

IC 33-40-2

Chapter 2. Public Defenders

IC 33-40-2-1

Request to state public defender

Sec. 1. (a) Upon a determination by the judge of any court having criminal jurisdiction that:

- (1) the court is unable within a reasonable time to appoint an available attorney, public defender or otherwise, who is competent in the practice of law in criminal cases as legal counsel for any person charged in the court with a criminal offense and who does not have sufficient means to employ an attorney; or
- (2) in the interest of justice an attorney from another judicial circuit, not regularly practicing in the court, should be appointed to defend the indigent defendant or appeal the defendant's case, but the judge is unable within a reasonable time to provide for the direct appointment of an attorney;

the judge may make written request to the state public defender to provide a qualified attorney for the defense of the indigent person.

(b) The judge shall attach to the written request a copy of the affidavit or indictment, and state in the request the amount of the applicable minimum fee to be paid for the legal services of defense counsel in the case, subject to:

- (1) any additional amount reasonable under all the circumstances of the case, to be determined and approved by the judge upon the final determination of the case; and
- (2) reasonable partial allowances as may be approved and ordered by the judge pending final determination.

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

IC 33-40-2-2

Appointment

Sec. 2. Upon receiving a written request under section 1 of this chapter, the state public defender shall:

- (1) accept appointment himself or herself;
- (2) appoint any of the state public defender's deputies; or
- (3) appoint any practicing attorney:
 - (A) admitted to the practice of law in Indiana; and
 - (B) who is competent to practice law in criminal cases;

subject to the concurring appointment, of record, by the requesting judge.

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

IC 33-40-2-3

Schedule of fees

Sec. 3. (a) The state public defender shall prepare and maintain a schedule of minimum attorney's fees for all general classifications of

criminal trials, and proceedings on plea of guilty, subject to the approval of the supreme court. The schedule shall be furnished upon request to all criminal courts. A fee approved by any court for the services of:

- (1) the state public defender;
- (2) the state public defender's deputy; or
- (3) any attorney appointed by the state public defender and the judge under a request made to the state public defender;

may not be less than the approved minimum fee provided in the schedule.

(b) In cases where there has been a change of venue, the presiding judge may not approve a fee for a public defender from the office of the state public defender that exceeds one hundred twenty-five percent (125%) of the minimum fee schedule established under this chapter.

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

IC 33-40-2-4

Fees; payment

Sec. 4. All fees for services rendered by the state public defender or any of the state public defender's deputies under this chapter shall be paid directly to the state treasurer, to be expended for any necessary expenses of the office of the state public defender, including salaries of the necessary deputies, in addition to the state general funds otherwise appropriated by the general assembly for the payment of the expenses.

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

IC 33-40-2-5

Order for payment

Sec. 5. The judge of a court having criminal jurisdiction shall make all orders necessary to mandate payment of fees approved by the presiding judge for payment for legal services rendered for indigent defendants in any cause in:

- (1) the court; or
- (2) another court following change of venue from the court; whether or not the legal services are arranged under this chapter or by direct appointment of counsel in the first instance by the judge.

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

IC 33-40-2-6

Public defender investigators

Sec. 6. (a) A public defender may use a public defender investigator who is qualified under subsection (b) to assist the public defender in preparing for the criminal defense of indigent persons.

(b) To practice as a public defender investigator, an individual must:

- (1) be at least twenty-one (21) years of age; and
- (2) not have a conviction for a crime that has a direct bearing on

the individual's ability to competently perform the duties of a public defender investigator.

(c) A public defender investigator may not perform any duties for the public defender that constitute the unauthorized practice of law.
As added by P.L.98-2004, SEC.19.