of the office and the availability of other libraries;
 - (3) Adequate tape-recording, photographic, and other investigative equipment of a sufficient quantity, quality, and versatility to permit preservation of evidence;
 - (4) Funds available for the confidential employment of experts and specialists, such as psychiatrists, pathologists, and other scientific experts in all cases where the same may be of assistance to the defense;
 - (5) Supportive services shall include secretarial, investigative, and other services necessary for an adequate defense. These shall include not only those services needed for an effective defense at trial, but also those that are required for effective defense participation in every phase of the process, including determinations on pretrial release, competency to stand trial, and disposition following conviction, appeals, and postconviction relief.
- (B) The office of the county public defender or joint county public defender shall be located with consideration for the convenience to clients and access to the courts and other necessary services.
- (C) Each defender shall have adequate office space to assure privacy in consultation with clients and efficiency in operations.

120-1-07 CASELOAD STANDARDS, WORKLOAD, BUDGET AND LOGISTICS OF A COUNTY OR JOINT COUNTY PUBLIC DEFENDER OFFICE

Neither the public defender office nor public defender attorney should accept a workload which, by reason of the excessive size thereof, threatens to deny due process of law to clients or places the office or attorney in imminent danger of violating the "Code of Professional Responsibility."

- (A) Each public defender office shall establish a minimum and maximum workload for its attorneys and staff, the overall goal being high quality criminal defense representation achieved efficiently.
- (B) No public defender attorney shall accept any appointment which exceeds or jeopardizes his or her ability to render effective assistance of counsel to each defendant. No public defender shall accept a case in violation of the "Code of Professional Responsibility."
- (C) Whenever by reason of excessive workload the public defender determines that the assumption of additional cases or continued representation in previously accepted cases by his office lead to inadequate representation in these or other cases, he shall declare such fact to the court.

120-1-09 CONTRACTS WITH MUNICIPAL CORPORATIONS

County commissioners, public defenders, county public defender commissions and joint county public defender commissions may contract with a municipal corporation for the legal representation of indigent persons charged with violations of the ordinances of the municipal corporation.

- (A) All such contracts with municipal corporations pertaining to legal representation of indigent persons charged with violations of municipal corporation ordinances shall have approval of the Ohio public defender commission.
- (B) Reimbursement by the municipal corporation for representation of such indigent persons may be by a contractual amount or a fee schedule, however in either event such reimbursement shall not exceed the fee schedule in effect and adopted by the county commissioners of the county wherein the municipal corporation is located.
- (C) All contracts with municipal corporations shall provide for conformity with the standards of indigency and other rules and standards established by the Ohio public defender commission and the state public defender.

120-1-10 QUALIFICATIONS FOR ASSIGNED/APPOINTED COUNSEL AND PUBLIC DEFENDERS IN CASES WHERE REIMBURSEMENT FOR DEFENSE COSTS IS SOUGHT BY A COUNTY FROM THE OHIO PUBLIC DEFENDER

- (A) A county shall not receive reimbursement for defense costs from the state public defender unless the assigned/appointed counsel and/or public defender representing the indigent applicant meets the following minimum qualifications:
 - (1) Where the defendant is charged with aggravated murder with death penalty specifications, or has been convicted and sentenced to death, any attorney appointed for trial or appellate representation must meet the qualifications set forth in rule 20 of the Ohio supreme court "Rules of Superintendence" and appear on the list of attorneys qualified to accept appointments in capital cases promulgated by the rule 20 committee or have a waiver issued by the rule 20 committee.
 - (2) Where the defendant is charged with murder or aggravated murder without specifications, appointed counsel shall possess:
 - (a) Prior experience as trial counsel or co-counsel in one prior murder trial; or
 - (b) Prior experience as trial counsel in two first degree felony or aggravated felony trials; or
 - (c) Prior experience as trial counsel in ten or more jury trials.
 - (3) Where the defendant is charged with a felony of the first, second, or third degree, appointed counsel shall possess:
 - (a) Prior experience as trial counsel in two or more first, second, or third degree felony, at least one of which was a jury trial; or
 - (b) Prior experience as trial counsel in any four jury trials at least one of which was a jury trial in a first, second, or third degree felony; or
 - (c) Prior experience as trial counsel in any two criminal trials; and
 - (i) Co-counsel in at least one criminal jury trial;

- (ii) Trial counsel or co-counsel in two jury trials.
- (4) Where the defendant is charged with a fourth degree or fifth degree felony, appointed counsel shall possess:
 - (a) Prior experience as trial counsel or co-counsel in at least one jury trial; or
 - (b) Prior completion of a training program on criminal practice or procedure which is certified for continuing legal education credit by the Ohio supreme court commission on continuing legal education.
- (B) Assignment should be distributed as widely as possible among members of the bar who meet the qualifications for assignment.
- (C) If appointed counsel fails to follow the stated qualifications, the Ohio public defender commission may refuse to approve reimbursement for the appointment of particular counsel pursuant to division (B) of section 120.18, division (B) of section 120.28 and sections 120.33 and 2941.51 of the Revised Code. Prior to the appointment or at the time of appointment, the court may submit the appropriate qualification information pertaining to counsel to the Ohio public defender for determination of whether counsel qualifies for reimbursement pursuant to division (B) of section 120.18, division (B) of section 120.28, and sections 120.33 and 2941.51 of the Revised Code.
- (D) The respective courts and county and joint county public defender commissions shall be free to adopt local rules requiring qualifications in addition to the minimum standards established by this rule.

120-1-11 TIME LIMITS FOR REIMBURSEMENT OF COUNTY EXPENDITURES FOR ASSIGNED/ APPOINTED COUNSEL AND PUBLIC DEFENDER OFFICES

The following time limits on submission of requests for state reimbursement under the Ohio indigent defense program by county boards of county commissioners to the state public defender office are hereby adopted:

- (A) Assigned/appointed counsel expenditures shall not be reimbursed by the state public defender unless submitted by the county within ninety days of the end of the calendar month in which the case involved was terminated.
- (B) County public defender office operating expenditures shall not be reimbursed by the state public defender unless submitted by the county within sixty days of the end of the calendar month in which the expenditures were incurred.

The state public defender may grant an extension in writing to a county that has made a request for an extension in writing for a period of time not exceeding that originally allowed under this rule in order to correct errors in an attorney certificate or county public defender monthly statement and resubmit them.

120-1-12 STANDARDS GOVERNING CONTRACTS BETWEEN COUNTY AND JOINT COUNTY PUBLIC DEFENDER COMMISSIONS AND NON-PROFIT ORGANIZATIONS FOR THE PROVISION OF INDIGENT DEFENSE REPRESENTATION

- (A) The purpose of this rule is to establish standards governing contracts between county and joint county public defender commissions and non-profit organizations or the state public defender to provide legal representation pursuant to Chapter 120. of the Revised Code. Any county that desires to receive reimbursement from the state public defender for such a contract system must first obtain approval of the contract from the Ohio public defender commission. No reimbursement will be made for contracts that do not have prior approval of the Ohio public

defender commission. All contracts submitted to the commission for approval must be drafted in accordance with the provisions of section 120.14 or 120.24 of the Revised Code.

(B) Contracting authority

Contracting authority as used in this rule, is a county or joint county public defender commission established pursuant to section 120.13 or 120.23 of the Revised Code unless the contractor is the state public defender, in which case the contracting authority is the board of county commissioners. Any contract with a non-profit organization submitted to the commission for approval pursuant to this rule must be accompanied by both the court order and the county commissions resolution that established the county or joint county public defender commission and that appointed the members to that commission.

(C) Contractor

Contractor as used in this rule, is the state public defender or a non-profit organization incorporated in the state of Ohio. The primary purpose of the non-profit organization must be to provide legal representation to indigent persons. Any contract for approval pursuant to this rule must be accompanied by the Ohio articles of incorporation of the contractor.

(D) Approval of the county board of commissioners

The contracting authority shall obtain the approval of the county board of commissioners for the entire amount of a contract with a non-profit organization prior to signing the contract. The board of county commissioners shall not interfere with the selection of the non-profit organization with which to contract. All contracts submitted to the commission pursuant to this rule must contain a resolution of the board of county commissioners that sufficient funds have been or will be appropriated and will be available to meet the contracting authority's obligations under the contract.

(E) Elements of a contract for indigent defense services

- (1) Parties. The contract shall identify the contracting authority, the contractor, and any other public or private person, agency, or organization which is party to the contract.
- (2) Scope of the contract. The contract shall specify the categories and percentages of indigent defense cases in which the contractor is to provide services and the categories in which the contractor is not to provide services.
- (3) Determination of eligibility. The contract shall specify the procedure by which client financial eligibility is to be determined and contain a standard of indigency incorporating by reference rule 120-1-03 of the Administrative Code.
- (4) Term of the contract. Contracts for legal defense services shall be awarded for a term of one year. The contract shall specify that the contractor has the responsibility to complete any and all cases once representation is commenced under the terms of the contract. Representation commenced in the trial court shall be continued through all trial court proceedings; representation commenced by or taken to an appeals court by the contractor shall be continued until the appeals process is terminated by an action final on the merits by that appeals court. The contract should specify that this provision does not prohibit a contractor or attorney from withdrawing from a case due to a conflict of interest recognized by a court, or from withdrawing due to a finding of the client's financial ineligibility for services.
- (5) Attorney staff. The contract may require the contractor to use full-time or part-time attorneys. If the contract is for the use of part-time attorneys, it shall contain provisions to

ensure that the part-time attorneys devote the time necessary to provide effective representation to the indigent clients.

- (6) Support staff, investigators, and forensic experts. The contract shall provide for the employment of a support staff or secretaries and non-legal personnel for the office. The contract should also specify that adequate funds be provided for investigators, social workers, mental health professionals, and other forensic experts necessary to provide competent representation. No contract clause should interfere with the contractor's selection, supervision, and direction of these persons.
- (7) Compensation. The contract shall provide that the contractor compensate its staff employees, subcontractors and retained forensic experts at rates commensurate with their training, experience and responsibilities, and compensation paid to persons doing similar work in public agencies in the jurisdiction.
- (8) Extraordinary compensation. The contract shall provide for extraordinary compensation in cases that require an extraordinary amount of time and preparation, including but not limited to cases in which the death penalty is a possibility. Services that require compensation in excess of the normal rate should be defined in the contract.
- (9) Compensation of additional attorneys and conflicts of interest. The contract shall contain provision for compensation for additional attorneys where conflicts of interest arise and the contractor is unable to provide representation. The contract may contain provisions respecting other extraordinary circumstances creating an inability to provide representation and necessitating compensation for additional attorneys.
- (10) Financial reports. The contract shall provide that the contractor retain financial records, submit financial reports, and submit to a financial audit no less frequently than annually and report these findings to the contracting authority. Copies of the annual audit shall be forwarded to the Ohio public defender commission as part of the annual report submitted pursuant to sections 120.14 and 120.24 of the Revised Code.
- (11) Standards of representation. The contract shall require that the contractor provide legal services to all clients in a professional, skilled manner consistent with Chapter 120 of the Revised Code, the rules of the Ohio public defender commission, the Ohio public defender standards and guidelines, the canons of ethics for attorneys in Ohio, and case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases. The contract shall provide that counsel under contract shall be available to eligible defendants at their request or the request of someone acting on their behalf at arrest, formal charging, or indictment. The contractor shall insure that attorneys provided by the contract shall be accessible to applicants in regard to criminal or delinquency matters before formal court appointment.
- (12) Insurance. The contract shall require that the contractor provide malpractice insurance for attorneys representing indigent clients under terms of the contract. The contract shall not provide that the contractor hold the government or contracting authority harmless for the attorney's representation of the clients.
- (13) Management system. The contract shall provide that the contractor maintain a case reporting and management information system from which data shall be available and provided to the contracting authority upon request. The contracting authority shall report the caseload data required by the state public defender when submitting its monthly request for reimbursement. Any such system shall be maintained independently from client files so as to disclose no privileged information. The case reporting and management information system shall be used to provide the contractor, contracting authority, and the Ohio public defender commission with caseload information sufficient

to insure compliance with the Ohio public defender commission's rules, Chapter 120. of the Revised Code, and the state public defender standards and guidelines.

(F) Awarding the contract

The contracting authority shall award a contract for indigent criminal cases only when it appears that the contractor adequately addresses the issues stated in this rule, Chapter 120. of the Revised Code, the rules of the Ohio public defender commission, and the state public defender standards. Under no circumstances should a contract be awarded based on cost alone. The contracting authority shall determine when the proposed budget of a potential contractor will provide the capability of complying with this rule. The Ohio public defender commission shall not approve any contract when it appears that it has been awarded based on cost effectiveness alone.

(G) Approval by the Ohio public defender commission of contracts

The Ohio public defender commission shall approve a contract that conforms with this standard and complies with all applicable sections of Chapter 120. of the Revised Code, the rules of the commission, and state public defender standards and guidelines.

(H) Contracts with law schools, legal aid societies, and non-profit organizations

Any law school, legal aid society, or non-profit organization that enters into a contract with the state public defender to provide counsel shall be subject to the policies and procedures established by the Ohio public defender commission and "the supreme court rules for the government of the bar of Ohio".

- (1) The standards employed by the state public defender in determining eligibility for representation shall be used by the organizations.
- (2) All such contracts are subject to the prior approval and continued supervision of the Ohio public defender commission.

120-1-13 DENIAL OF REIMBURSEMENT TO THE COUNTIES IN CAPITAL CASES

The state public defender, pursuant to sections 120.34 and 120.35 of the Revised Code, shall review each request for reimbursement to a county in an indigent capital case at the trial, appellate, and/or postconviction levels, to ensure that the following criteria governing the appointment of counsel are met:

- (A) Lead counsel and co-counsel are appointed from the lists maintained by the Ohio supreme court, pursuant to rule 20 of the "Rules of Superintendence" or have obtained a waiver issued by the rule 20 committee. Such waiver shall accompany the reimbursement request.
- (B) All other provisions of rule 20 are adhered to by the appointing court, board of county commissioners, and attorneys appointed in the case for which reimbursement is sought.

If these criteria are not met, the Ohio public defender commission shall deny reimbursement to the county for all of the defender costs associated with that indigent capital case.

This rule shall be effective for all appointments of counsel in capital trial, appellate, and/or postconviction cases occurring after October 1, 1988.

120-1-15 ADEQUATE FEE SCHEDULE FOR ASSIGNED/APPOINTED COUNSEL AND PUBLIC DEFENDER SALARIES

- (A) In establishing a fee schedule to be paid appointed counsel in indigent cases eligible for reimbursement pursuant to Section 120.33 of the Revised Code, the county commissioners and county bar association shall establish a schedule that is comparable to the fees paid to retained counsel in the same type of cases. No county will be entitled to reimbursement from the state public defender if it can be demonstrated that its fee schedule is inadequate for an appointed attorney to cover the costs of overhead while working on an appointed case and to generate a reasonable income for work performed.
- (B) Salaries paid to public defenders should be equivalent to salaries paid to similar positions within the justice system.

120-1-16 PUBLIC DEFENDERS ACCEPTING RETAINERS IN A CASE IN WHICH HE/SHE HAS PREVIOUSLY BEEN APPOINTED

From time to time, it may be determined that an applicant is indigent and entitled to the appointment of counsel, but later is able to obtain funds to retain private counsel. No part-time public defender or assistant public defender or full-time public defender or assistant public defender entitled to engage in private practice shall accept money from a previously indigent person that they were appointed by the court to represent. All such applicants should be referred to an attorney who is not associated professionally with the public defender or assistant public defender who was previously appointed in the case and that public defender or assistant public defender should withdraw from representation of the client. Withdrawal must be consistent with the disciplinary rules.



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OHIO ATTORNEY GENERAL OPINIONS

Selected Opinions Relevant to Indigent Defense Representation

1982 Ohio Op. Atty. Gen. 2-271. November 19, 1982. (Contempt for nonpayment of child support)
 1984 Ohio Op. Atty. Gen. 2-71. May 11, 1984. (Abuse, dependency, and neglect)
 1985 Ohio Op. Atty. Gen. 2-377. December 27, 1985. (Parentage)
 1987 Ohio Op. Atty. Gen. 87-064. August 20, 1987. (Rape victims)
 1997 Ohio Op. Atty. Gen. 97-040. September 5, 1997. (Juvenile Traffic Offenders)

1982 Ohio Op. Atty. Gen. 2-271. November 19, 1982. (Contempt for nonpayment of child support)

The Ohio Public Defender Commission must reimburse counties for fifty percent of the cost of providing representation through a county or joint county public defender's office or county appointed counsel system to an indigent defendant in contempt proceedings for nonpayment of child support, provided that the request for reimbursement is timely received and comports with the standards and guidelines established by the State Public Defender pursuant to R.C. 120.04(B)(7), (8), and (9) and R.C. 120.34.

1984 Ohio Op. Atty. Gen. 2-71. May 11, 1984. (Abuse, dependency, and neglect)

Pursuant to R.C. 2151.352, a child, his parents, custodian, or other persons in loco parentis, if indigent, is entitled to be represented in all juvenile proceedings by a public defender in accordance with the comprehensive system set forth in R.C. Chapter 120, regardless of whether the outcome of the proceeding could result in a loss of liberty.

1985 Ohio Op. Atty. Gen. 2-377. December 27, 1985. (Parentage)

In parentage proceedings where the complainant - mothers and their children are recipients of public assistance, the State Public Defender must, in accordance with R.C. 120.18, R.C. 120.28, and R.C. 120.33, partially reimburse the counties for the cost of representing indigent paternity defendants who face the state as an adversary.

1987 Ohio Op. Atty. Gen. 87-064. August 20, 1987. (Rape victims)

1. A county is entitled to the reimbursement authorized by R.C. 2941.51 for costs incurred in providing appointed counsel for rape victims under R.C. 2907.02(F).

2. In order for counsel to be paid by the county pursuant to R.C. 2941.51, a person for whom representation is provided pursuant to R.C. 2907.02(F) must submit an affidavit of indigency on forms prescribed by the State Public Defender. A person who is not indigent may complete such an affidavit by asserting that such person is not indigent but is otherwise unable to obtain the services of counsel.

3. A person for whom counsel is provided pursuant to R.C. 2907.02(F) must under R.C. 2941.51(D), reimburse the county in such amount as is reasonable if such person has the means to meet some part of the cost of the services rendered.

4. There is no statutory requirement that an affidavit of indigency must be submitted to the State Public Defender in order for a county to obtain reimbursement under R.C. 2941.51 for costs incurred in providing appointed counsel for a rape victim under R.C. 2907.02(F).

1997 Ohio Op. Atty. Gen. 97-040. September 5, 1997. (Juvenile Traffic Offenders)

1. An indigent child is entitled pursuant to R.C. 2151.352 and Ohio R. Juv. P. 4(A) to be represented by the county public defender in all juvenile court proceedings pertaining to a complaint

alleging the child to be a juvenile traffic offender, regardless of whether the outcome of the proceeding could result in a loss of liberty, except when the right to counsel is waived or the juvenile court pursuant to R.C. 120.16(E) appoints counsel other than the county public defender or allows an indigent child to select his own personal counsel to represent him. (1984 Op. Att'y Gen. No. 84-023, approved and followed.)

2. A county public defender is required, pursuant to R.C. 120.16, to represent before the juvenile court an indigent defendant in a paternity proceeding in which the county support enforcement agency is a party or represents the complainant, except when the right to counsel is waived or the juvenile court pursuant to R.C. 120.16(E) appoints counsel other than the county public defender or allows an indigent defendant to select his own personal counsel to represent him. (1985 Op. Att'y Gen. No. 85-090, approved and followed.)

RULES OF SUPERINTENDENCE FOR THE COURTS OF OHIO

RULE 22: VERIFICATION OF INDIGENCY

Where required by law to appoint counsel to represent indigent defendants in cases for which the county will apply to the Ohio Public Defender Commission for reimbursement of costs, the court shall require the applicant to complete the financial disclosure form. The court shall follow rules promulgated by the Commission pursuant to division (B)(1) of section 120.03 of the Revised Code as guidelines to determine indigency and standards of indigency.

COMMENTARY (July 1, 1997)

This is a new rule added in the 1997 amendments to the Rules of Superintendence. The rule is intended to facilitate compliance with the statutes and administrative rules relative to the appointment of counsel for indigent defendants in criminal cases.



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APPENDIX K
BLANK FORMS