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# Public Defender ommission

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#### March 2019 Volume 11 Issue 2



As the Indiana General Assembly begins House appropriated \$4.47 million more released the week of April 8. to wrap up part two of a three-step legislative process (1st House, 2nd House, Conference), we would like to take an opportunity to update HB 1001 (The State you on the progress of the Commission's 2019 Legislative Priorities.

As you may know, the Indiana Task Force Commission's on Public Defense released its final report request in August, issuing 20 recommendations to strengthen and improve Indiana's public defense services. After careful evaluation and consideration, the Commission prioritized four of those recommendations, which, along with an increase to our base budget to avoid proration, became the basis for the five Huston (District 37: legislative priorities that are being actively Hamilton pursued this legislative session.

Although at the printing of this newsletter nothing has been finalized, we have had some significant successes to report and a few areas where support is still needed as we head toward the end of session (sine die), which is currently scheduled for April 26.

# Commission's Base Budget:

The Commission's top priority each budget session is advocating for the budgetary increase necessary to account for any new counties, upticks in reimbursement requests for specific case types such as CHINS and TPR, and to avoid even the possibility of proration in the next biennium or beyond.

Mark Rutherford Commission Chair

has stressed the importance of this request Committee, where it passed by a vote of 12-0 in testimony before both the House Ways on January 30. The bill was co-authored by and Means Committee and the Senate Reps. Ryan Dvorak (District 8: LaPorte & Appropriations Committee. A copy of the presentation given to the Ways and Means Hendricks), and Greg Porter (District 96: Committee by Chairman Rutherford, Vice Marion). Although the bill later stalled in Chair Larry Landis, and Senior Staff Attorney the Ways & Means Committee, we are still Derrick Mason may be found on our website. actively pursuing those items in the Senate

We were very pleased that the Indiana version of the Budget, which will likely be

year in House version Biennial Budget Bill). This was the and allow us to avoid proration in the next biennium. Thanks go to House Ways and Means Co-Chair Representative Todd County)

for supporting this to the Senate Appropriations Committee request. We will continue to be vigilant in our discussions with the Senate about Regionalization & County maintaining this increase as HB 1001 continues through the process.



Commission Chair Mark Rutherford and Senior Staff Attorney Derrick Mason speak

# Misdemeanor & Appellate Funding:

At the request of the Commission, State Representative John Young (District 47: Johnson & Morgan Counties) authored House Bill 1453 to remove the prohibition of misdemeanor reimbursement and to permit centralized appellate services. The state fiscal impact set for those two items by the nonpartisan Legislative Services Agency was \$10.27 million per year.

> The originally assigned to the House Courts and Criminal Code

**Board Structure:** Senate Bill 488 completes

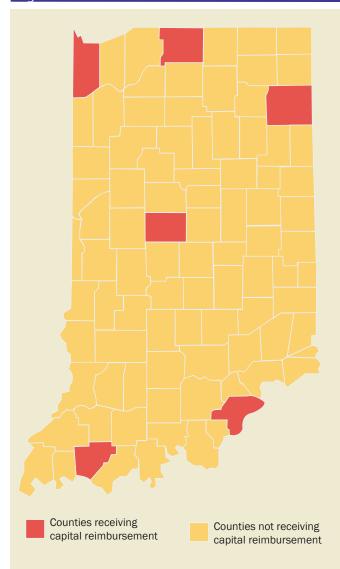
Commission's five priorities by creating an optional path for counties to establish regionalized offices. It also changes the structures of some county boards to permit the Commission to make an appointment in lieu of one of the current judicial appointments. Authored by Sen. Mike Young (District 35: Hendricks & Marion), the bill passed the Senate 48-0. The legislation was co-authored in the Senate by Sen. Eric Koch (District 44: Bartholomew, Brown, Jackson, Lawrence, and Monroe) and Sen. Greg Taylor (District 33: Marion). The bill later passed the House Courts Committee 12-0. At the time of printing, the bill is scheduled for a final vote in the House. We expect that it will

Legislative Update continued on page 4

Pages 2-3 2018 financial statistics

Page 4 **Commission Meeting Update Important Dates** Legislative Update (cont)

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Non-capital reimbursements: \$26,790,052.94 was reimbursed to participating counties

Rejoining Counties: Miami, Scott and Brown Counties rejoined the reimbursement program

# **2018 Capital Reimbursements**

Allen \$59,115.17

Boone \$110,536.65

Clark \$43,326.43

Lake \$19,413.83

St. Joseph \$85,691.69

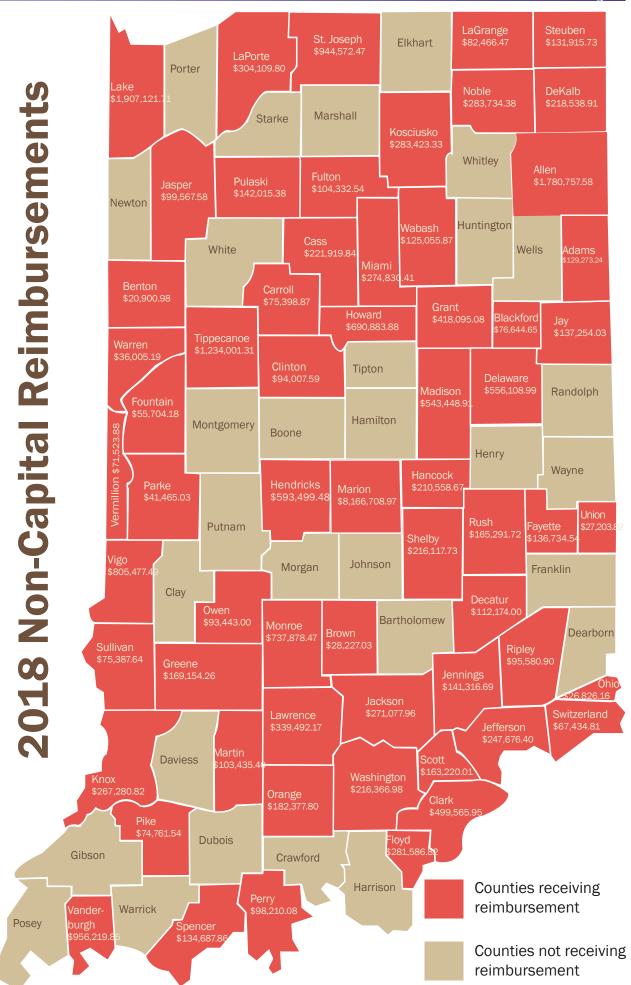
Warrick \$96,314.35

**Total** 

\$414,398.12

New county: Clinton County joined the reimbursement program. Currently, 62 counties are active in the program

Average increase: County spending and reimbursement increased by 12% over 2017



## Commission Meeting Dates

June 12, 2019

A brief executive session will begin at 2 pm with the regular meeting afterward

September 25, 2019

December 18, 2019

All meetings are scheduled to begin at 2 pm. A brief executive session may precede each meeting. Meetings are scheduled to be held at our offices (309 W Washington Street, Suite

501, Indianapolis, IN 46204) Updates to meeting dates, times and locations are posted on our website: <a href="www.in.gov/publicdefender">www.in.gov/publicdefender</a>

#### **Legislative Update** (continued from front page)

pass. The final step for the bill will be for the Senate to either agree to the House changes (concur) or take the bill to conference committee (dissent). We are encouraged by the broad-based support this bill has received in the process.

#### CHINS/TPR

The Commission also approved staff to pursue any additional funding items that may become available to assist counties with the increases they have been experiencing due to the exponential growth in CHINS/TPR court-involved cases. There are currently many discussions on the table about opportunities that may exist in the budget to strengthen funding for the defense of parents in CHINS/TPR cases. Staff would be happy to discuss this issue with anyone interested in learning more.

#### THANK YOU

The Commission would like to offer a special thank-you to our four legislative members, Senators Eric Koch and Greg Taylor and Representatives John Young and Ryan Dvorak. Their active support of the Commission's legislative agenda during the legislative session is very important. We would also like to thank Chief Justice Loretta Rush for her support of our agenda. The Chair of the Task Force, Judge John Tinder, has also been very active in communicating with legislators about the importance of these initiatives for the long-term health of Indiana's public defense services. Judge Tinder's expertise and dedication has been invaluable to the long-term success of our reform efforts.

As always, we welcome any questions about our legislative agenda at any time and appreciate your support of our efforts. We keep our policy agenda up to date with the latest information about our specific bills and policy agenda items. We are always interested in helping you advocate to your local legislators. Commission staff has developed specific talking points you may use to communicate with policy makers about the importance of these reform items. We would be happy to discuss those with you and also provide you with contact information for your specific legislators. If you are willing to help advocate for the success of our policy agenda, please contact Andrew Cullen at <a href="mailto:andrew.cullen@pdcom.in.gov">and al7-439-7565</a>. We would love to have your help!

# Commission Meeting Update

The Public Defender Commission met on Wednesday, March 20, 2019.

#### **Board Member Removal**

Extensive discussion regarding appointment and removal of county public defender board members was held, including input from county chiefs in attendance. The Commission voted to amend the guidelines to specifically note that appointments serve a three-year term and may only be removed for cause. Updated guidelines can be found on our website at: https://www.in.gov/publicdefender/2340.htm.

### **Training Approvals**

Commission members reviewed the requests for training approvals related to Standards E and F qualifications. The submitted requests were approved and may now be used to qualify attorneys for their corresponding qualifications. The Public Defender Council's Trial Practice Institute (non-OWI) was formally approved as a felony trial substitution, which may be used as part of the qualification for adult felony levels 1-4. Additionally, the National Institute for Trial Advocacy (NITA) Building Trial Skills: *Indianapolis* training course was also approved as part of the same qualification standard. The Commission also noted that civil trial trainings can now qualify as approved trainings because the skills are transferable. If you would like a training program approved, please contact us at <a href="mailto:information@pdcom.in.gov">information@pdcom.in.gov</a>.

### **Private Caseload Reporting**

Private caseload reporting discussed at the December meeting ad been deferred to the March meeting. Staff is now investigating performance-based standards, including a technical assistance grant to develop a proposal of performance-based standards, as well as private caseload data gathering from Odyssey and other publicly-available sources.

### **Hourly Attorneys**

Historically, appointed (hourly) attorneys were considered parttime. However, there is no rule or standard otherwise preventing them from being full-time, so long as their total full-time equivalency (FTE) does not exceed 1.0. The Commission will be evaluating this issue going forward.

#### **Financial Information**

The Commission reviewed the status of the Public Defense Fund, noting the available funds for 4th quarter reimbursements. Mr. Mason pointed out the record high non-capital reimbursement request of over \$7M. The commission approved reimbursements of \$6,923,809.81, deferring one county's request until the next meeting. Capital claims totaling \$122,896.11 were also approved for five counties.

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