



January 21, 2022

SENATE BILL No. 308

DIGEST OF SB 308 (Updated January 18, 2022 1:59 pm - DI 106)

Citations Affected: IC 33-40.

Synopsis: Reimbursement for public defender services. Provides that the public defender commission may reimburse a county up to 40% of the county's expenditures for indigent defense services provided in misdemeanor cases, up to 80% of a multicounty public defender's office's expenditures for indigent defense services in noncapital cases, and up to 80% of expenditures for indigent defense services provided for counsel at first appearance by a county or multicounty office. Specifies that the commission may not certify misdemeanor expenses unless at least 50% of those expenses are to reimburse for services provided by private attorneys. Provides that the public defender commission shall appoint one member to certain county public defender boards. Changes population parameters to reflect the population count determined under the 2020 decennial census. Makes conforming amendments.

Effective: July 1, 2022; July 1, 2023.

Glick, Young M, Taylor G, Ford Jon

January 11, 2022, read first time and referred to Committee on Corrections and Criminal Law.

January 20, 2022, amended, reported favorably — Do Pass; reassigned to Committee on Appropriations.

SB 308—LS 7070/DI 149



January 21, 2022

Second Regular Session of the 122nd General Assembly (2022)

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 2021 Regular Session of the General Assembly.

SENATE BILL No. 308

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

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

1 SECTION 1. IC 33-40-6-4, AS AMENDED BY P.L.69-2019,
2 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
3 JULY 1, 2023]: Sec. 4. (a) For purposes of this section, the term
4 "county auditor" includes a person who:
5 (1) is the auditor of a county that is a member of a multicounty
6 public defender's office; and
7 (2) is responsible for the receipt, disbursement, and accounting of
8 all monies distributed to the multicounty public defender's office.
9 (b) A county auditor may submit on a quarterly basis a certified
10 request to the public defender commission for reimbursement from the
11 public defense fund for an amount equal to fifty percent (50%) of the
12 county's **or multicounty public defender's office's** expenditures for
13 indigent defense services provided to a defendant against whom the
14 death sentence is sought under IC 35-50-2-9.
15 (c) A county auditor may submit on a quarterly basis a certified
16 request to the public defender commission for reimbursement from the
17 public defense fund for an amount ~~equal to~~ **not more than:**

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1 (1) forty percent (40%) of the county's or multicounty public
 2 defender's office's expenditures for indigent defense services
 3 provided in all noncapital cases; ~~except misdemeanors.~~

4 (2) **eighty percent (80%) of the multicounty public defender's**
 5 **office's expenditures for indigent defense services provided in**
 6 **all noncapital cases; and**

7 (3) **eighty percent (80%) of the county's or multicounty public**
 8 **defender's office's expenditures for indigent defense services**
 9 **provided for counsel at first appearance.**

10 (d) A request under this section from a county described in
 11 ~~IC 33-40-7-1(3)~~ **IC 33-40-7-1(a)(3)** may be limited to expenditures for
 12 indigent defense services provided by a particular division of a court.

13 SECTION 2. IC 33-40-6-5, AS AMENDED BY P.L.69-2019,
 14 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2023]: Sec. 5. (a) As used in this section, "commission"
 16 means the Indiana public defender commission established by
 17 IC 33-40-5-2.

18 (b) Except as provided under section 6 of this chapter, upon
 19 certification by a county auditor and a determination by the
 20 commission that the request is in compliance with the guidelines and
 21 standards set by the commission, the commission:

22 (1) shall quarterly authorize an amount of reimbursement due the
 23 county or multicounty public defender's office ~~(+)~~ that is equal to:

24 (A) fifty percent (50%) of the county's or multicounty public
 25 defender's office's certified expenditures for indigent defense
 26 services provided for a defendant against whom the death
 27 sentence is sought under IC 35-50-2-9; and

28 ~~(2) (B) that is equal to~~ forty percent (40%) of the county's or
 29 multicounty public defender's office's certified expenditures
 30 for **indigent** defense services provided in noncapital cases
 31 except misdemeanors; **and**

32 (2) **may quarterly authorize an amount of reimbursement due**
 33 **the county or multicounty public defender's office that is not**
 34 **more than:**

35 (A) **forty percent (40%) of the county's expenditures for**
 36 **indigent defense services provided in misdemeanor cases;**

37 (B) **eighty percent (80%) of the multicounty public**
 38 **defender's office's expenditures for indigent defense**
 39 **services provided in all noncapital cases; and**

40 (C) **eighty percent (80%) of the county's or multicounty**
 41 **public defender's office's expenditures for indigent defense**
 42 **services provided for counsel at first appearance.**



1 The commission shall then certify to the auditor of state the amount of
 2 reimbursement owed to a county or multicounty public defender's
 3 office under this chapter. **The commission may not certify**
 4 **misdemeanor expenses of a county or multicounty public**
 5 **defender's office unless at least fifty percent (50%) of those**
 6 **expenses are to reimburse for services provided by contract or**
 7 **hourly attorneys.**

8 (c) Upon receiving certification from the commission, the auditor of
 9 state shall issue a warrant to the treasurer of state for disbursement to
 10 the county or multicounty public defender's office of the amount
 11 certified.

12 SECTION 3. IC 33-40-7-1, AS AMENDED BY P.L.13-2013,
 13 SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 JULY 1, 2023]: Sec. 1. (a) This chapter does not apply to a county that:
 15 **the following counties:**

16 (1) ~~contains a consolidated city;~~ **Marion County.**

17 (2) ~~A county has having~~ a population of

18 ~~(A) more than three hundred thousand (300,000) but less than~~
 19 ~~four hundred thousand (400,000); three hundred fifty~~
 20 ~~thousand (350,000) and less than four hundred thousand~~
 21 ~~(400,000).~~

22 ~~(B) more than two hundred fifty thousand (250,000) but less~~
 23 ~~than two hundred seventy thousand (270,000); or~~

24 ~~(C) more than one hundred seventy-five thousand (175,000)~~
 25 ~~but less than one hundred eighty-five thousand (185,000); or~~

26 **(3) A county having a population of more than two hundred**
 27 **fifty thousand (250,000) and less than three hundred thousand**
 28 **(300,000).**

29 **(4) A county having a population of more than one hundred**
 30 **eighty thousand (180,000) and less than one hundred**
 31 **eighty-five thousand (185,000).**

32 ~~(5) has~~ **(5) A county having** a population of more than four
 33 hundred thousand (400,000) ~~but~~ **and** less than seven hundred
 34 thousand (700,000), except as provided in sections 5 and 11 of
 35 this chapter.

36 **(b) Section 3.3 of this chapter applies to a county described in**
 37 **subsection (a).**

38 SECTION 4. IC 33-40-7-3.3 IS ADDED TO THE INDIANA CODE
 39 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2022]: Sec. 3.3. **The Indiana public defender commission shall**
 41 **appoint one (1) member of the county public defender board of:**

42 **(1) Marion County;**



1 **(2) a county that has a population of:**

2 **(A) more than three hundred fifty thousand (350,000) and**
 3 **less than four hundred thousand (400,000);**

4 **(B) more than two hundred fifty thousand (250,000) and**
 5 **less than three hundred thousand (300,000); or**

6 **(C) more than one hundred eighty thousand (180,000) and**
 7 **less than one hundred eighty-five thousand (185,000); or**

8 **(3) has a population of more than four hundred thousand**
 9 **(400,000) and less than seven hundred thousand (700,000).**

10 **The member appointed by the public defender commission must be**
 11 **a resident of the county or region managing the public defender's**
 12 **office.**

13 SECTION 5. IC 33-40-7-5, AS AMENDED BY P.L.69-2019,
 14 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 15 JULY 1, 2023]: Sec. 5. (a) The board, or joint board of a multicounty
 16 public defender's office created under section 3.5 of this chapter, shall
 17 prepare a comprehensive plan that must include at least one (1) of the
 18 following methods of providing legal defense services to indigent
 19 persons:

20 (1) Establishing a county or multicounty public defender's office.

21 (2) Contracting with an attorney, a group of attorneys, or a private
 22 organization.

23 (3) Using an assigned counsel system of panel attorneys for case
 24 by case appointments under section 9 of this chapter.

25 (4) In a county described in ~~section 1(3)~~ **section 1(a)(3)** of this
 26 chapter, establishing a public defender's office for the criminal
 27 division of the superior court.

28 (b) The plan prepared under subsection (a) shall be submitted to the
 29 Indiana public defender commission.

30 (c) If a multicounty public defender's joint board is established
 31 under section 3.5 of this chapter, the comprehensive plan shall
 32 establish a multicounty public defender's office.

33 SECTION 6. IC 33-40-7-11, AS AMENDED BY P.L.69-2019,
 34 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 JULY 1, 2023]: Sec. 11. (a) For purposes of this section, the term
 36 "county auditor" includes a person who:

37 (1) is the auditor of a county that is a member of a multicounty
 38 public defender's office described in section 3.5 of this chapter;
 39 and

40 (2) is responsible for the receipt, disbursement, and accounting of
 41 all monies distributed to the multicounty public defender's office.

42 (b) A county public defender board or the joint board of a



1 multicity public defender's office shall submit a written request for
2 reimbursement to the county auditor. The request:

3 **(1)** must set forth the total of the county's or multicounty public
4 defender's office's expenditures for indigent defense services to
5 the county auditor; ~~and~~

6 **(2)** may be limited in a county described in ~~section 1(3)~~ **section**
7 **1(a)(3)** of this chapter to expenditures for indigent defense
8 services provided by a particular division of a court; **and**

9 **(3) must separately identify indigent defense services provided**
10 **for counsel at first appearance and misdemeanor cases.**

11 The county auditor shall review the request and certify the total of the
12 county's or ~~multicity's~~ **multicity public defender's office's**
13 expenditures for indigent defense services to the Indiana public
14 defender commission.

15 **(c) Except as provided in subsection (d),** upon certification by the
16 Indiana public defender commission that the county's multicounty
17 public defender's office's indigent defense services meet the
18 commission's standards, the auditor of state shall issue a warrant to the
19 treasurer of state for disbursement to the county of a sum equal to forty
20 percent (40%) of the county's **or** multicounty public defender's office's
21 certified expenditures for indigent defense services provided in
22 noncapital cases **except counsel at first appearance and**
23 **misdemeanors.**

24 **(d) This subsection applies only to a request for disbursement of**
25 **funds for indigent defense services from a county or multicounty**
26 **public defender's office as described in IC 33-40-6-5(b)(2) upon:**

27 **(1) certification by the public defender commission that the**
28 **county's or multicounty public defender's office's indigent**
29 **defense services meet the commission's standards; and**

30 **(2) approval by the public defender commission of the request**
31 **for disbursement of funds.**

32 **The auditor of state shall issue a warrant to the treasurer of state**
33 **for disbursement to the county or multicounty public defender's**
34 **office for the amount approved by the public defender commission.**

35 ~~(d)~~ **(e)** If a county's indigent defense services fail to meet the
36 standards adopted by the Indiana public defender commission, the
37 public defender commission shall notify the county public defender
38 board or the joint board of a multicounty public defender's office and
39 the county fiscal body of the failure to comply with the Indiana public
40 defender commission's standards. Unless the county or multicounty
41 public defender board corrects the deficiencies to comply with the
42 standards not more than ninety (90) days after the date of the notice,



1 the county's or multicounty's eligibility for reimbursement from the
2 public defense fund terminates at the close of that fiscal year.



COMMITTEE REPORT

Madam President: The Senate Committee on Corrections and Criminal Law, to which was referred Senate Bill No. 308, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 2, line 11, strike "IC 33-40-7-1(3)" and insert "IC 33-40-7-1(a)(3)".

Page 3, line 3, after "chapter." insert "**The commission may not certify misdemeanor expenses of a county or multicounty public defender's office unless at least fifty percent (50%) of those expenses are to reimburse for services provided by contract or hourly attorneys.**".

Page 3, between lines 7 and 8, begin a new paragraph and insert:

"SECTION 3. IC 33-40-7-1, AS AMENDED BY P.L.13-2013, SECTION 82, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: Sec. 1. **(a)** This chapter does not apply to a county that: **the following counties:**

(1) contains a consolidated city; **Marion County.**

(2) A county ~~has~~ **having** a population of

~~(A) more than three hundred thousand (300,000) but less than four hundred thousand (400,000);~~ **three hundred fifty thousand (350,000) and less than four hundred thousand (400,000).**

~~(B) more than two hundred fifty thousand (250,000) but less than two hundred seventy thousand (270,000);~~ or

~~(C) more than one hundred seventy-five thousand (175,000) but less than one hundred eighty-five thousand (185,000);~~ or

(3) A county having a population of more than two hundred fifty thousand (250,000) and less than three hundred thousand (300,000).

(4) A county having a population of more than one hundred eighty thousand (180,000) and less than one hundred eighty-five thousand (185,000).

~~(5) has~~ **(5) A county having** a population of more than four hundred thousand (400,000) ~~but~~ **and** less than seven hundred thousand (700,000), except as provided in sections 5 and 11 of this chapter.

(b) Section 3.3 of this chapter applies to a county described in subsection (a).

SECTION 4. IC 33-40-7-3.3 IS ADDED TO THE INDIANA CODE



AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2022]: **Sec. 3.3. The Indiana public defender commission shall appoint one (1) member of the county public defender board of:**

- (1) Marion County;**
- (2) a county that has a population of:**
 - (A) more than three hundred fifty thousand (350,000) and less than four hundred thousand (400,000);**
 - (B) more than two hundred fifty thousand (250,000) and less than three hundred thousand (300,000); or**
 - (C) more than one hundred eighty thousand (180,000) and less than one hundred eighty-five thousand (185,000); or**
- (3) has a population of more than four hundred thousand (400,000) and less than seven hundred thousand (700,000).**

The member appointed by the public defender commission must be a resident of the county or region managing the public defender's office.

SECTION 5. IC 33-40-7-5, AS AMENDED BY P.L.69-2019, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2023]: **Sec. 5. (a) The board, or joint board of a multicounty public defender's office created under section 3.5 of this chapter, shall prepare a comprehensive plan that must include at least one (1) of the following methods of providing legal defense services to indigent persons:**

- (1) Establishing a county or multicounty public defender's office.**
- (2) Contracting with an attorney, a group of attorneys, or a private organization.**
- (3) Using an assigned counsel system of panel attorneys for case by case appointments under section 9 of this chapter.**
- (4) In a county described in ~~section 1(3)~~ **section 1(a)(3)** of this chapter, establishing a public defender's office for the criminal division of the superior court.**

(b) The plan prepared under subsection (a) shall be submitted to the Indiana public defender commission.

(c) If a multicounty public defender's joint board is established under section 3.5 of this chapter, the comprehensive plan shall establish a multicounty public defender's office."

Page 3, line 23, strike "section 1(3)" and insert "section 1(a)(3)**".**

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass and be reassigned to the Senate Committee on Appropriations.



(Reference is to SB 308 as introduced.)

YOUNG M, Chairperson

Committee Vote: Yeas 5, Nays 4.

