

HOUSE BILL No. 1355

DIGEST OF INTRODUCED BILL

Citations Affected: IC 33-40-6; IC 33-40-7-11.

Synopsis: Public defense reimbursements. Provides that the public defense fund shall be administered by the public defender commission. Provides that a county auditor may request reimbursement of an amount equal to 40% of the county's expenditures for indigent defense services in noncapital cases, including misdemeanor cases. Provides that money from the state general fund may be used to reimburse certified claims made to the public defense fund. Makes an appropriation. Makes a technical correction.

Effective: Upon passage; January 1, 2019.

Mahan, Washburne, Dvorak

January 16, 2018, read first time and referred to Committee on Ways and Means.



Second Regular Session of the 120th General Assembly (2018)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2017 Regular Session of the General Assembly.

HOUSE BILL No. 1355

A BILL FOR AN ACT to amend the Indiana Code concerning courts and court officers and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 33-40-6-1 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. The public
3 defense fund is established to receive court costs or other revenues for
4 county reimbursement and administrative expenses. The fund shall be
5 administered by the ~~division of state court administration of the~~
6 ~~supreme court.~~ **Indiana public defender commission.**

7 SECTION 2. IC 33-40-6-4 IS AMENDED TO READ AS
8 FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 4. (a) A county
9 auditor may submit on a quarterly basis a certified request to the
10 **Indiana** public defender commission for reimbursement from the
11 public defense fund for an amount equal to fifty percent (50%) of the
12 county's expenditures for indigent defense services provided to a
13 defendant against whom the death sentence is sought under
14 IC 35-50-2-9.

15 (b) A county auditor may submit on a quarterly basis a certified
16 request to the **Indiana** public defender commission for reimbursement
17 from the public defense fund for an amount equal to forty percent



1 (40%) of the county's expenditures for indigent defense services
 2 provided in all noncapital cases. ~~except misdemeanors.~~

3 (c) A request under this section from a county described in
 4 IC 33-40-7-1(3) may be limited to expenditures for indigent defense
 5 services provided by a particular division of a court.

6 SECTION 3. IC 33-40-6-5 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) Except as
 8 provided under section 6 of this chapter, upon certification by a county
 9 auditor and a determination by the **Indiana** public defender
 10 commission that the request is in compliance with the guidelines and
 11 standards set by the commission, the commission shall quarterly
 12 authorize an amount of reimbursement due the county:

13 (1) that is equal to fifty percent (50%) of the county's certified
 14 expenditures for indigent defense services provided for a
 15 defendant against whom the death sentence is sought under
 16 IC 35-50-2-9; and

17 (2) that is equal to forty percent (40%) of the county's certified
 18 expenditures for defense services provided in noncapital cases
 19 except misdemeanors.

20 The ~~division of state court administration~~ **Indiana public defender**
 21 **commission** shall then certify to the auditor of state the amount of
 22 reimbursement owed to a county under this chapter.

23 (b) Upon receiving certification from the ~~division of state court~~
 24 ~~administration~~, **Indiana public defender commission**, the auditor of
 25 state shall issue a warrant to the treasurer of state for disbursement to
 26 the county of the amount certified.

27 SECTION 4. IC 33-40-6-5 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 5. (a) ~~Except as~~
 29 ~~provided under section 6 of this chapter~~, Upon certification by a county
 30 auditor and a determination by the **Indiana** public defender
 31 commission that the request is in compliance with the guidelines and
 32 standards set by the commission, the commission shall quarterly
 33 authorize an amount of reimbursement due the county:

34 (1) that is equal to fifty percent (50%) of the county's certified
 35 expenditures for indigent defense services provided for a
 36 defendant against whom the death sentence is sought under
 37 IC 35-50-2-9; and

38 (2) that is equal to forty percent (40%) of the county's certified
 39 expenditures for defense services provided in noncapital cases.
 40 ~~except misdemeanors.~~

41 The ~~division of state court administration~~ **Indiana public defender**
 42 **commission** shall then certify to the auditor of state the amount of



1 reimbursement owed to a county under this chapter.

2 (b) Upon receiving certification from the ~~division of state court~~
 3 ~~administration~~, **Indiana public defender commission**, the auditor of
 4 state shall issue a warrant to the treasurer of state for disbursement to
 5 the county of the amount certified.

6 SECTION 5. IC 33-40-6-6 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 6. ~~The~~
 8 ~~commission shall give priority to certified claims for reimbursement in~~
 9 ~~capital cases.~~ If the balance in the public defense fund is not adequate
 10 to fully reimburse all certified claims, ~~in noncapital cases,~~ the
 11 ~~commission shall prorate reimbursement of certified claims in~~
 12 ~~noncapital cases:~~ **there is appropriated from the state general fund**
 13 **the amount necessary to provide reimbursements for all certified**
 14 **claims.**

15 SECTION 6. IC 33-40-7-11 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JANUARY 1, 2019]: Sec. 11. (a) A county
 17 public defender board shall submit a written request for reimbursement
 18 to the county auditor. The request must set forth the total of the
 19 county's expenditures for indigent defense services to the county
 20 auditor and may be limited in a county described in section 1(3) of this
 21 chapter to expenditures for indigent defense services provided by a
 22 particular division of a court. The county auditor shall review the
 23 request and certify the total of the county's expenditures for indigent
 24 defense services to the Indiana public defender commission.

25 (b) Upon certification by the Indiana public defender commission
 26 that the county's indigent defense services meet the commission's
 27 standards, the auditor of state shall issue a warrant to the treasurer of
 28 state for disbursement to the county of a sum equal to forty percent
 29 (40%) of the county's certified expenditures for indigent defense
 30 services provided in noncapital cases. ~~except misdemeanors.~~

31 (c) If a county's indigent defense services fail to meet the standards
 32 adopted by the Indiana public defender commission, the **Indiana**
 33 **public defender commission** shall notify the county public defender
 34 board and the county fiscal body of the failure to comply with the
 35 Indiana public defender commission's standards. Unless the county
 36 public defender board corrects the deficiencies to comply with the
 37 standards not more than ninety (90) days after the date of the notice,
 38 the county's eligibility for reimbursement from the public defense fund
 39 terminates at the close of that fiscal year.

40 SECTION 7. **An emergency is declared for this act.**

