

IN THE MATTER OF REIMBURSEMENT FOR APPOINTED COUNSEL FEES

WHEREAS, the *Ohio Public Defender State Maximum Fee Schedule for Appointed Counsel Reimbursement* sets the hourly rate and maximum amounts which will be reimbursed to counties by the Office of the Ohio Public Defender for representation of indigents in criminal cases; and,

WHEREAS, pursuant to Section 120.33 (A)(3) of the Ohio Revised Code, to receive reimbursement, a board of county commissioners must adopt a resolution to pay counsel appointed by the court, and must establish a fee schedule. A copy of the up to date fee schedule must be approved by and on file with the Office of the Ohio Public Defender; and,

WHEREAS, reimbursement to counties shall be based on the most serious offense with which the defendant is charged and will be made at up to 50 percent of either the state or county rate, whichever is lower. Reimbursement shall not exceed the established hourly or maximum rates unless otherwise provided for by statute; and,

WHEREAS, the Fairfield County Board of County Commissioners is desirous of conforming the fee schedule for appointed counsel reimbursement in Fairfield County to the *Ohio Public Defender State Maximum Fee Schedule for Appointed Counsel Reimbursement*;

NOW THEREFORE, BE IT RESOLVED by the Board of County Commissioners, County of Fairfield, State of Ohio:

SECTION I: Pursuant to Ohio Revised Code Section 120.33 and Section 2941.51, the Fairfield County Board of County Commissioners hereby adopt the *State Maximum Fee Schedule for Appointed Counsel Reimbursement*, attached hereto.

SECTION II: Be it further resolved that Judges presiding over criminal cases may allow compensation at a rate which exceeds the maximum established by this fee schedule in cases which, because of extraordinarily complex issues, multiple offenses, lengthy trials, or other reasons, warrant such compensation, provided that the requirements of paragraph (G) of the attached *State Maximum Fee Schedule for Appointed Counsel Reimbursement* are strictly adhered to.

Motion by ALLAN REID, Seconded by JUDITH SHUPP  
that the resolution be adopted was carried by the following vote:

YEAS: REID, SHUPP & KESSLER NAYS: NONE  
ABSTENTIONS: NONE

cc:

Judith F. Shupp  
Lisa M. Kessler  
Allan Reid

ADOPTED, MAY 4, 1999

Carol L. Brubach  
Carol Brubach, Clerk

BOARD OF COUNTY COMMISSIONERS

STATE MAXIMUM FEE SCHEDULE FOR APPOINTED COUNSEL REIMBURSEMENT

A. General Provisions

1. The Ohio Public Defender State Maximum Fee Schedule for Appointed Counsel Reimbursement sets the hourly rates and maximum amounts which will be reimbursed to counties by the Office of the Ohio Public Defender for representation of indigents in criminal cases.
2. Pursuant to Section 120.33 (A)(3) of the Ohio Revised Code, to receive reimbursement, a board of county commissioners must adopt a resolution to pay counsel appointed by the court, and must establish a fee schedule. A copy of the up to date fee schedule must be approved by and on file with the Office of the Ohio Public Defender.
3. Reimbursement to the counties shall be based on the most serious offense with which the defendant is charged and will be made at up to 50 percent of either the state or county rate, whichever is lower. Reimbursement shall not exceed the established hourly or maximum rates unless otherwise provided for by statute.

B. Trial Level Proceedings

1. Reimbursement for representation in trial level cases will be made based on the maximum rate of \$40.00 per hour for out-of-court services and \$50.00 per hour for in-court services.
2. Reimbursement for social workers (non-attorneys) appointed as guardian *ad litem* in juvenile proceedings will be made based on the maximum rate of \$25.00 per hour for both out-of-court and in-court services.
3. The prescribed maximum fees permitted in trial level proceedings are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Aggravated Murder (w/specs) as per O.R.C. 2929.04(A) and 2941.14(B)	\$40,000*

\* Ohio Supreme Court Rule 65 of the Rules of Superintendence of the Common Pleas Courts requires the appointment of two (2) attorneys in capital cases. This fee is the maximum that will be paid on the combined bills of both attorneys appointed to the case.

<u>Offense/Proceeding (continued)</u>	<u>Fee Maximum</u>
Aggravated Murder (w/o specs)	\$ 6,000/1 attorney \$ 8,000/2 attorneys
Murder	\$ 3,000
Aggravated Felonies (degrees 1-3)	\$ 2,000
Felonies (degrees 1-4)	\$ 1,500
Misdemeanors (degrees 1-4)	\$ 750
Parole, Probation, and all other proceedings not elsewhere classified	\$ 500
Contempt of Court	\$ 200

4. Effective July 1, 1996, pursuant to Amended Substitute Senate Bill 2, the Criminal Sentencing Bill, which was passed by the Ohio Legislature on June 6, 1995 and signed into law by Governor Voinovich on August 10, 1995, the following shall replace the provisions in this fee schedule pertaining to Aggravated Felonies (degrees 1-4) and Felonies (degrees 1-4):

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Felonies (degrees 1-3)	\$ 2,000
Felonies (degrees 4 & 5)	\$ 1,500

5. Reimbursement for guilty or no contest pleas will be made based on the maximum rate of \$40.00 per hour for out-of-court services and \$50.00 per hour for in-court services up to the prescribed maximums for each classification, or if selected by the board of commissioners, at a flat rate or guaranteed minimum rate for non-homicide felonies, misdemeanors, and juvenile proceedings.

C. Juvenile Proceedings

1. Reimbursement for representation of juvenile proceedings will be made based on the maximum rate of \$40.00 per hour for out-of-court services and \$50.00 per hour for in-court services.
2. Reimbursement for social workers (non-attorneys) appointed as guardian *ad litem* in juvenile proceedings will be made based on the maximum rate of \$25.00 per hour for both out-of-court and in-court services.

3. In abuse, dependency, and neglect cases, both the attorney and the guardian ad litem are entitled to bill the maximum fee allowed by the county for the initial dispositional hearing and each subsequent review hearing before the court.

4. The prescribed maximum fees permitted in juvenile proceedings:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Juvenile Proceedings (Including Guardian Ad Litem)	\$ 1,000

Appellate Level Proceedings

1. Reimbursement for representation in appellate level proceedings not involving a death sentence shall be made based on the maximum rate of \$40.00 for both out-of-court and in-court services.
2. Reimbursement for representation of appellate level proceedings involving a death sentence will be made based on the maximum rate of \$45.00 per hour for both out-of-court and in-court services.

3. The prescribed maximum fees permitted in appellate level proceedings are listed below. The rates apply to each level of appeal.

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Aggravated Murder (death penalty imposed)	\$10,000*
Aggravated Murder (sentence other than death)	\$ 4,000
Murder	\$ 1,500
Felonies	\$ 1,000
Misdemeanors	\$ 750

\* Ohio Supreme Court Rule 65 of the Rules of Superintendence of the Common Pleas Courts requires the appointment of two (2) attorneys in capital cases. This fee is the maximum that will be paid on the combined bills of both attorneys appointed to the case.

Post-Conviction and Habeas Corpus Proceedings

1. Reimbursement for post-conviction and state habeas corpus proceedings not involving a death sentence will be made based on the maximum rate of \$40.00 per hour for out-of-court services and \$50.00 per hour for in-court services.

2. The prescribed maximum fees permitted in post-conviction and habeas corpus proceedings not involving a death sentence are:

<u>Offense/Proceeding</u>	<u>Fee Maximum</u>
Post-Conviction Proceeding with Evidentiary Hearing	\$ 1,000
Post-Conviction Proceeding without Evidentiary Hearing	\$ 500
Habeas Corpus with Evidentiary Hearing	\$ 1,000
Habeas Corpus without Evidentiary Hearing	\$ 500

3. Reimbursement for post-conviction and state habeas corpus proceedings involving a death sentence shall be made based on the maximum rate of \$45.00 per hour for both out-of-court and in-court services to a maximum of \$10,000 for each stage of the post-conviction or habeas corpus proceeding.

F. Flat Rate Fee Resolutions and Guaranteed Minimum Fees

A county board of commissioners may choose to adopt a fee schedule which compensates attorneys at a flat rate instead of at an hourly rate, or which guarantees appointed counsel a minimum amount of compensation for certain types of offenses. Flat rate fee schedules and guaranteed minimum fees are subject to the following requirements:

1. Schedules incorporating flat rate fees and/or guaranteed minimum fees must be approved by the Ohio Public Defender.
2. Requests for reimbursement must include a completed Itemized Fee Statement section on form OPD-1026R regardless of the use of flat rates or guaranteed minimums. Incomplete forms will be returned to the county for completion.
3. Both the flat rate fee and the guaranteed minimum must be clearly indicated in the appropriate space on the front of the form when they are being used to calculate payments to attorneys.

G. Extraordinary Fees

Cases eligible for extraordinary fees are ones which, because of extraordinarily complex issues, multiple offenses, lengthy trials, or other reasons, warrant compensation at a rate which exceeds maximums established by a county or the Ohio Public Defender. Reimbursement to the county for extraordinary fees is subject to the following requirements:

1. Extraordinary fees must be provided for in the fee resolution of the pertinent county.
2. Extraordinary fees must be clearly documented in the appropriate sections on the Motion, Entry, and Certification form.
3. The Judge presiding over the case must indicate approval of the extraordinary fees by checking the "Extraordinary Fees Granted" box in the Entry section on the front of the form and a copy of the journal entry must be attached.

#### Amendments to the Fee Schedule

This fee schedule is subject to amendment by the Ohio Public Defender at any time. Whenever the schedule is amended or revised, proper notice will be given to the appropriate county offices including, but not limited to, county commissioners, auditors, common pleas judges, and clerks of courts.