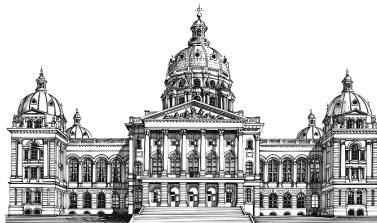


# Iowa Legislative Fiscal Bureau



Dennis Prouty  
(515) 281-5279  
FAX 281-8451

State Capitol  
Des Moines, IA 50319  
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## Indigent Defense Update

### ISSUE

The number and cost of indigent defense cases continue to increase.

### AFFECTED AGENCIES

State Public Defender's Office  
Department of Inspections and Appeals  
Judicial Branch

### CODE AUTHORITY

Sections 10A, 13B, and 815, Code of Iowa

### BACKGROUND

Indigent Defense is a State program designed to provide legal representation to low-income criminal defendants. Legal representation is provided by either a State public defender, an attorney under contract with the State Public Defender's Office or a practicing attorney appointed by the Court.

The State Public Defender, appointed by the Governor and confirmed by the Senate, coordinates and supervises all court cases assigned to public defenders. All public defenders are State-employed attorneys working under the Department of Inspections and Appeals (DIA).

Court-appointed attorneys and contract attorneys are also compensated with State funds. Each court-appointed attorney submits a summary bill to the presiding judge stating in-court hours, out-of-court hours, hourly fee requested, and other expenses. The judge then determines the total amount of compensation. The District Court Judge authorizes all payment of claims, the District Court Administrator reviews the information and prepares the proper documentation to forward to the Department of Inspections and Appeals, and payment is made for the amount authorized. The State Public Defender is authorized to review any claim made for payment of indigent costs believed to be excessive. The State Public Defender may adjust the claim amount.

### CURRENT SITUATION

The number of indigent cases is increasing because of the increase in domestic assault cases, an increase in juvenile crimes, tougher laws, and more cases with multiple defendants. The 1999 General Assembly enacted changes regarding the requirements for a person to be determined indigent and in the fee structure. The changes include:

- Persons with incomes at or below 125.0% of the poverty guidelines are considered indigent and entitled to receive legal counsel at State expense.
- Persons with incomes from 125.0% to 200.0% of the poverty level are not eligible unless the court makes a written finding that it would create a financial hardship.
- Persons above 200.0% of the poverty level are not eligible unless charged with a felony and the court makes a written finding that it would create a financial hardship.
- Indigence is determined not only by a person's income, but also the value of their assets.
- Persons granted an appointed attorney are required to reimburse the State for the total cost of legal assistance. Judges review each financial situation and determine a reasonable amount to be paid.
- Raised the hourly rate paid for legal defense of indigent persons by \$5.00 from \$55 to \$60 for Class A felonies, \$50 to \$55 for Class B felonies, \$45 to \$50 for all other offenses.

### **BUDGET IMPACT**

From FY 1996 through FY 1999, the total number of cases involving adult indigent persons increased 5.6%, from 83,809 to 88,543 cases. Over the same time period, the cost of legal representation for adult indigent persons increased 12.2%, from \$21.3 million to \$23.9 million. Historical information on the average cost per case for the Indigent Defense Program and State Public Defender's Office is illustrated below:

#### **Indigent Defense Costs FY 1996 – FY 1999**

	<u>FY 1996</u>	<u>FY 1997</u>	<u>FY 1998</u>	<u>FY 1999</u>
<b>Court Appointed Attorneys</b>				
Total cases	15,104	16,519	14,486	15,006
Total expenditures	\$ 7,400,732	\$ 5,781,558	\$ 5,069,979	\$ 5,252,156
Average case cost	\$ 490	\$ 350	\$ 350	\$ 350
<b>Contract Attorneys</b>				
Total cases	11,600	12,150	12,244	12,267
Total expenditures	\$ 4,321,525	\$ 4,762,661	\$ 4,811,786	\$ 5,495,420
Average case cost	\$ 373	\$ 392	\$ 393	\$ 448
<b>Public Defenders</b>				
Total cases	57,105	58,935	62,189	61,270
Total expenditures	\$ 9,593,797	\$ 11,138,736	\$ 12,500,047	\$ 13,173,047
Average case cost	\$ 168	\$ 189	\$ 201	\$ 215

A comparison of the General Fund appropriations and expenditures for FY 1997 – FY 2000 for the Indigent Defense Program and the State Public Defender's Office is shown below:

	Actual FY 1997	Actual FY 1998	Actual FY 1999	Estimated FY 2000
<b>Indigent Defense Program</b>				
Original Appropriation	\$ 17,475,074	\$ 20,786,516	\$ 20,912,289	\$ 20,401,376
Expenditures	\$ 16,398,509	\$ 16,873,637	\$ 17,547,682	\$ 20,401,376
<b>State Public Defender's Office</b>				
Original Appropriation	\$ 10,681,867	\$ 12,300,519	\$ 12,760,719	\$ 13,389,276
Expenditures	\$ 11,456,981	\$ 12,500,047	\$ 13,173,047	\$ 13,989,276
FTE positions	189.00	199.00	199.00	201.00
<b>Total Appropriation</b>	\$ 28,156,941	\$ 33,087,035	\$ 33,673,008	\$ 33,790,652
<b>Total Expenditures</b>	\$ 27,855,490	\$ 29,373,684	\$ 30,720,729	\$ 33,790,652
Difference	\$ 301,451	\$ 3,713,351	\$ 2,952,279	\$ 0

In FY 1999 the General Assembly appropriated additional funds to the Indigent Defense Fund to pay juvenile claims up-front, rather than reimbursing counties after the county has paid the claims. The money was appropriated in the 1999 Justice System Appropriation Act but the bill that allowed the juvenile claims to be paid up-front did not pass. Therefore, the ending balance for FY 1999 shows the additional funds that were unused. The ending balance is transferred to the Technology Initiative Account.

Under Section 8.39 Code of Iowa, \$60,000 was transferred to Iowa Communication Network (ICN) Operations from the Indigent Defense Fund in FY 1999 to pay legal fees for the Attorney General's Office appeal of the Federal Communications Commission (FCC) ruling that the ICN is not a "common carrier" and therefore, schools and libraries receiving phone services from the ICN do not qualify for reimbursement from the Universal Fund.

Included in the changes made to the State Public Defender's office and the Indigent Defense Fund during the 1999 General Assembly was a \$5.00 per hour increase for contract and court appointed attorneys. The estimated cost of the \$5.00 per hour increase for contract attorneys to the Indigent Defense Fund is \$1.3 million in FY 2000 and \$2.1 million in FY 2001.

STAFF CONTACT: Christina Schaefer (Ext. 16301)