Virginia Indigent Defense Commission

Annual Report 2015

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FY15 - Commission Members and (Appointing Authorities)

Chairman (July 2009 – Present)
The Honorable Alan E. Rosenblatt (ret.) (Senate of Virginia)

Steven D. Benjamin (Senate of Virginia)
John G. Douglass (Virginia State Bar)
Karl R. Hade, Executive Secretary of the Supreme Court
The Honorable Edward W. Hanson, Jr. (Senate of Virginia)
Kristen Howard (Crime Commission, designee)
Guy W. Horsley (Speaker of the House)
Vacant (Virginia State Bar)
The Honorable J. Randall Minchew (Virginia House of Delegates)
Thomas R. Chaffe (Governor)
The Honorable Richard Stuart (Senate of Virginia)
David D. Walker (Speaker of the House)
Carmen B. Williams (Speaker of the House)
Kristi A. Wooten (Governor)

Commission Staff

Executive Director
David J. Johnson
Deputy Director, ISO
Maria Jankowski
Chief Information Officer
Maurion Edwards
Director, Human Resources and Training
Amy Williams
Director, Budget and Finance
Angela Thompson

Public Defender Offices

Office	Localities Served	Year Established
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

Office	Localities Served	Year Established
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

Office	Localities Served	Year Established
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

A. BACKGROUND

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.[1]

In 2004, in response to a two-year study assessing the then existing methods for providing indigent defense in Virginia, including quality and cost effectiveness, the General Assembly created the VIDC by adding a supervisory governing commission to, expanding the scope of responsibilities of, and renaming the Virginia Public Defender Commission.

B. 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 provided 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. Applications for initial certification and certification renewal 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 have been provided monthly during FY2015 at the administrative office in Richmond and at the Roanoke County Court House Library at no cost to the participants. The Training Department has also provided initial certification and other training DVDs to more than two dozen public defender offices and bar associations throughout the Commonwealth.

Certification training includes six hours of specialized criminal defense instruction and four additional hours of juvenile instruction over a two day period. Additionally, a resource manual is provided. In FY 2016 the VIDC will undertake an overhaul to update and improve the initial certification training for release for viewing by 2017.

The VIDC reviews and certifies legal education courses provided by other organizations to determine whether the courses satisfy the continuing legal education 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 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 informing them 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 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. A letter 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, 2015.

As of June 30, 2015, the number of certified attorneys totaled 2,221 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 6/30/14**	**Number of Certified Attorneys 6/30/15**	**Annual Change**
Capital Appellate	59	48	- 22.9
Capital Habeas	43	35	-22.8
Capital Trial Co-Counsel	197	177	-11.3
Capital Trial Lead Counsel	115	94	-22.3
Felony	1853	1772	-4.6
Juvenile	1139	1068	-6.6
Misdemeanor	2253	2182	-3.2

On September 1, 2015 the list of attorneys qualified to serve as court-appointed counsel in capital cases was purged and a new list is being created. The list will only contain attorneys who have met the new qualification standards promulgated by a committee established by the Supreme Court, State Bar and VIDC to study capital qualification in Virginia.

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.

Previously implemented efforts to raise awareness of the Standards 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.

The VIDC develops and presents training programs for private court-appointed counsel, public defenders and their investigators, sentencing advocates and support staff. All public defenders must receive the same certification training as any attorney seeking to serve as court-appointed counsel. Additionally, every public defender attorney must attend the annual conference. All newly hired attorneys must attend an intensive multi-day “Boot Camp” trial and appellate skills training. Finally, all public defenders serving as appellate supervisor must attend a specialized appellate training.

The 2015 Annual Public Defender Conference will be held October 6-7, 2015 in Hampton, Virginia. The VIDC continues to hold the conference in the Tidewater region because the largest concentration of offices is in this area thus resulting in a significant cost savings. The annual conference provides all public defenders with the opportunity to attend and earn more than half of the required continuing legal education credit. Topics to be covered include: A plenary session on direct and cross examination as well as advocacy in misdemeanor cases. Some of the notable breakout sessions include advocacy in probation violation hearings, DUI/DUID representation, creative motions practice, documentary evidence, character evidence, and defending juveniles who are charged as a result of action in school to name a few.

The VIDC continued to require newly hired public defenders to attend the trial and appellate skills "Boot Camp" training program. "Boot Camp" is an intensive four day program that continues to be a success. The May 12th- 15th, 2015 program had 20 attendees and thirty attended the December 2014 session. Attendees were provided with one hour lectures on Client-Centered Communication, Maneuvering Through General District Court, Preparation and Strategies for the Preliminary Hearing, Cross-Examination and Impeachment, Appeals, Foundations, and Sentencing and Probation Violations. The attorneys also participated in workshops correlating to the lecture topics led by experienced public defender attorneys. The workshops provided the opportunity for hands on training and immediate, direct feedback from senior attorneys within the public defender system.

The VIDC remains committed to providing continuing management training to all of its supervisors within the Public and Capital Defender Offices. In March 2015, the VIDC provided its fourth Management training for all supervising attorneys. The management training is an opportunity for Chief PD's/CD's, Deputies and Supervising Seniors to be trained in the area

related to their supervision and management of the Public and Capital Defender Offices. The management training also provides supervising attorneys with an opportunity to obtain management best practices from other offices.

This year the VIDC held two appellate conferences specifically for court appointed attorneys in January and July of 2015. There was an overwhelming response from the private bar. A total of 140 court appointed attorneys attended both of these conferences. The VIDC partnered with Court of Appeals judges to provide topics such as appellate practice, oral advocacy, preservation of the record, petitions for appeals and opening briefs and drafting assignments of error. Participants indicated that focused attention in the area of appeals was a huge benefit to their practice. We have continued to receive inquiries regarding this conference. There are plans to provide this training regionally.

The VIDC continues to partner with other groups to provide training programs, including the 20th Annual Robert E. Shepherd, Jr. Juvenile Law and Education Conference, held at the University of Richmond on May 16, 2015. The Conference is named for the late Professor Robert Shepherd, Jr., a former Commission Chairman and tireless advocate for the legal rights of children. The Conference provides training and information to children's advocates from all disciplines and is co-sponsored with 8 other organizations. The VIDC continues to play a role in the planning and organization of this important program. This year the program had 155 attendees and some of the topics were Legislative Updates, Understanding Adolescent Development, Advocating for Children in DJJ Custody, and Ethical Issues in Representing Children.

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 FY15 Caseload and Charge Data).** These totals include appeals to both the Court Of Appeals of Virginia and Virginia Supreme Court.

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 and disseminated copies to all employees. The policies and procedures are reviewed and updated as necessary, but no less than annually. The policies are accessible electronically to all employees via the Knowledge Center of the VIDC.

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.[2] The ABA report further indicated that Virginia ranked 49th in the nation based on its compensation for court-appointed counsel.[3]

This report and 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.

Determinative state-to-state comparisons are difficult if not impossible because the structure and funding of indigent defense systems vary nationwide. For example, some states pay by the case or client while others pay by the charge. Further, some states fully fund public defender and court-appointed work at the state level. Some use a combination of funding from the state and local levels while a few leave the funding responsibility entirely to the localities.

By statute, 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 period of confinement is more than 20 years, and $445.00 for any other felony in circuit court. Since the 2005 ABA Report, Virginia approved legislation and funding for payments to private court-appointed counsel above statutory fee caps, and in certain cases, upon approval of the judge, for a second level waiver.[4] For a comparative look at the states see **(Appendix B, State Comparisons Chart)**.

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[1] U.S. Const. Amend. VI
[2] 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)
[3] Id. at 9
[4] Va. Code §19.2-163

Appendix A, VIDC FY15 Caseload Data

Office Caseload FY2015

Office	Total Clients Represented	Charges
Alexandria	2,298	4,071
Arlington	2,012	3,026
Bedford	1202	1,844
Charlottesville	2,236	4,044
Chesapeake	4012	7,593
Danville	2,195	3,314
Fairfax	6,556	10,833
Franklin	1,243	2,416
Fredericksburg	6,748	13,939
Halifax	2,002	3,296
Hampton	3,742	5,784
Leesburg	4,356	6,746
Lynchburg	2,921	4,932
Martinsville	2,116	3,171
Newport News	5,492	10,252
Norfolk	5,888	10,187
Petersburg	1,546	2,753
Portsmouth	4,579	7,331
Pulaski	2,122	3,595
Richmond	10,178	17,580
Roanoke	3,660	6,203
Staunton	3,651	6,200
Suffolk	2,241	4,131
Virginia Beach	9,205	14,776
Winchester	3,632	5,634

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 $60-80 - Other Felony $50-80 - Dist. Ct. or	N/A	A.C.A. § 16-87-211 (2014) (Statute directs the Arkansas Public Defender Commission to set guidelines for court-appointed attorney compensation).

	Juvenile		
California	Varies	Varies	Cal Pen Code § 987.2 (2014) Ca. Pen Code § 987.3 (2014) The court determines reasonable compensation.
Colorado	$85 - Capital Cases $68 - Type A Felony $65 - Type B Felony, Juvenile, Misdemeanor, Traffic $65 – Travel <u>Changes/Updates</u> $90 – Death Penalty $80 – Type A Felony $75 – Type B Felony $70 – Misdemeanor & Traffic (Adult) $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)	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 "**CAPS**"
Florida	Flat Fees	Flat Fees not to exceed: Capital: $25,000 Life Felony: $9,000 Non-Life Felony: $6,000 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 Appeals: $5,000	HRS § 802-5 (2015) Statute includes provisions for exceeding caps.
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	$70	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	(*Adult Cases*) 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: $600 Simple Misdemeanors: $300 Misdemeanor appeals to	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

		District Court: $300 Contempt/Show Cause: $300 Probation/Parole violations: $300 Juvenile Cases – Delinquency: $1,200 Juvenile Court Review: $300 Judicial Bypass Hearings: $180 Juvenile Commitment Hearings: $180 Juvenile Petition on Appeal: $600 Motion for Further Review after Petition on Appeal: $300	
Kansas	$80 (Negotiable) $62 - Assigned Attorneys	Non-tried cases - Felony 1-5: $1,240 Felony drug offense with more than 6 hours work in-court: $1,240 Felony 6-10: $930 Felony drug offenses with less than 6 hours work in-court: $930 Probation Revocations: $248 Tried cases - Felony 1-3, off-grid felony offenses, felony	K.S.A. § 22-4507 (2013) 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. Kansas Administrative Regulations 105-5-2, 105-5-6-7 When a public defender, contract counsel, or conflict attorney is unavailable, then the court will assign counsel who are paid at a rate of $62/hr. Kansas Administrative Regulations 105-5-8 (2015) Statute includes provisions for exceeding caps.

		drug offenses level 1: $6,200 Felony 4, felony drug offenses 2-4: $2,480 Felony 5-10: $1,860	
Kentucky	Policy 8.04 & 8.06 $75 – Capital Cases $50 – Violent Felonies $40 – Non-Violent Felonies $40 – Transfer Hearing (YO Cases) $40 – Juvenile & Misdemeanor $35 – Direct Appeal (in-court) $25 – Direct Appeal (out-of-court) $35 – Probation Revocation Appeal (in-court) $25 – Probation Revocation Appeal (out-of-court)	Policy 8.04 & 8.06 Capital Cases: $30,000 Violent Felonies: $1,500 (w/ trial), $1,200 (w/out trial) Non-Violent Felonies: $900 (w/ trial), $600 (w/ out trial) Juvenile & Misdemeanor: $300 Capital Cases (Appellate Work): $5,000 Direct Appeal: $750 Probation Revocation Appeal: $350	KRS § 31.235 (2014) The court shall pay reasonable and necessary fees but not in excess of fees established by the Department of Public Advocacy.
Louisiana	Flat fee contracts	Flat fee contracts	La. R.S. 15:147(C)(1) (2013) The Louisiana Public Defender Board enters into contracts with attorneys to provide indigent defense services.
Maine	$60	Murder: Fee to be set by Executive Director Class A: $3,000	15 M.R.S. § 810 (2015) 4 M.R.S. § 1804(3)(F) (2015) The Maine Commission on Indigent Legal Services sets the rate for court appointed counsel.

		Class B and C (against person): $2,250 Class B and C (against property): $1,500 Class D and E (Superior or Unified Criminal Court): $749.99 Class D and E (District Court): $540 Probation Revocations: $540 Juvenile: $540	Code of Maine Rules § 94-649, Chapter 301
Maryland	Same hourly rate as federal panel attorneys.	District Court - federal misdemeanor Circuit Court - federal felony Juvenile Court - federal felony	Md. Criminal Procedure Code Ann. § 16-207 (2014) The Public Defender prepares schedules for fees and expenses for panel attorneys. Maryland Administrative Code 14.06.02.06 Attorneys are compensated at the same hourly rate as federal panel attorneys.
Massachusetts	$100 - Homicide $60 - Superior Court non-homicide $50 - District Court	Annual cap on billable hours: 1,650	ALM Gl ch. 211D, §11 (2014) <u>Note:</u> Counsel may not accept new appointments or assignments after billing 1,350 billable hours, except in homicide cases.
Michigan	Set by the Court	Set by the Court	MCLS § 775.16 (2014) The statute covers appointment of counsel, but the case law notes following the statute state that the court sets the rates.
Minnesota	State Board of Public Defense determines rates	State Board of Public Defense determines rates	Minn. Stat. §611.215 (2014) State Board of Public Defense responsible for appointment of counsel and collection of costs. Minn. Stat. §611.27 (2014) The state's obligation for the costs of the public defender services

			(including court-appointed attorney fees) is limited to the appropriations made to the Board of Public Defense.
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	Miss. Code Ann. §99-15-17 (2013)
Missouri	Flat fee contracts Missouri State Public Defender Website – Panel Attorney Payments, Contract Fee Schedule (http://www.publicdefender.mo.gov/contracts/res_Panel_Atty_Payments.htm Jury Trial - $1,500 for 1st 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	§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.

		Previously Worked on Case at Trial): $1,875	
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	$60	Homicides under RSA 630:1-2 (per co-counsel): $20,000 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	N/A	N.J. Stat. §2A:158A-7 (2015) Public Defender establishes compensation with contract attorneys.

	$252 - full day (per diem) $60 – in-court (appellate cases) $50 – out-of-court (appellate cases) $250 – Oral Argument (appellate cases)		OPD Pool Attorney Application Process sets current rates.
New Mexico	Flat-fee contracts Hourly rate in 5 counties (see Notes) $85	1st Degree Murder: $5,400 1st Degree Felony (Life Imprisonment): $5,400 1st Degree Felony (Judicial Districts 5, 9 & 10): $750 1st Degree Felony (All Other Districts): $700 2nd Degree Felony (Districts 5, 9 &10): $730 2nd Degree Felony (All Other Districts): $650 3rd Degree Felony (Districts 5, 9 &10): $700 3rd Degree Felony (All Other Districts): $595 4th Degree Felony (Districts 5, 9 & 10): $650 4th Degree Felony (All Other Districts): $540 Juvenile (District 5): $300 Juvenile (All Other Districts): $250 Misdemeanor Trial: $100	N.M. Stat. Ann. §31-15-7 (2015) Public Defender to establish fee schedule for court appointed counsel. Public Defender Contract Counsel Sample Contract Lists flat fee schedules.

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

	Appeals and Post-Conviction (A-D Felony) $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	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.

		Proceedings – Aggravated Murder (death sentence) - $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/SB2 & HB1 Appeals - $1,500 Misdemeanors - $1,000 Other/Juvenile - $1,000	
Oklahoma	Flat-fee contracts	Felony: $3,500 Misdemeanor, Juvenile, Traffic: $800	22 Okl. St. §1355.8 (2014) Statute includes provisions for exceeding caps.
Oregon	$61 - Capital lead counsel $46 - Capital co-counsel $46 - Non-capital cases	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	$100 - Murder $90 - Class 1 Felony $60 - Class 2 Felony $50 - Misdemeanor	Murder: $15,000 Class 1 Felony: $10,000 Class 2 Felony: $5,000 Misdemeanor Appeal	General Laws of Rhode Island §8-15-2 Supreme Court Executive Order No. 2012-06

	Appeal (Superior Court) $30 - Violation of Court Order (non-payment of fines, costs) $35 - Adult Criminal Trial in Family Court $30 – Delinquency $75 – Criminal Appeal $75 – Misc. Petition Superior Court – $200/day – Courtroom 14 (Fines, Costs, and/or Restitution Calendar), Licht Judicial Complex $200/day – Courtroom 5-G (Pre-arraignment Calendar), Providence/Bristol County $200/day – Courtroom 9 (Daily Criminal Calendar), Providence/Bristol County Family Court – $30 – Delinquency (Arraignment) District Court – $50 – DUI $50 – Misdemeanor	(Superior Court): $1,500 Violation of Court Order (non-payment of fines, costs): $1,500 Adult Criminal Trial in Family Court: $2,500 Delinquency: $1,000 Criminal Appeal: $3,000 Misc. Petition: $3,000 Family Court – Delinquency (Review): $2,000 District Court – DUI: $2,500 Misdemeanor: $1,500	
South Carolina	$60 - in-court $40 - out-of-court	Felony: $3,500 Misdemeanor: $1,000	S.C. Code Ann. §17-3-50 (2015)

South Dakota	$90	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	(*Non-Capital Cases*) $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	Va. Code § 19.2-163 Supreme Court of Virginia Chart of

		in district court or circuit court): $1,235 Other felony (resolved in district court or circuit court): $445 Misdemeanor in Circuit Court: $158 District Court cases (misdemeanors, felony preliminary hearings where the felony was not resolved in district court): $120	Allowances 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 year or more can receive an additional waiver of up to $850. Other felony charges may receive an additional waiver of up to $155.
Washington	Set by Court	Set by Court	Rev. Code Wash. (ARCW) §36.26.090 (2015)
West Virginia	$65 - in-court $45 - out-of-court	Felony offenses with possibility of life in prison: court discretion All other cases: $3,000	W. Va. Code §29-21-13(a) (2015) Statute includes provisions for exceeding caps.
Wisconsin	$45 - in-court $35 - out-of-court	N/A	Wis. Stat. § 977.08 (2015)
Wyoming	$100 - in court $35-60 - out-of-court	N/A	Wyoming Rules of Criminal Procedure Rule 44(e)