

Fighting for Resources 2021

IDS Request for Increased PAC Funding:

Low rates of pay and demographic changes have resulted in a serious shortage of attorneys to handle indigent work statewide, most significantly in our rural counties. IDS receives calls regularly from superior court judges and other system stakeholders about the shortage of attorneys. Accordingly, IDS is in the process of developing a long-term plan for legislators and other policy makers to expand the public defender system in a measured fashion, supported by a network of qualified private counsel for overflow and conflict cases.

To keep the system going in the meantime, the top IDS priority is to raise private assigned counsel rates in order to recruit and retain attorneys willing to take indigent cases. Counsel rates were slashed significantly in 2011 during the state budget crisis, and the IDS Commission has not been able to make any meaningful progress in restoring rates since that time.

Since FY 2017-2018, the number of private assigned counsel on rosters has declined by approximately 15%, from over 2500 attorneys to 2,116 attorneys in FY 2019-20. The principal reason for that decline is unsustainably low rates. Misdemeanor pay barely covers overhead, and lawyers can make more money doing other types of work or doing criminal defense for the federal system at rates starting at \$152 an hour.

The Senate Budget did not allocate any money for IDS to raise rates, much less to restore rates to where they were before the 2011 budget cuts. IDS had requested 17 million dollars to restore rates, and the Governor included that amount in his proposed budget.

The House budget would provide \$6.8 million for IDS to use for rate restoration – a \$5 million increase for the private assigned counsel fund and an additional \$1.8 million dollar for the PAC fund from an increase in the current indigent defense fee from \$2 to \$5. That new fee would not be an increase in court costs, as it replaces a fee that previously went to the Criminal Justice Standards Commission.

The attached chart shows how attorney pay has eroded over the past decade. Even with a \$6.8 million increase in funding, many of the PAC rates still will be below the 2011 rates. For example, a \$15 an hour increase in most district court cases would only bring the hourly rate to \$70 dollars, or \$5 less than it was before the 2011 cut. The PAC rates have further eroded by inflation. Consider that, when adjusted for inflation, the pre-2001 cut rate of \$75 an hour which, which IDS paid PAC in most case types, is \$17 more dollars in buying power than the district court rate increase we now are considering. Still, \$6.8 million will allow some significant increase in rates for attorneys.

Case Type	Current PAC Rates	Goal Rates	2011 Rates	2011 Rate Adjusted for Inflation
Capital Cases (declared capital at a Rule 24 hearing)	\$90	\$105	\$95	\$110
High-Level Felonies (Class A-D)	\$80	\$85	\$75	\$87
Low-Level Felonies (E-I)	\$60	\$75	\$75	\$87
All Other Superior Court Cases	\$60	\$75	\$75	\$87
DWI and Class A1 Misdemeanors	\$60	\$75	\$75	\$87
All Other District Court Cases	\$55	\$70	\$75	\$87
Capital Appeals	\$90	\$105	\$95	\$110
Non-capital High-Level Felony Appeals (Class A-D)	\$80	\$85	\$75	\$87
All other Appeals	\$60	\$75	\$75	\$87