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MISDEMEANORS MATTER: Why does the quality of public defense in misdemeanor cases matter and how does it improve the criminal justice system while saving the state money?

Background: There are currently 67 counties that receive a partial reimbursement from the Indiana's Public Defense Fund in exchange for following standards for the quality of public defense work set by the Indiana Public Defender Commission (Commission).

- The Commission has been in existence since 1989 but the ability to reimburse for misdemeanors was removed in 1997, primarily for fiscal reasons. *That was never intended to be permanent.*
- Non-reimbursement has resulted in an overload of cases in many counties.
 - In 2021, the average misdemeanor-only attorney worked about double the caseload that they would be allowed if misdemeanor standards were enforced. However, there are examples of full-time attorneys doing over 900 cases.
 - Standards would call for NO MORE than 300 cases.
- More crimes than ever are classified as misdemeanors (HB 1006 - 2014).

Collateral Consequences of Misdemeanor Convictions to Hoosiers: The consequences of a misdemeanor conviction can be significant, including loss of liberty, driving privileges, denial of educational loans, housing, employment opportunities or professional licenses.

- 61% of all adult criminal filings are misdemeanors.
- Access to counsel to explain these collateral consequences impacts plea agreement decisions by clients.
- Misdemeanor incarcerations are a leading cause of county jail overcrowding.
- Counsel was appointed in only 41% of misdemeanor cases.
- The high volume of misdemeanor cases in many courts can result in pressure for speedy dispositions and "assembly line justice."

Participation in the Commission's reimbursement program leads to SAVINGS in other parts of Indiana's Criminal Justice System.

- The lack of misdemeanor reimbursement is why some counties refuse to comply with Commission Standards for quality of public defense representation.
 - Based on data from the 2013-2021 period, Commission Counties have a 12% lower per-capita county jail population.
 - This difference is especially salient given the current struggles with jail overpopulation in many counties.
- Commission counties have a 20% lower rate of low-recidivism-risk individuals in DOC facilities.
 - One potential explanation for this difference is that higher quality public defense can more effectively procure alternative sentences for low-risk offenders, keeping them out of prison.
- Out-of-home placements by DCS in Commission counties are 20 days shorter than in non-commission counties.
 - There are 12,656 children in out-of-home care in Indiana as of July 2020. If each of these children had their time in foster care cut by 20 days this represents **\$5.8 million in cost savings**.
- Individuals in Commission counties receive on average 64-days shorter sentences in DOC facilities. In 2019 the DOC admitted 8,613 prisoners, with a reported per diem of \$55.92. If these savings above were realized for each of these prisoners, this is a potential **\$30.8 million in savings**.

Fiscal Impact: Permitting the reimbursement of misdemeanors would require a **\$6.2 Million Per Year Increase to the Public Defense Fund**.