

11. IN RE: BOARD OF COUNTY COMMISSIONERS...RESOLUTION NUMBER 132-22/RESOLVING TO ADOPT A REVISED FEE SCHEDULE FOR APPOINTED LEGAL COUNSEL REIMBURSEMENT...22-0826-003...ADOPTED

Moved by Commissioner Corcoran, seconded by Commissioner Painter, that the Board of County Commissioners approve the following recommendation:

Recommendation of Thomas J. Eigel, County Administrator, to adopt **Resolution Number 132-22** resolving to adopt a revised fee schedule for appointed legal counsel reimbursement to reflect revisions in attorney fees, in accordance with the prescribed State Maximum Fee Schedule for Appointed Counsel Reimbursement established by the Ohio Public Defender Commission, which shall be applicable to all appointments of assigned counsel by Courts of appropriate jurisdiction effective September 8, 2022 and thereafter, pursuant to Section 120.33(A)(3) of the Ohio Revised Code.

DISCUSSION: Commissioner Painter wanted the Board to be aware that the reimbursement by the State for the cost of attorneys representing those that are indigent is thought to be reimbursed at 95-100%, but that is to a dollar amount. As the fees or reimbursement rates are raised the percentage decreases. Mr. Eigel added that it is a compensating rate.

Upon roll call on the foregoing motion, the vote was as follows:

Commissioner Corcoran, Yes; Commissioner Painter, Yes; Commissioner Batchler, Yes.



RESOLUTION NO. 132-22

The Board of County Commissioners, Clermont County, Ohio, met in regular session on the 7th day of Sept 2022, with the following members present:

Bonnie J. Batchler, President

David L. Painter, Vice President

Claire B. Corcoran, Member

Mr(s) Corcoran moved for the adoption of the following Resolution:

RESOLUTION ADOPTING REVISED FEE SCHEDULE FOR APPOINTED LEGAL COUNSEL REIMBURSEMENT TO REFLECT REVISIONS IN ATTORNEY FEES

WHEREAS, pursuant to Section 120.33 (A)(3) of the Ohio Revised Code, the Board of County Commissioners is required to adopt by resolution a schedule of fees for payment of the appointed legal counsel appointed by a court of competent jurisdiction and to have the schedule on file with the office of the Public Defender; and

WHEREAS, the Board of Commissioners, upon recommendation of the Clermont County Bar Association, has reviewed the schedule of fees for appointed counsel and determined that the schedule has not been revised in keeping with other cost increases to adequately reflect the expense of said appointed counsel,

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Clermont County, Ohio with at least two-thirds of its members thereto concurring as follows:

SECTION I

That upon review and consideration of the recommendation of the Clermont County Bar Association, the Board of County Commissioners determines that a revision of the fee schedule is appropriate and do hereby adopt the State Maximum Fee Schedule for Appointed Counsel Reimbursement as established by the Ohio Public Defender Commission.

SECTION II

That reimbursement for representation in trial level cases not involving a death penalty specification will be made based upon the maximum rate of \$75 per hour for out-of-court services and \$75 per hour for in-court services; and that reimbursement for representation in trial level

cases involving a death penalty specification will be made based upon the maximum rate of \$125 per hour for both in-court and out-of-court services.

SECTION III

That the Board of Commissioners hereby adopt the prescribed maximum fees permitted in trial level proceedings as established by the State Maximum Fee Schedule for Appointed Counsel Reimbursement contained in the attached Exhibit "A", incorporated herein by reference, as established by the Ohio Public Defender Commission. The maximum fees adopted are those set forth in Article B entitled "Trial Level Proceedings", Article C entitled "Juvenile Proceedings", Article D entitled "Probate Proceedings", Article E entitled "Appellate Level Proceedings", and Article F entitled "Post-Conviction and Habeas Corpus Proceedings".

SECTION IV

That the Board of Commissioners determines to adopt the hourly fee schedule with the established maximums as set forth in Exhibit A attached hereto and incorporated by reference as specifically outlined in the immediately preceding paragraph and does not choose to establish a flat fee or minimum fee basis.

SECTION V

That the Board of Commissioners hereby determines that there are from time to time cases which, because of extraordinarily complex issues, multiple offenses, lengthy trials or other reasons that cannot be anticipated, that appropriate compensation may exceed the maximum set forth herein. The Board of Commissioners determines that said extraordinary fees may be allowable in the event that the fees are clearly documented in the appropriate sections on the appropriate Motion, Entry and Certification forms by appointed counsel, and that the presiding Judge responsible for the case indicates approval of the extraordinary fee by appropriate Entry in the form provided by the Ohio Public Defender's Office, and that said approval is submitted to the Board of Commissioners for their review and approval and adopted by resolution by the Board of County Commissioners prior to payment.

SECTION VI

That the Board of Commissioners reserves the right to review and revise the fee schedule contained herein in keeping with future modifications of the legal requirements and classification of criminal penalties or upon the amendment of the Ohio Public Defender Schedule as appropriate.

SECTION VII

That the Clerk of the Board is hereby directed to certify a copy of this resolution and attached Exhibit "A" as the latest and complete Appointed Counsel Fee Schedule of Clermont County, Ohio to the office of the Public Defender for retention by that office.

SECTION VIII

That the revised fees contained in this Resolution and the attached Exhibit "A" shall be applicable to all appointments of assigned counsel by Courts of appropriate jurisdiction effective September 8, 2022 and thereafter.

SECTION IX

That the Board of County Commissioners hereby finds and determines that all formal actions relative to the passage of the Resolution were taken in an open meeting of this Board and that all deliberations of the Board and its Committees, if any, which resulted in formal action, were taken in meetings open to the public, and in full compliance with all applicable legal requirements including Section 121.22 of the Ohio Revised Code.

Mr(s). Painter seconded the motion and on roll call, the vote resulted as follows:

Mrs. Batchler Yes

Mr. Painter Yes

Mrs. Corcoran Yes

This Resolution was duly passed on the 7th day of September 2022.

ATTEST:

Holly Isaacs
Holly Isaacs, Clerk
Board of County Commissioners

This Resolution was prepared and approved as to form by the Office of Prosecuting Attorney of Clermont County, Ohio

By: [Signature]

Date: 9/12/22

STATE MAXIMUM FEE SCHEDULE FOR APPOINTED COUNSEL REIMBURSEMENT

A. General provisions

1. The Ohio Public Defender State Maximum Fee Schedule for Appointed Counsel Reimbursement contains the hourly rates and maximum amounts the OPD will reimburse counties for representation of indigent persons in criminal cases.
2. Pursuant to R.C. 120.33(A)(3), to receive reimbursement, a board of county commissioners must adopt a resolution to pay counsel appointed by the court, and must establish a fee schedule. The county is responsible for filing an up-to-date fee schedule with the OPD. Reimbursement will be based on the latest fee schedule filed with the OPD.
3. Reimbursement to the counties shall be based on the most serious offense with which the defendant is charged and will be made at up to 100 percent of either the State or county rate, whichever is lower. Reimbursement shall not exceed the established hourly or maximum rates unless otherwise provided for by statute.

B. Trial Level Proceedings

1. Reimbursement for representation in trial level cases not involving a death penalty specification will be made based on the maximum rate of \$75.00 per hour for both in-court and out-of-court services.
2. Reimbursement for representation in trial level cases involving a death penalty specification will be made based on the maximum rate of \$125.00 per hour for both in-court and out-of-court services.
3. The prescribed maximum fees permitted in trial level proceedings are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Aggravated murder (w/specs) per <u>R.C. 2929.04(A)</u> and <u>R.C. 2941.14(B)</u>	As set by Capital Fee Council - see <u>R.C. 120.33(D)</u> . The Council has currently set a rate of \$125 with no fee maximum.
Aggravated murder (w/o specs)	\$15,000/1 attorney \$25,000/2 attorneys
Murder	\$10,000
Felony with possible life sentence/ repeat violent offender/major drug offender	\$10,000
Felony (degrees 1-2)	\$8,000
Felony (degree 3)	\$5,000
Felony (degrees 4-5)	\$3,500
Misdemeanor (degrees 1-4)	\$2,000

<u>Offense/Proceeding (cont'd)</u>	<u>Fee Maximum</u>
Misdemeanor OVI/BAC	\$2,500
Contempt of court	\$500
Violation (Probation/Community Control)	\$750
Preliminary Hearings	\$300
Sex Offender Classification	\$750
Other	\$750

C. Juvenile proceedings

1. Reimbursement for representation in juvenile proceedings will be made based on the maximum rate of \$75.00 per hour for both in-court and out-of-court services.
2. Reimbursement will not be made for non-attorneys appointed as a guardian ad litem.
3. In abuse, dependency, and neglect cases, both the attorney and the guardian ad litem may bill up to the maximum fee allowed by the county for the initial dispositional hearing and each subsequent annual review hearing before the court.
4. The prescribed maximum fees permitted in juvenile level proceedings are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Aggravated murder (w/specs) per <u>R.C. 2929.04(A)</u> and <u>R.C. 2941.14(B)</u>	As set by Capital Fee Council - see <u>R.C. 120.33(D)</u> . The Council has currently set a rate of \$125 with no fee maximum.
Aggravated murder (w/o specs)	\$7,500/1 attorney \$12,500/2 attorneys
Murder	\$6,000
Felony adjudication (degrees 1-2)	\$5,000
Felony adjudication (degrees 3-5)	\$3,500
Misdemeanor OVI/BAC	\$2,500
Misdemeanor	\$2,000
Traffic	\$300
Objections	\$750
Unruly	\$1,000
Bindover - Mandatory	\$750/1 attorney \$1,200/2 attorneys

<u>Offense/Proceeding (cont'd)</u>	<u>Fee Maximum</u>
Bindover - Discretionary	\$2,000/1 attorney \$3,000/2 attorneys
Reverse Bindover Amenability	\$1,500
SYO	Adult degree + 50%/2 attorneys
SYO Invocation	\$2,000/1 attorney \$3,000/2 attorneys
Adult in Juvenile Court	\$1,500
Violation (Probation/Community Control)	\$750
Violation (Parole/Supervised Release)	\$750
VCO	\$750
ADN Initial Custody	\$1,500
ADN Annual After Custody	\$1,500
Permanent Custody	\$2,500
Contempt of court	\$500
Purge Hearing	\$150
Sex Offender Classification/ Reclassification/Declassification	\$750
Expungement	\$300
Other	\$750
D. Probate proceedings	
Termination of parental rights	\$2,500
E. Appellate level proceedings	
1. Reimbursement for representation in appellate level proceedings not involving a death sentence shall be made based on the maximum rate of \$75.00 per hour for both in-court and out-of-court services.	
2. Reimbursement for representation in appellate level proceedings involving a death sentence will be made based on the maximum rate of \$125.00 per hour for both in-court and out-of-court services.	

3. The prescribed maximum fees permitted in appellate level proceedings are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Death Sentence	As set by Capital Fee Council - see <u>R.C. 120.33(D)</u> . The Council has currently set a rate of \$125 with no fee maximum.
Cumulative Minimum Sentence exceeds 25 years	\$8,000
Felony (degrees 1-2) Trial	\$5,000
Felony (degree 3) Trial	\$3,500
Felony (degrees 4-5) Trial	\$2,500
Misdemeanor Trial	\$2,000
Felony Plea	\$1,500
Misdemeanor Plea	\$1,000
ADN Permanent Custody	\$3,500
Probate	\$3,500
Unruly	\$1,000
Other	\$1,000
26(B) Murnahan Felony (degrees 1-2) Trial	\$3,000
26(B) Murnahan Felony (degree 3) Trial	\$2,000
26(B) Murnahan Felony (degrees 4-5) Trial	\$1,000
OSC Jurisdiction Memorandum	\$1,500

F. Postconviction and habeas corpus proceedings

1. Reimbursement for postconviction and State habeas corpus proceedings not involving a death sentence will be made based on the maximum rate of \$75.00 per hour for both in-court and out-of-court services.
2. Reimbursement for representation in appellate level proceedings involving a death sentence will be made based on the maximum rate of \$125.00 per hour for both in-court and out-of-court services.

3. The prescribed maximum fees permitted in postconviction and habeas corpus proceedings are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Death Sentence	As set by Capital Fee Council - see <u>R.C. 120.33(D)</u> . The Council has currently set a rate of \$125 with no fee maximum.
Felony (degrees 1-2) (<u>R.C. 2953.21</u> Petition/New Trial Mtn)	\$4,000
Felony (degree 3) (<u>R.C. 2953.21</u> Petition/New Trial Mtn)	\$2,500
Felony (degrees 4-5) (<u>R.C. 2953.21</u> Petition/New Trial Mtn)	\$1,750
Misdemeanor (60(B))	\$1,500
Juvenile	\$2,500
State Habeas	\$1,500
Expungement	\$300
Judicial Release	\$500
Revocation	\$750
Driving Privileges	\$150
NGRI/Comp Review	\$750
Jail Time Credit	\$300
Resentencing	\$500
Sex Offender Reclassification	\$750
Withdrawal of Guilty Plea	\$1,000

G. Amendments to the Fee Schedule

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