

# Misdemeanor reimbursement pilot program included in new Senate bill: 7 counties could take part in new program under SB 179

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It's been more than 25 years since Indiana reimbursed public defender offices for handling misdemeanor cases.

The Indiana Public Defender Commission has pushed for restoration of that funding in recent years, including in the 2024 legislative session.

A piece of proposed legislation introduced in this year's short, nonbudget session is taking a different approach to misdemeanor reimbursement and includes a new pilot program for select counties.



Sen. Eric Koch

Senate Bill 179, authored by Indiana Republican Sens. Eric Koch, Liz Brown and Sue Glick, and co-authored by Democratic Sen. Rodney Pol, provides that a county may be reimbursed for 40% of indigent defense services provided for misdemeanors in a superior or circuit court. Current law excludes misdemeanors from reimbursement.

The bill would also allow seven counties participating in a new pilot program to be reimbursed for 100% of indigent defense services provided for misdemeanors in a superior or circuit court. That would go through June 30, 2029, with the new legislation, if passed, going into effect July 1.

At its December meeting, the PDC endorsed legislation to create the pilot program to reimburse local public defense systems for misdemeanor expenses from existing appropriations to the state's Public Defense Fund.

The intention would be to utilize funding only at a level that would not jeopardize full reimbursement to local public defense systems currently complying with commission standards, according to the commission.

Andrew Cullen, director of public policy and communications at the commission, said the PDC wants to restore the authority to reimburse counties and make sure the proper funding is available for public defender offices.



"We are hoping that it will be seen as fiscally neutral," Cullen said of the proposed legislation, adding that the real question is whether the

Appropriations Committee will view SB 179 as an acceptable bill during a nonbudget session.

## Pilot program

Adams County is one of seven counties that would take part in the pilot program if SB 179 passes through the Indiana General Assembly and is signed into law. The other counties are Allen, Clark, DeKalb, Hendricks, Lawrence and Pulaski.



Brad Weber

Brad Weber, Adams County chief public defender, said in 2023, there were three public defenders in his office that handled approximately 150 misdemeanor cases.

Weber said counties are working with limited dollars to provide appropriate representation for indigent defendants.

“It’s a huge issue for our counties,” he said.

Misdemeanor charges can be viewed as minor by some people, Weber said, but he stressed that the public defender’s office has an ethical obligation to advocate for its clients.

A misdemeanor conviction on something like driving with a suspended license can potentially leave that person in a situation where they don’t have transportation and can’t get to work — something magnified in a rural county where there are not a lot of public transit options, Weber said.

Tony Mellencamp, Adams County’s auditor, serves as the chairman of the county’s public defender board.

Mellencamp said the county is excited to be included in the pilot program and feels it is necessary.

“The state and federal constitutions and caselaw are clear that it is the responsibility of the state to fund indigent defense,” he said. “Indiana has put that duty on its counties, but we need more support from the state of Indiana. This bill provides that.”

Mellencamp added that the reimbursement bill, as proposed, could potentially give Adams County an additional \$80,000 or more in funding annually for its public defender office, based on 2023 numbers.

## Another attempt

There are 67 counties, including Marion, that receive partial reimbursement from the state’s Public Defense Fund for following standards of public defense work quality set by the PDC.

Gov. Eric Holcomb included an additional \$2 million in the governor’s budget in 2023 for county misdemeanor reimbursement at the request of the commission.



Tony Mellencamp

That funding — which, in Holcomb’s proposal, would fully fund misdemeanor reimbursement for the first time since 1997 — would have added money that public defender offices throughout Indiana say they could use to hire additional attorneys and support staff, as well as boost starting salaries and employee retention efforts.

But the Indiana House stripped it from the budget, and the commission’s efforts in lobbying the Senate to restore the \$2 million — and the governor’s misdemeanor reimbursement authorization language — were to no avail.

Koch has served as the Senate’s Republican representative on the PDC for several years. He said he was the one who suggested the idea of a misdemeanor reimbursement pilot program.

To have a cross-section of counties included in the proposed program was important, Koch said, with the idea that the program would give the state data over several years to analyze whether misdemeanor reimbursement works effectively.

## Reporting back

SB 179 also increases certain fees if a court finds a person is able to pay the cost of representation by counsel. Specifically, the amount of fees paid for a felony would increase from \$100 to \$200, and from \$50 to \$100 for misdemeanors, although Koch stressed that the courts would still have the option of waiving those fees.

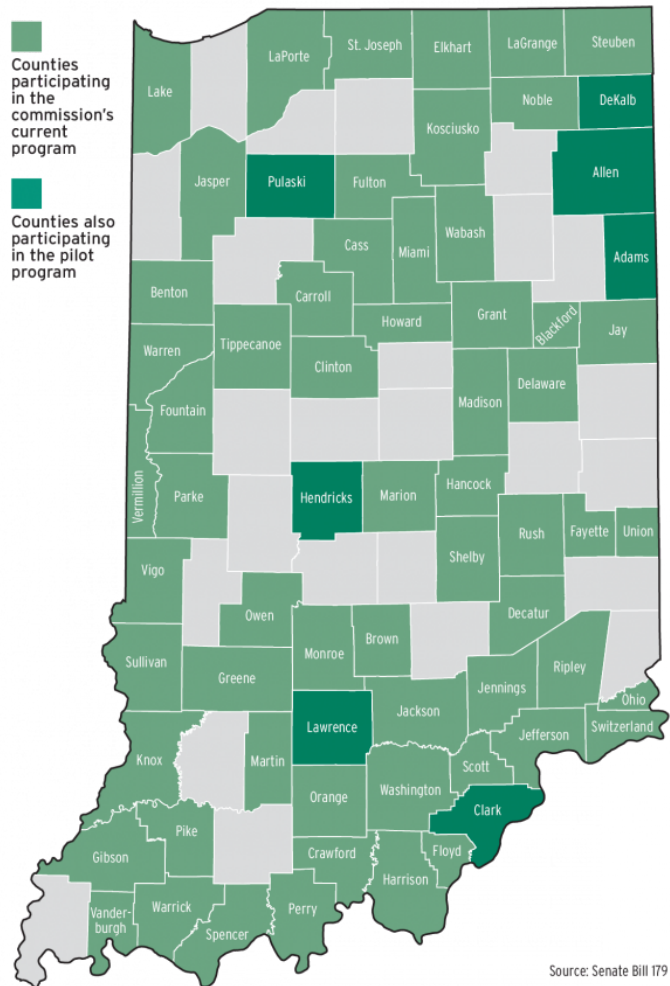
“Those fees haven’t changed since 1976,” he said.

The bill also prohibits the PDC from requesting additional appropriations from the General Assembly for misdemeanor reimbursement before July 1, 2029.

Additionally, it requires the commission to submit a report to the Legislative Council and the Budget Committee not later than Dec. 1, 2029, concerning the 100% reimbursement for indigent defense services provided for misdemeanors.

## Pilot program pending

A total of seven Indiana counties are included in a proposed pilot program that would provide misdemeanor reimbursement for local public defender systems. The reimbursements would come from the state’s public defense fund, with the program extending through June 30, 2029.



In its report, the commission must provide data and statistics concerning how the reimbursement has impacted attorney appointment rates, jail population, trial rates and case outcomes. •