

**IC 33-40**

**ARTICLE 40. PUBLIC DEFENDERS**

**IC 33-40-1**

**Chapter 1. State Public Defender**

**IC 33-40-1-1**

**Appointment; qualifications**

Sec. 1. (a) The office of state public defender is established.

(b) The state public defender shall be appointed by the supreme court, to serve at the pleasure of the court, for a term of four (4) years.

(c) The state public defender must be:

(1) a resident of Indiana; and

(2) a practicing attorney in Indiana for at least three (3) years.

(d) The supreme court may give any tests it considers proper to determine the fitness of an applicant for appointment.

*As added by P.L.98-2004, SEC.19.*

**IC 33-40-1-2**

**Representing penal institution inmates**

Sec. 2. (a) The state public defender shall represent a person who is:

(1) confined in a penal facility in Indiana or committed to the department of correction due to a criminal conviction or delinquency adjudication; and

(2) financially unable to employ counsel;

in a postconviction proceeding testing the legality of the person's conviction, commitment, or confinement, if the time for appeal has expired.

(b) The state public defender shall also represent a person who is committed to the department of correction due to a criminal conviction or delinquency adjudication, and who is financially unable to employ counsel, in proceedings before the department of correction or parole board, if the right to legal representation is established by law.

(c) This section does not require the state public defender to pursue a claim or defense that is not warranted under law and cannot be supported by a good faith argument for an extension, a modification, or a reversal of law, or that for any other reason is without merit.

(d) This section does not prohibit an offender from proceeding on the offender's own behalf or otherwise refusing the services of the state public defender.

*As added by P.L.98-2004, SEC.19.*

**IC 33-40-1-3**

**Seal of office; powers of public defender**

Sec. 3. (a) The state public defender shall be provided with a seal of office on which appear the words "Public Defender, State of

Indiana".

(b) The state public defender may:

- (1) take acknowledgments;
- (2) administer oaths; and
- (3) do all other acts authorized by law for a notary public.

An act performed under this section must be attested by the public defender's official seal.

*As added by P.L.98-2004, SEC.19.*

#### **IC 33-40-1-4**

##### **Salary; employees; office and supplies**

Sec. 4. (a) The state public defender shall be paid an annual salary to be fixed by the supreme court.

(b) The state public defender may, with the consent of the supreme court, appoint or employ, at compensation to be fixed by the supreme court, the deputies, stenographers, or other clerical help that may be required to discharge the public defender's duties.

(c) The state public defender shall be provided with an office at a place to be located and designated by the supreme court.

(d) The state public defender shall be paid the state public defender's actual necessary and reasonable traveling expenses, including cost of food and lodging when away from the municipality in which the public defender's office is located and while on business of the office of the public defender.

(e) The state public defender shall be provided with:

- (1) office furniture, fixtures, and equipment; and
- (2) books, stationery, printing services, postage, and supplies.

*As added by P.L.98-2004, SEC.19.*

#### **IC 33-40-1-5**

##### **Transcript of court proceedings**

Sec. 5. The state public defender may order on behalf of a prisoner the public defender represents a transcript of any court proceeding, including evidence presented, had against the prisoner, and depositions, if necessary, at the expense of the state. However, the public defender may stipulate as to the facts contained in the record of any court, or as to the substance of testimony presented or evidence heard involving any issue to be presented on behalf of the prisoner, without the testimony or evidence being fully transcribed.

*As added by P.L.98-2004, SEC.19.*

#### **IC 33-40-1-6**

##### **Claims for salary or expenses; appropriation**

Sec. 6. All claims for salary or other expenses authorized by this chapter shall be allowed and approved by the supreme court. There is appropriated annually out of funds of the state not otherwise appropriated a sufficient amount to pay salaries and expenses authorized by this chapter.

*As added by P.L.98-2004, SEC.19.*