



## **Virginia Indigent Defense Commission**

Annual Report 2017

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## **FY17 - Commission Members and (Appointing Authorities)**

Chairman (July 2009 – Present)

The Honorable Alan E. Rosenblatt (ret.) (Senate of Virginia)

Steven D. Benjamin (Senate of Virginia)

Henry Chambers (Governor)

The Honorable Christopher E. Collins (Virginia House of Delegates)

John G. Douglass (Virginia State Bar)

Carolyn Grady (Virginia State Bar)

Karl R. Hade, Executive Secretary of the Supreme Court

The Honorable Edward W. Hanson, Jr. (Senate of Virginia)

James Hingeley (Governor)

Guy W. Horsley (Speaker of the House)

Kristen Howard (Crime Commission, designee)

The Honorable Richard Stuart (Senate of Virginia)

David D. Walker (Speaker of the House)

Carmen B. Williams (Speaker of the House)

## **Commission Staff**

Executive Director

David J. Johnson

Deputy Director, ISO

Maria Jankowski

Chief Information Officer

Jason Hodges

Human Resource Director

Donna Moore

**Public Defender Offices**

<u>Office</u>	<u>Localities Served</u>	<u>Year Established</u>
Alexandria	City of Alexandria	1987
Arlington	County of Arlington and City of Falls Church	2005
Bedford	City/County of Bedford	1989
Capital Defender (Central)	Cities of Bedford, Charlottesville, Colonial Heights, Emporia, Hopewell, Lynchburg, Petersburg, Richmond, and Counties of Albemarle, Amelia, Amherst, Appomattox, Bedford, Brunswick, Buckingham, Campbell, Caroline, Charles City, Charlotte, Chesterfield, Cumberland, Dinwiddie, Essex, Fluvanna, Goochland, Greensville, Halifax, Hanover, Henrico, King and Queen, King William, Lancaster, Louisa, Lunenburg, Mecklenburg, Nelson, New Kent, Northumberland, Nottoway, Powhatan, Prince Edward, Prince George, Richmond, Surry, Sussex, Westmoreland	2002
Capital Defender (North)	Cities of Alexandria, Fredericksburg, Winchester and Counties of Arlington, Clarke, Culpeper, Fairfax, Fauquier, Frederick, Greene, Harrisonburg, King George, Loudoun, Madison, Orange, Page, Prince William, Rappahannock, Rockingham, Shenandoah, Spotsylvania, Stafford, Warren	2003
Capital Defender (Southeast)	Cities of Chesapeake, Franklin, Hampton, Newport News, Norfolk, Portsmouth, Suffolk, Virginia Beach, Williamsburg, and Counties of Accomack, Gloucester, Isle of Wight, James City, Mathews, Middlesex, Northampton, Southampton, York	2003

## Public Defender Offices

<u>Office</u>	<u>Localities Served</u>	<u>Year Established</u>
Capital Defender (Western)	Cities of Bristol, Buena Vista, Covington, Danville, Galax, Lexington, Martinsville, Norton, Radford, Roanoke, Salem, Staunton, Waynesboro and Counties of Alleghany, Augusta, Bath, Bland, Botetourt, Buchanan, Carroll, Craig, Dickenson, Floyd, Franklin, Giles, Grayson, Henry, Highland, Lee, Montgomery, Patrick, Pittsylvania, Pulaski, Roanoke, Rockbridge, Russell, Scott, Smyth, Tazewell, Washington, Wise, Wythe	2003
Charlottesville	City of Charlottesville and County of Albemarle	1998
Chesapeake	City of Chesapeake	2005
Danville	City of Danville	1990
Fairfax	City and County of Fairfax	1987
Franklin	City of Franklin and Counties of Isle of Wight and Southampton	1989
Fredericksburg	City of Fredericksburg and Counties of King George, Stafford, and Spotsylvania	1990
Halifax	Counties of Halifax, Lunenburg, And Mecklenburg	1990
Hampton	City of Hampton	2005
Leesburg	Counties of Fauquier, Loudoun, and Rappahannock	1988
Lynchburg	City of Lynchburg	1991
Martinsville	City of Martinsville and Counties of Henry and Patrick	1992

## Public Defender Offices

<u>Office</u>	<u>Localities Served</u>	<u>Year Established</u>
Newport News	City of Newport News	2005
Norfolk	City of Norfolk	2002
Petersburg	City of Petersburg	1979
Portsmouth	City of Portsmouth	1986
Pulaski	City of Radford and the Counties of Bland, Pulaski, and Wythe	1988
Richmond	City of Richmond	1986
Roanoke	City of Roanoke	1976
Staunton	Cities of Buena Vista, Lexington, Staunton, and Waynesboro and the Counties of Augusta and Rockbridge	1972
Suffolk	City of Suffolk	1989
Virginia Beach	City of Virginia Beach	1973
Winchester	Counties of Clarke, Frederick, Page, Shenandoah, and Warren, and the City of Winchester	1989

# **VIRGINIA INDIGENT DEFENSE COMMISSION**

## **MISSION STATEMENT**

**Dedicated to protecting the rights and dignity of our clients through zealous, compassionate, high-quality legal advocacy.**

The Virginia Indigent Defense Commission (VIDC), in conjunction with court-appointed private attorneys, provides legal representation for indigent people accused of crimes for which the possible punishment is incarceration or death.<sup>1</sup>

After last year's anomaly of four new Chief Public Defenders, the VIDC welcomed only one new Chief in FY2017. Rebecca Robinson was selected to lead the Hampton Public Defender Office. Rebecca was a long-serving supervising attorney in Portsmouth and has brought significant trial, training, mentoring and supervising experience to the Hampton Office.

Community and policy engagement has continued to grow in 2017. In addition to the tens of thousands of cases handled every year across the Commonwealth by the Public Defender offices, the Executive Director, Deputy Director, and many Public Defenders serve on various boards, commissions, committees, and other groups working toward improving the criminal justice system both statewide and in their communities.

The Executive Director continues his engagement with DCJS (Department of Criminal Justice Services) by serving on the Criminal Justice Service Board and Advisory Committee on Juvenile Justice and Prevention and has remained a significant partner on the State Policy Team for EBDM (Evidence Based Decision Making). The Executive Director was selected to serve on the Virginia State Bar's Discovery Reform Task Force which was assembled to address the state of discovery in criminal cases in Virginia. As a member of the VCJC (Virginia Criminal

Justice Conference) he was asked to co-Chair the VCJC committee looking to remedy a lack of defense counsel representation on the Virginia Criminal Sentencing Commission. He was also asked to chair the committee tasked with studying pretrial and bond issues in Virginia.

The Deputy Director, as well as the Public Defender for Petersburg and the Capital Defender for the Southwest region, serves on the Virginia State Bar Criminal Law Board of Governors. The Deputy also continues to serve on the State Drug Treatment Court Advisory Committee as well as groups organized by the Supreme Court to establish guidelines and best practices for both Veterans Dockets and Mental Health Dockets. Attorneys with the VIDC serve on both the advisory group for the Center for Behavior Health and Justice and the workgroup established for improving restitution. The VIDC appreciates the opportunity to engage with other stakeholders to insure that the unique challenges facing indigent defendants in the Commonwealth are not overlooked.

**A. VIRGINIA CODE § 19.2-163.01 - STATUTORY MANDATES**

The sections of the Code of Virginia governing the VIDC include several statutory mandates most of which concern the duty to oversee court-appointed private attorneys. A summary of the recent actions taken and the mandate requiring such action follows.

**1. VIRGINIA CODE § 19.2-163.01(A)(1) - Publicize and enforce the qualification standards for attorneys seeking eligibility to serve as court-appointed counsel for indigent defendants.**

The initial qualification requirements as well as the requalification requirements for attorneys seeking to represent indigents accused in criminal cases are enumerated in Virginia Code §19.2-163.03. A list of the qualification requirements can be found on the VIDC website at [www.indigentdefense.virginia.gov](http://www.indigentdefense.virginia.gov). Applications for initial certification and re-certification are also available on the website. The Standards of Practice Enforcement Attorney or the

General Counsel receives applications for certification and re-certification for review and determines whether the qualification or requalification requirements have been met.

**2. VIRGINIA CODE § 19.2-163.01(A)(2) - Develop initial training courses for attorneys who wish to begin serving as court-appointed counsel, and to review and certify legal education courses that satisfy the continuing requirements for attorneys to maintain their eligibility for receiving court appointments.**

The certification trainings were provided most months during FY2017 at the administrative office in Richmond and at the Roanoke County Court House Library at no cost to the participants. In addition to the resource manual, this training consists of six hours of specialized criminal defense instruction and four additional hours of juvenile defense instruction over a two day period.

In FY2017, the VIDC undertook a major overhaul and significantly updated and improved the initial certification training. In addition to emphasizing a client centered approach to criminal defense, the most significant change was to replace the video replay with a live training. This training was staffed with seasoned public defenders and other VIDC attorneys. In addition to content updates and improvements, valuable practice tips were provided throughout the program. The VIDC attorney resource website and other free resources were highlighted for the attendees. Finally, the new format allowed participants to ask questions of the faculty and faculty were available to provide answers and support to the attendees. The new live certification training was held on June 22-23 at the University of Richmond, School of Law. This new live training was well received.

The VIDC continues to strive to provide quality training free of charge to the private court appointed attorneys. All VIDC trainings are MCLE (Mandatory Continuing Legal Education) approved by the Virginia State Bar. This year the VIDC provided numerous CLE hours to over 800 private court appointed attorneys from Norfolk to Abingdon. Many of these



were conducted in the administrative office in Richmond at no cost to the agency. One program known as “Late Day Lectures” (LDL) are one hour training focused on a specific area of the law. Recognizing a need for quality training across the Commonwealth, these LDLs have been recorded and beginning in FY2018 will be made available to the private court appointed attorneys across the Commonwealth. Furthering the goal of providing hands on training, the VIDC continued to partner with Judges from the Court of Appeals to provide highly regarded appellate training as far away as Abingdon, VA. In addition to this introductory program, a more advanced appellate training was developed and launched this year.

Acknowledging the need for more juvenile defense training, the VIDC continues to partner in presenting the Juvenile Law and Education Conference at the University of Richmond, School of law. We also continue to partner with the Mid-Atlantic Juvenile Defender Center. Finally, several experienced juvenile public defenders from the Norfolk and Petersburg office developed and presented a free, half-day training for court appointed attorneys in the Tidewater region.

All VIDC sponsored trainings satisfy the requirements for attorneys to maintain their eligibility for court appointments. Additionally, the VIDC reviews and approves legal education courses provided by other organizations to determine whether the courses satisfy the requirements for attorneys to maintain their eligibility for court appointments. A current list of Commission and MCLE-approved courses is provided on the VIDC website at [www.indigentdefense.virginia.gov](http://www.indigentdefense.virginia.gov) and is updated as new courses are approved.

By statute, attorneys maintain their eligibility for court appointments for a period of two years from the date of their initial certification. Prior to the expiration of each two year period, attorneys receive multiple re-certification notifications on how to maintain their eligibility for

court appointments. Attorneys wishing to maintain certification for court appointed work are required to complete the one page re-certification form. Attorneys must include on the form the information verifying their completion of the statutorily required number of Commission and MCLE-approved continuing legal education credits.

**3. VIRGINIA CODE § 19.2-163.01(A)(3) - Maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as court-appointed counsel for indigent defendants based upon the official standards. Disseminate the list by July 1 of each year and updates throughout the year to the Office of the Executive Secretary of the Supreme Court for distribution to the courts.**

ACeS (Attorney Certification System) is an online system that allows attorneys to apply, renew and modify their certification status via the VIDC website. ACeS continually updates the certified counsel list located on the VIDC website and is accessible by court personnel to retrieve the names of certified attorneys by case type and judicial circuit/district

As of June 30, 2017, the number of certified attorneys totaled 2,299 and the total attorneys certified by case type were as follows: **(NOTE: An attorney may be certified for more than one case type.)**

Case Type	Number of Certified Attorneys 6/30/16	Number of Certified Attorneys 6/30/17	Annual Change %
Capital Appellate	23	24	+4.3
Capital Habeas	17	18	+5.5
Capital Trial Co-Counsel	117	122	+4.1
Capital Trial Lead Counsel	67	70	+4.2
Felony	1747	1766	+1.2
Juvenile	1015	1011	-0.4
Misdemeanor	2129	2118	-0.5

**4. VIRGINIA CODE § 19.2-163.01(A)(4) - Establish official standards of practice for court-appointed counsel and public defenders to follow in representing their clients and guidelines for the removal of an attorney from the official list. Notify the Office of the Executive Secretary of the Supreme Court of any attorney whose name has been removed from the list.**

The Standards of Practice for Indigent Defense Counsel in non-capital cases are located on the VIDC website. The Standards of Practice complaint process and the complaint form are also located on the website.

A list is sent to the Office of the Executive Secretary every four months advising of attorneys who have not been re-certified or who have been removed from the certified counsel list for other reasons. The most recent list of ineligible attorneys was provided on June 1, 2017.

The Commission voted in September of 2016 to amend the Standards of Practice to emphasize the responsibilities of defense counsel when representing non-citizens in criminal cases. Case law from both the United States Supreme Court and Virginia Supreme Court prompted a significant review of the Standards. Staff conducted a thorough review of the case law and prepared the revisions which were approved by the Commission. The new live certification training that premiered in June 2017 was followed by an additional 2.5 hours of MCLE approved training which focused on the representation of non-citizens.

Previously implemented efforts to raise awareness of the Standards of Practice and the enforcement thereof have continued. Currently, VIDC training programs incorporate the Standards of Practice whenever applicable.

**5. VIRGINIA CODE § 19.2-163.01(A)(5) - Develop initial training courses for public defenders and to review and certify legal education courses that satisfy the continuing requirements for public defenders to maintain their eligibility.**

All public defenders must receive the same certification training as any attorney seeking to serve as court-appointed counsel. In keeping with the revised Standards of Practice, now all public defenders must also complete a three hour training on defending non-citizens. Finally, all public defenders serving as their office's appellate supervisor must attend a specialized appellate training. Further, every public defender must attend the annual conference.

All newly hired attorneys must attend an intensive multi-day "Boot Camp" and complete a two-part online appellate training once hired and before handling their first appeal. "Boot Camp" is an intensive four day legal training program that continues to be a success. In keeping with the goal of constantly improving the quality of representation this year the entire program was reworked. All the high quality trial skills training remain but the program was expanded to address the rewards and challenges of public defense with a goal of developing a client-centered practice. The program remains staffed by experienced public defender leaders. The new focus was well received by both participants and faculty. The new program is one part of an overall strategy to recruit, train, and retain quality attorneys who want to serve as public defenders.

The 2017 Annual Public Defender Conference will be held October 17-18, 2017 in Portsmouth, Virginia. The VIDC continues to hold the conference in the Tidewater region because the largest concentration of offices is in this area, resulting in a significant cost savings. The annual conference provides all public defenders with the opportunity to earn half of the required continuing legal education credit and maintain eligibility. The VIDC strives to provide a wide range of topics using experienced senior trial attorneys from across the Commonwealth as well as noted national experts. This year's plenary speakers include Philip Hirschkop recent recipient of the Virginia State Bar, Harry L. Carrico Professionalism Award, and Betty Layne Desportes the first criminal defense attorney to serve as President of the American Academy of

Forensic Science. The conference, as always, will provide specific ethics, appellate, and juvenile training.

The VIDC continued to demonstrate its commitment in providing management training to all supervising attorneys within the Public and Capital Defender offices. In March 2017, the VIDC held its sixth annual Management Conference with the majority of the agency's supervising attorneys in attendance. The Conference is an opportunity for Chief Capital and Public Defenders, Deputy Public Defenders, and supervising Senior Assistant Public Defenders to receive education in areas related to managing both people and processes. This year's event focused on recognizing and delivering client-centered representation. The conference included an in-depth review of proper use of social media both from the perspective of the employee and manager. Attendees were then educated, using research and data, on both the extraordinary stressful nature of becoming involved in the criminal justice system, and the life altering impact of each day someone is incarcerated. The leaders then engaged in a mapping exercise to find ways to improve office process and procedure, with an eye to mitigating this damage, and provide more immediate representation. Through these break-out sessions and peer-to-peer collaboration, leaders gained practical tools and best practices that could be implemented within their own offices. Chief Public Defenders were encouraged to conduct a similar workshop with their own staff and continue to seek ways to improve the client experience.

**6. VIRGINIA CODE § 19.2-163.01(A)(6) - Periodically review and report to the Virginia State Crime Commission, the House and the Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the caseload handled by each public defender office.**

The VIDC counts cases by the number of individual clients represented, rather than by the number of charges defended. Many cases involve more than one charge. (See **Appendix A**,

**VIDC FY17 Caseload and Charge Data).** These totals include appeals to both the Court of Appeals of Virginia and Supreme Court of Virginia.

**7. VIRGINIA CODE § 19.2-163.01(B) - Commission shall adopt Rules and Procedures for the conduct of its business.**

The VIDC adopted its policies and procedures in November 2006. The policies and procedures are reviewed and updated as necessary, but no less than annually. This year the Commission voted on amendments to the policies at the March Commission meeting. The policies are accessible electronically to all employees via the VIDC intranet and MOAT, the IT security training program. All employees must acknowledge receipt of the Policies as part of the annual IT security training.

**8. VIRGINIA CODE § 19.2-163.01(A)(14) - Report annually on or before October 1 to the Virginia State Crime Commission, the House and Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the state of indigent criminal defense in the Commonwealth, including Virginia's ranking amongst the 50 states in terms of pay allowed for court-appointed counsel appointed pursuant to §19.2-159 or subdivision B2 of §16.1-266.**

A 2005 ABA report, Rates of Compensation Paid to Court-Appointed Counsel in Non-Capital Felony Cases at Trial: A State-by-State Overview, noted that Virginia's caps on court-appointed compensation placed its fees among the lowest in the nation.<sup>2</sup>

This report, specifically the ranking, sparked debate in Virginia, the result of which was an added requirement on the VIDC to report on Virginia's ranking among the fifty states for compensation of court-appointed counsel.

State-to-state comparisons are difficult because the structure and funding of indigent defense systems vary nationwide. Pursuant to Va. Code § 19.2-163, an attorney appointed to represent an indigent defendant in Virginia is compensated at an hourly rate set by the Supreme Court. The total amount or cap to be paid is set by statute and may not exceed \$120.00 for a

misdemeanor in general district court, \$1,235.00 for a felony charge where the maximum period of confinement is more than 20 years, and \$445.00 for any other felony in circuit court. Fee cap waivers are available up to an additional \$120 for misdemeanors or juvenile cases in the district court (unless the juvenile case is a class 2 felony, then the waiver amount could equal up to an additional \$650). Felony charges with a penalty of 20 years or more can receive an additional waiver of up to \$850. Other felony charges may receive an additional waiver of up to \$155. With approval of the judge, Virginia also allows for a second level waiver in certain cases. These caps, even with the initial waiver, remain some of the lowest in the nation. For a comparative look at the states see (Appendix B, State Comparisons Chart).

Compensation for court appointed counsel in Virginia on appeal is governed by Virginia Code §19.2-326 which provides in part “In felony or misdemeanor case...the court which an appeal is taken shall order the payment of such attorneys’ fees in an amount not less than \$300, cost or necessary expenses of such attorneys in an amount deemed reasonable by the court, by the Commonwealth out the appropriation for criminal charges. If the conviction is upheld on appeal, the attorney’s fees, cost and necessary expenses of such attorney paid by the Commonwealth under provision hereof shall be assessed against the defendant.”

According to the Supreme Court, during the writ stage each appeal is looked at on its own basis. Where there is a dismissal based on a procedural default the attorney receives nothing. Otherwise, generally, there is a minimum payment of \$400 and maximum of \$1200. In the case of a guilty plea, *Alford* plea, Anders petition, or probation violations there is a flat rate of \$400, whether or not there is oral argument. For other types of writ cases, there is a base rate of about \$400, where there is no oral argument. The attorney will receive \$400 if the petition is generally the same as the petition filed in the Court of Appeals. If there is a new

petition, where the attorney substantively addresses the Court of Appeals in the argument sections, there will be a bump of, generally, \$100. If it is a complicated case, like a capital non-death or a case with voluminous transcripts, additional money may be considered. If there is an oral argument, whether before the panel of Justices or Chief Staff Attorney, there is another bump of, generally, \$100. But, to get the \$100, it has to be more than just showing up for the argument and relying on brief. There are slight adjustments, downward, if the case is only a misdemeanor. What results in the difference between the range of \$400 and \$1200 is type of appeal; substantive oral argument; and whether there is a "new" petition in the Supreme Court. All this is only for the writ stage not for merit cases in the Supreme Court of Virginia.

In the Virginia Court of Appeals there is a clear fee structure as follows:

For writ stage if the case only involves misdemeanors the compensation is \$300 and if the appeal involves felony, \$400 and an extra \$100 if there is an oral argument. For the merit stage the total amounts which include writ and merit stages are as follows: If appeal only involves misdemeanors the compensation is \$625 and \$725 if the appeal involves a felony. If a rehearing en banc is granted the attorney is entitled to an extra \$200.

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<sup>1</sup> U.S. Const. Amend. VI

<sup>2</sup> ABA, Rates of Compensation Paid to Court-Appointed Counsel in Non-Capital Felony Cases at Trial: A State-by-State Overview, The Spangenberg Group (August 2005)



## Appendix A, VIDC FY17 Caseload Data

Office Caseload FY2017 (including Appeals)

Office	Total Cases	Charges
Alexandria	1977	3561
Arlington	1886	3009
Bedford	1428	2427
Charlottesville	2562	4666
Chesapeake	4097	8730
Danville	2121	3087
Fairfax	6185	10642
Franklin	1209	2622
Fredericksburg	6723	14847
Halifax	1606	2775
Hampton	3823	6360
Leesburg	4229	6078
Lynchburg	2721	4370
Martinsville	2433	4056
Newport News	5058	9845
Norfolk	5526	10483
Petersburg	1423	2584
Portsmouth	3774	6514
Pulaski	1922	3459
Richmond	9100	16350
Roanoke	4056	6710
Staunton	3969	7005
Suffolk	1848	3649
Virginia Beach	8367	14120
Winchester	3172	5178

## Appendix B, State Comparisons Chart

STATE	HOURLY RATE	CAPS	AUTHORITY/NOTES
Alabama	\$70	Capital Case: No cap Class A Felony: \$4,000 Class B Felony: \$3,000 Class C Felony: \$2,000 Juvenile: \$2,500 All Other Cases: \$1,500	Code of Ala §15-12-21 (2015) Counsel shall be entitled to reimbursement of non-overhead expenses, with expenses exceeding \$300 subject to advance approval by the trial court.
Alaska	\$60 in-court \$50 out-of-court	Misdemeanor - Guilty Plea, No Contest Plea, or Dismissal: \$400  Misdemeanor - Trial: \$800  Felony - Guilty Plea, No Contest Plea, or Dismissal: \$2,000  Felony - Trial: \$4,000  Probation Violation - Misdemeanor: \$350  Probation Violation - Felony: \$1,000	2 Alaska Admin. Code 60.010 (2014)
Arizona	Varies	Varies (Judicial discretion)	A.R.S. § 13-4013 (2014) “Compensation for services rendered to the defendant shall be in an amount that the court in its discretion deems reasonable, considering the services performed.”
Arkansas	\$90-110 - Capital \$70-90 - Homicide Class A or Y Felony	N/A	A.C.A. § 16-87-211 (2014) (Statute directs the Arkansas Public Defender Commission to set guidelines for court-appointed

	\$60-80 - Other Felony  \$50-80 - Dist. Ct. or Juvenile		attorney compensation).
California	Varies	Varies	Cal Pen Code § 987.2 (2014) Ca. Pen Code § 987.3 (2014) The court determines reasonable compensation.
Colorado	\$90 - Capital Cases  \$80 - Type A Felony  \$75 - Type B Felony, Juvenile  \$70 - Misdemeanor, Traffic  \$70 – Travel	Class 1 Felony & unclassified felonies where max. penalty is death, life, or 51+ years: \$28,000 (with trial), \$14,000 (without trial)  Class 2 Felony, DF 1 felonies, & unclassified felonies where max. penalty is 41-50 years: \$12,000 (with trial), \$6,000 (without trial)  Class 3-6 Felonies, DF 2-4 felonies, & unclassified felonies where max. penalty is 1-40 years: \$7,000 (with trial), \$3,500 (without trial)  Class 1-3 Misdemeanors, unclassified misdemeanors, & petty offenses: \$2,500 (with trial), \$1,250 (without trial)  Juvenile: \$5,000 (trial)/ \$2,500 (without trial)	Chief Justice Directive 04-04 (Amended November 2014)
Connecticut	\$75 - Felony, Serious Juvenile Offenses, Habeas Corpus, Appellate  \$50 - Misdemeanor  \$100 - Capital	Flat Fee Cases: Judicial District: \$1,000  Geographical Area: \$350  Juvenile Delinquency: \$350	Conn. Gen. Stat. § 51-291 (2014) By statute, the Chief Public Defender establishes the compensation for court-appointed attorneys.  Cases are EITHER paid on an hourly rate or a flat fee and are assigned as such pursuant to the contract with the

			attorney.
Delaware	\$60	Felony: \$2,000 (per attorney)  Misdemeanors: \$1,000 (per attorney)	Delaware Rules of Criminal Procedure Rule 44 (2015) Rule includes provisions for exceeding caps.
District of Columbia	\$60 - in-court (may be waived up to \$75)  \$40 - out-of-court (may be waived up to \$75)	Felony: \$7,000 (per attorney)  Misdemeanor: \$2,000 (per attorney)	18 U.S.C. § 3006A (2015) “The compensation maximum amounts... shall increase simultaneously by the same percentage, rounded to the nearest multiple of \$100, as the aggregate percentage increases in the maximum hourly compensation rate paid pursuant to paragraph (1) for time expended since the case maximum amounts were last adjusted”  Statute includes provisions for exceeding caps.  Also see “ <b>CAPS</b> ”
Florida	Flat Fees	Flat Fees not to exceed: Capital: \$25,000  Felony (Life and Non – Life): \$15,000  Misdemeanors & Juveniles: \$1,000  Appeal: \$9,000	Fla. Stat. § 27.5304 (2015) Statute includes provisions for exceeding caps.
Georgia	By contract	By contract	O.C.G.A. § 17-12-22 (2014) Georgia Public Defender Standards Council contracts with individual attorneys for conflict appointment.
Hawaii	\$90	Felony: \$6,000  Misdemeanor (jury trial): \$3,000  Misdemeanor (jury waived): \$1,500  Petty Misdemeanor: \$900	HRS § 802-5 (2015) Statute includes provisions for exceeding caps.

		Appeals: \$5,000	
Idaho	Set by Court	Set by Court	Idaho Code § 19-860 (2014) (Code refers to public defenders and was amended to delete information regarding court appointed counsel; however, local judicial rules state that the court assigns a reasonable rate of compensation). First Judicial District Rule 10: Attorneys are to submit monthly vouchers for payment.
Illinois	Reasonable Fee as set by the Court  In Counties with populations greater than 2 million people:  \$40 - in-court  \$30 - out-of-court	Reasonable Fee as set by the Court  In Counties with populations greater than 2 million people:  Felony: \$1,250  Misdemeanor: \$150	725 ILCS 5/113-3 (2015) Statute includes provisions for exceeding caps.
Indiana	\$90	N/A	Burns Ind. Code Ann. § 33-40-8-2 (2014) states that “a judge shall establish the fee to be paid to an attorney or attorneys for providing services to poor people.” Indiana Public Defender Commission Standards for Indigent Defense Services in Non-Capital Cases set the hourly rate.
Iowa	\$70 - Class A Felony  \$65 - Class B Felony  \$60 - All other cases	( <i>Adult Cases</i> )  Class A Felony: \$18,000  Class B Felony: \$3,600  Class C Felony: \$1,800  Class D Felony: \$1,200  Aggravated Misdemeanors: \$1,200  Serious Misdemeanors:	Iowa Code § 13B.4 (2013) - Flat fee contracts Iowa Code § 815.7 (2013) - Hourly rates  Iowa Code § 815.10A (2015) Statute includes provisions for exceeding caps.  State Public Defender Administrative Rules Chapter 12.6

		<p>\$600</p> <p>Simple Misdemeanors: \$300</p> <p>Misdemeanor appeals to District Court: \$300</p> <p>Contempt/Show Cause: \$300</p> <p>Probation/Parole violations: \$300</p> <p>Juvenile Cases –</p> <p>Delinquency: \$1,200</p> <p>Juvenile Court Review: \$300</p> <p>Judicial Bypass Hearings: \$180</p> <p>Juvenile Commitment Hearings: \$180</p> <p>Juvenile Petition on Appeal: \$600</p> <p>Motion for Further Review after Petition on Appeal: \$300</p>	
Kansas	<p>\$80 (Negotiable)</p> <p>\$70 - Assigned Attorneys</p>	<p>Non-tried cases -</p> <p>Felony 1-5: \$1,400</p> <p>Felony 6-10: \$1,050</p> <p>Probation Revocations: \$280</p> <p>Tried cases -</p> <p>Felony 1-3, off-grid felony offenses, felony drug offenses level 1: \$7,000</p>	<p>K.S.A. § 22-4507 (2013)</p> <p>The Court can negotiate a lower hourly rate with attorneys willing to accept court appointments. If appropriations for payments are insufficient, the state board of indigent's defense services can establish a formula for pro rata payments.</p> <p>Kansas Administrative Regulations 105-5-2, 105-5-6-7</p> <p>When a public defender, contract counsel, or conflict attorney is unavailable, then the court will assign counsel who are paid at a rate</p>

		<p>Felony 4, felony drug offenses 2-4: \$2,800</p> <p>Felony 5-10: \$2,1000</p>	<p>of \$62/hr.</p> <p>Kansas Administrative Regulations 105-5-8 (2015)</p> <p>Statute includes provisions for exceeding caps.</p>
Kentucky	<p>Policy 8.04 &amp; 8.06</p> <p>\$75 – Capital Cases</p> <p>\$50 – Violent Felonies</p> <p>\$40 – Non-Violent Felonies</p> <p>\$40 – Transfer Hearing (YO Cases)</p> <p>\$40 – Juvenile &amp; Misdemeanor</p> <p>\$35 – Direct Appeal (in-court)</p> <p>\$25 – Direct Appeal (out-of-court)</p> <p>\$35 – Probation Revocation Appeal (in-court)</p> <p>\$25 – Probation Revocation Appeal (out-of-court)</p>	<p>Policy 8.04 &amp; 8.06</p> <p>Capital Cases: \$30,000</p> <p>Violent Felonies: \$1,500 (w/ trial), \$1,200 (w/out trial)</p> <p>Non-Violent Felonies: \$900 (w/ trial), \$600 (w/out trial)</p> <p>Juvenile &amp; Misdemeanor: \$300</p> <p>Capital Cases (Appellate Work): \$5,000</p> <p>Direct Appeal: \$750</p> <p>Probation Revocation Appeal: \$350</p>	<p>KRS § 31.235 (2014)</p> <p>The court shall pay reasonable and necessary fees but not in excess of fees established by the Department of Public Advocacy.</p>
Louisiana	Flat fee contracts	Flat fee contracts	<p>La. R.S. 15:147(C)(1) (2013)</p> <p>The Louisiana Public Defender Board enters into contracts with attorneys to provide indigent defense services.</p>
Maine	\$60	<p>Murder: Fee to be set by Executive Director</p> <p>Class A: \$3,000</p> <p>Class B and C (against person): \$2,250</p>	<p>15 M.R.S. § 810 (2015)</p> <p>4 M.R.S. § 1804(3)(F) (2015)</p> <p>The Maine Commission on Indigent Legal Services sets the rate for court appointed counsel.</p> <p>Code of Maine Rules § 94-649, Chapter 301</p>

		<p>Class B and C (against property): \$1,500</p> <p>Class D and E (Superior or Unified Criminal Court): \$750</p> <p>Class D and E (District Court): \$540</p> <p>Probation Revocations: \$540</p> <p>Juvenile: \$540</p>	
Maryland	Same hourly rate as federal panel attorneys.	<p>District Court - federal misdemeanor</p> <p>Circuit Court - federal felony</p> <p>Juvenile Court - federal felony</p>	<p>Md. Criminal Procedure Code Ann. § 16-207 (2014)</p> <p>The Public Defender prepares schedules for fees and expenses for panel attorneys.</p> <p>Maryland Administrative Code 14.06.02.06</p> <p>Attorneys are compensated at the same hourly rate as federal panel attorneys.</p>
Massachusetts	<p>\$100 - Homicide</p> <p>\$60 - Superior Court non-homicide</p> <p>\$50 - District Court</p>	Annual cap on billable hours: 1,650	<p>ALM Gl ch. 211D, §11 (2014)</p> <p><u>Note:</u> Counsel may not accept new appointments or assignments after billing 1,350 billable hours, except in homicide cases.</p>
Michigan	Set by the Court	Set by the Court	<p>MCLS § 775.16 (2014)</p> <p>The statute covers appointment of counsel, but the case law notes following the statute state that the court sets the rates.</p>
Minnesota	State Board of Public Defense determines rates	State Board of Public Defense determines rates	<p>Minn. Stat. §611.215 (2014)</p> <p>State Board of Public Defense responsible for appointment of counsel and collection of costs.</p> <p>Minn. Stat. §611.27 (2014)</p> <p>The state's obligation for the costs of the public defender services (including court-appointed attorney fees) is limited to the appropriations</p>



			made to the Board of Public Defense. Miss. Code Ann. §99-15-17 (2013)
Mississippi	Set by the Court	Circuit Court: \$1,000  Court not of record: \$200  Capital Cases: \$2,000  Appeals to State Supreme Court: \$1,000	
Missouri	Flat fee contracts  Missouri State Public Defender Website – Panel Attorney Payments, Contract Fee Schedule <a href="http://www.publicdefender.mo.gov/contracts/res_panel_atty_payments.htm">http://www.publicdefender.mo.gov/contracts/res_panel_atty_payments.htm</a>  Jury Trial - \$1,500 for 1 <sup>st</sup> day, \$750 for each additional day (partial days prorated)  Bench Trial - \$750/day, prorated	Murder first degree: \$10,000  Other homicide: \$6,000  Felony Class A/B - Drugs: \$750  Felony Class A/B- Other: \$1,500  Felony Class A/B - Sex: \$2,000  Felony Class C/D - Drugs: \$750  Felony Class C/D - Other: \$750  Felony Class C/D - Sex: \$1,500  Misdemeanor: \$375  Juvenile - Non-violent offense: \$500  Juvenile - Violent offense: \$750  Probation Violation: \$375  Direct Appeal: \$3,750  Direct Appeal (If Counsel Previously Worked on Case at Trial): \$1,875	§600.042 R.S.Mo. (2014) The state Public Defender contracts with private attorneys for legal services. §600.021 R.S.Mo. (2014) The commission contracts with private attorneys to provide defense services.

Montana	\$62  \$120 – Capital Defense	N/A	47-1-216, MCA (2013) The Commission adopts rules to provide reasonable compensation to contract attorneys.
Nebraska	Set by Court or Public Defender Commission	N/A	R.R.S. Neb. §29-3927 (2013) Public Defender Commission is responsible for determining compensation rates for contracting attorneys and court-appointed attorneys.  R.R.S. Neb §29-3905 (2013) Allows the court to fix reasonable expenses and fees.
Nevada	\$125 - Capital cases  \$100 - all other cases	Capital, or life case: \$20,000  Felony not punishable by death or life in prison: \$2,500  Misdemeanor: \$750  Gross Misdemeanor or Felony Appeal: \$2,500  Misdemeanor Appeals: \$750	Nev. Rev. Stat. Ann. §7.125 (2015) Statute includes provisions for exceeding caps.
New Hampshire	\$100 – Major Crimes \$60 – all others	Homicides under RSA 630:1-2 (per co-counsel): \$20,000 Felony – Sexual Assault: \$8,000 Felony: \$4,100 Misdemeanor: \$1,400 Supreme Court Appeals: \$2,000	Rules of the Supreme Court of the State of New Hampshire, Rule 47 (2015)  Statute includes provisions for exceeding caps.
New Jersey	\$60 - in-court  \$50 - out-of-court  \$252 - full day (per diem)	N/A	N.J. Stat. §2A:158A-7 (2015) Public Defender establishes compensation with contract attorneys. OPD Pool Attorney Application Process sets current rates.

	<p>\$60 – in-court (appellate cases)</p> <p>\$50 – out-of-court (appellate cases)</p> <p>\$250 – Oral Argument (appellate cases)</p>		
New Mexico	<p>Flat-fee contracts</p> <p>Hourly rate in 5 counties (see Notes)</p> <p>\$85</p>	<p>1<sup>st</sup> Degree Murder: \$5,400</p> <p>1<sup>st</sup> Degree Felony (Life Imprisonment): \$5,400</p> <p>1<sup>st</sup> Degree Felony (Judicial Districts 5, 9 &amp; 10): \$750</p> <p>1<sup>st</sup> Degree Felony (All Other Districts): \$700</p> <p>2<sup>nd</sup> Degree Felony (Districts 5, 9 &amp; 10): \$730</p> <p>2<sup>nd</sup> Degree Felony (All Other Districts): \$650</p> <p>3<sup>rd</sup> Degree Felony (Districts 5, 9 &amp; 10): \$700</p> <p>3<sup>rd</sup> Degree Felony (All Other Districts): \$595</p> <p>4<sup>th</sup> Degree Felony (Districts 5, 9 &amp; 10): \$650</p> <p>4<sup>th</sup> Degree Felony (All Other Districts): \$540</p> <p>Juvenile (District 5): \$300</p> <p>Juvenile (All Other Districts): \$250</p> <p>Misdemeanor Trial: \$100</p> <p>Retrial: Half the Original Fee</p>	<p>N.M. Stat. Ann. §31-15-7 (2015) Public Defender to establish fee schedule for court appointed counsel.</p> <p>Public Defender Contract Counsel Sample Contract Lists flat fee schedules.</p>

		<p>District Court Appeals –</p> <p>1<sup>st</sup> Degree Murder: \$2,700</p> <p>Summary Cases (First Memo): \$540</p> <p>Summary Cases (Subsequent Memo): \$216</p> <p>Certiorari Petitions: \$162-\$540</p> <p>Oral Argument (Non-Capital Cases): \$486</p> <p>Certiorari Petition (US Supreme Court): \$1,890</p> <p>Special Motions: \$297</p> <p>All Other General Calendar Appeal Cases: \$1,080-\$3,2400</p>	
New York	<p>\$75 - Felony</p> <p>\$60 - Misdemeanor</p>	<p>Felony: \$4,400</p> <p>Misdemeanor: \$2,400</p>	<p>NY CLS County §722-b (2015)</p> <p>None</p>
North Carolina	<p>\$70 - Class A-D felony</p> <p>\$55 - All other cases resolved in district court</p> <p>\$60 - All other cases resolved in Superior Court</p> <p>\$60 - Parole and post-release revocation hearings</p> <p>\$55 – Competency Cases</p> <p>\$70 – Non-Capital Appeals and Post-Conviction (A-D Felony)</p>	N/A	<p>N.C. Gen. Stat. § 7A-498.5 (2015)</p> <p>Office of Indigent Defense Services responsible for setting rates.</p> <p>Private Assigned Counsel Rates were updated in March of 2014.</p>

	\$60 – All other Non-Capital Appeals and Post-Conviction		
North Dakota	By contract  According to Commission office, standard monthly contract rate is \$75/hr.	Presumed rate system  Felony - \$575 (7 hours of work)  Misdemeanor - \$300 (4 hours of work)  Juvenile - \$375 (5 hours of work)  Juvenile (non-TPR) - \$450  Appeal - \$2,250	N.D. Cent. Code, § 54-61-02 (2014) Commission on Legal Counsel has authority to set fees. Statute does not mention specific hourly rates.
Ohio	\$60 - in-court  \$50 - out-of-court  \$95 – Capital Case	Felony with Possible Life Sentence/Repeat Violent Offender/Major Drug Offender: \$5,000  Felony - Deg. 1-3: \$3,000  Felony - Deg. 4-5: \$2,500  Misdemeanor - Deg. 1-4: \$1,000  Contempt: \$300  Probation violations: \$500  Juvenile: \$1,000  Aggravated Murder (w/ specs) - \$75,000  Aggravated Murder (w/o specs) - \$8,000/1 attorney, \$10,000/2 attorneys  Appellate Level Proceedings –  Aggravated Murder (death	ORC Ann. 120.33 (2014) The Board of County Commissioners shall establish a schedule of fees by case or an hourly basis. The County must file an up-to-date fee schedule with the Ohio Public Defender, who then will reimburse up to the maximum set by the Ohio Public Defender State Maximum Fee Schedule.  Ohio Public Defender State Maximum Fee Schedule For Appointed Counsel Reimbursement  Statute includes provisions for exceeding caps.

		<p>sentence) - \$25,000</p> <p>Aggravated Murder (sentence other than death) - \$5,000</p> <p>Murder with Life Sentence/Repeat Violent Offender/Major Drug Offender/Sexually Violent Predator - \$3,000</p> <p>Felonies/SB2 &amp; HB1 Appeals - \$1,500</p> <p>Misdemeanors - \$1,000</p> <p>Other/Juvenile - \$1,000</p>	
Oklahoma	Flat-fee contracts	<p>Felony: \$3,500</p> <p>Misdemeanor, Juvenile, Traffic: \$800</p>	22 Okl. St. §1355.8 (2014) Statute includes provisions for exceeding caps.
Oregon	<p>\$61 - Capital lead counsel</p> <p>\$46 - Capital co-counsel</p> <p>\$46 - Non-capital cases</p>	N/A	ORS §151.216 (2015) The Public Defense Services Commission adopts guidelines regarding the fair compensation of appointed counsel located in the Public Defense Policies and Procedures, Exhibit 3.
Pennsylvania	Set by the Court	Set by the Court	16 P.S. §9960.7 (2014) Attorney to be rewarded reasonable compensation to be fixed by the Court.
Rhode Island	<p>\$100 - Murder</p> <p>\$90 - Class 1 Felony</p> <p>\$60 - Class 2 Felony</p> <p>\$50 - Misdemeanor Appeal (Superior Court)</p> <p>\$30 - Violation of Court</p>	<p>Murder: \$15,000</p> <p>Class 1 Felony: \$10,000</p> <p>Class 2 Felony: \$5,000</p> <p>Misdemeanor Appeal (Superior Court): \$1,500</p> <p>Violation of Court Order</p>	<p>General Laws of Rhode Island §8-15-2</p> <p>Supreme Court Executive Order No. 2012-06</p>

	<p>Order (non-payment of fines, costs)</p> <p>\$35 - Adult Criminal Trial in Family Court</p> <p>\$30 – Delinquency</p> <p>\$75 – Criminal Appeal</p> <p>\$75 – Misc. Petition</p> <p>Superior Court –</p> <p>\$200/day – Courtroom 14 (Fines, Costs, and/or Restitution Calendar), Licht Judicial Complex</p> <p>\$200/day – Courtroom 5-G (Pre-arraignment Calendar), Providence/Bristol County</p> <p>\$200/day – Courtroom 9 (Daily Criminal Calendar), Providence/Bristol County</p> <p>Family Court –</p> <p>\$30 – Delinquency (Arrestment)</p> <p>District Court –</p> <p>\$50 – DUI</p> <p>\$50 – Misdemeanor</p>	<p>(non-payment of fines, costs): \$1,500</p> <p>Adult Criminal Trial in Family Court: \$2,500</p> <p>Delinquency: \$1,000</p> <p>Criminal Appeal: \$3,000</p> <p>Misc. Petition: \$3,000</p> <p>Family Court –</p> <p>Delinquency (Review): \$2,000</p> <p>District Court –</p> <p>DUI: \$2,500</p> <p>Misdemeanor: \$1,500</p>	
South Carolina	<p>\$60 - in-court</p> <p>\$40 - out-of-court</p>	<p>Felony: \$3,500</p> <p>Misdemeanor: \$1,000</p>	S.C. Code Ann. §17-3-50 (2015)
South Dakota	\$92	N/A	S.D. Codified Laws § 23A-40-8 (2015) Reasonable amount to be paid based

			upon guidelines established by the presiding judge of the circuit court. See Unified Judicial System Policies Regarding Court-Appointed Attorney Fees.
Tennessee	<i>(Non-Capital Cases)</i> \$50 - in-court \$40 - out-of-court	First Degree Murder or Class A or B felony in trial court: \$2,500  Any other felony in trial court: \$1,500  Felony preliminary hearing, misdemeanor, probation violation, juvenile: \$1,000  Contempt of Court, parole revocation: \$500	Tennessee Supreme Court Rule 13  Rule includes provisions for exceeding caps.
Texas	Court sets rate	Court sets fee	Texas Code of Criminal Procedure Article 26.05
Utah	Court sets rate	Felony: \$3,500  Misdemeanor: \$1,000  Appellate Court: \$2,500	Utah Code Ann. § 77-32-304.5 (2014)
Vermont	\$50	Felony with possible life sentence or death penalty: \$25,000  Other major felony: \$5,000  Minor felony or Juvenile: \$2,000  Misdemeanors & all other proceedings: \$1,000  Appeals: \$2,000	Vt. A.O. 4 §6 (2014) 13 V.S.A. § 5205 (2015)
Virginia	\$90	Felony with 20 years or more sentence (resolved in district court or circuit court): \$1,235	Va. Code § 19.2-163 Fee cap waivers are available up to an additional \$120 for misdemeanors or juvenile cases in the district court (unless the juvenile case is a class 2



		<p>Other felony (resolved in district court or circuit court): \$445</p> <p>Misdemeanor in Circuit Court: \$158</p> <p>District Court cases (misdemeanors, felony preliminary hearings where the felony was not resolved in district court): \$120</p>	<p>felony, then the waiver amount could equal up to an additional \$650). Felony charges with a penalty of 20 year or more can receive an additional waiver of up to \$850. Other felony charges may receive an additional waiver of up to \$155. With approval of the judge, Virginia also allows for a second level waiver in certain cases.</p>
Washington	Set by Court	Set by Court	Rev. Code Wash. (ARCW) §36.26.090 (2015)
West Virginia	<p>\$65 - in-court</p> <p>\$45 - out-of-court</p>	<p>Felony offenses with possibility of life in prison: court discretion</p> <p>All other cases: \$3,000</p>	W. Va. Code §29-21-13(a) (2015) Statute includes provisions for exceeding caps.
Wisconsin	<p>\$45 - in-court</p> <p>\$35 - out-of-court</p>	N/A	Wis. Stat. § 977.08 (2015)
Wyoming	<p>\$100 - in court</p> <p>\$35-60 - out-of-court</p>	N/A	Wyoming Rules of Criminal Procedure Rule 44(e)