

Resolution

Stark County Commissioners

Adopted May 25, 2022

Distribution

Journal
File
Appeals
Common Pleas - Domestic/Juv
Common Pleas - General
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Municipal
Stark Co. Bar Association

**Subject A Resolution Amending Stark County's Assigned Counsel Fee
Resolution Adopted on April 27, 2022**

Commissioner Creighton moved for the adoption of the following resolution, which was seconded by Commissioner Regula:

WHEREAS, pursuant to ORC 120.33 (A) (3) this Board adopted a new fee schedule for Assigned Counsel in Stark County on April 27, 2022; and

WHEREAS, in that Resolution, the Board approved the new fee schedule to be effective in cases wherein counsel is *appointed* on or after June 1, 2022; and

WHEREAS, on May 19, 2022, the Office of Ohio Public Defender issued a Memorandum entitled: "*Indigent Defense Reimbursement – OPD Online and Fee Schedule Transition*" wherein State Public Defender, Tim Young announced that the OPD has developed a new electronic/online reimbursement program that is expected to be fully deployed statewide in 2023 and 2024 to counties desiring to participate;

WHEREAS, the May 19th memo further states that: "*The OPD Online reimbursement program has been developed so that a change in fee schedule must be transitioned by the date of a bill. Development of other options, particularly to transition by date of appointment, is much more complex and would result in undue expense. With this in mind, I write to advise and provide advance notice that any county that is interested in being onboarded to OPD Online will need to transition fee schedules based on the date of a bill.*"

WHEREAS, the Board of Commissioners desires to preserve the ability for Stark County to potentially transition to the new OPD Online Reimbursement in the future, and therefore desires to make the following amendment to its April 27, 2022 Assigned Counsel Fee Resolution; and

WHEREAS, in addition to the above, the Board of Commissioners wishes to treat counsel, who have been appointed to cases which may be years in duration, or counsel who have only recently been appointed, with fairness and equity.

NOW THEREFORE BE IT RESOLVED, that pursuant to O.R.C. 120.33 and Section 2941.51, the fee schedule contained in the April 27, 2022 resolution is hereby amended to be effective in cases wherein appointed counsel submits their bill on or after June 1, 2022.

BE IT FURTHER RESOLVED, that the April 27, 2022 Resolution, Section B (6) is hereby further amended to read as follows:

(6) The hourly rate and maximum fees set forth above shall continue in force and effect provided that the percentage rate of reimbursement established by Ohio Public Defender (or authorized by the General Assembly) is seventy (70%) or greater of the rate and maximum fee established by the Ohio Public Defender in the Standards and Guidelines for Appointed Counsel Reimbursement, Maximum Fee Schedule for Appointed Counsel Reimbursement, County Public Defender Office Reimbursement Standards, revised September 2021.

If, for two consecutive months, the percentage rate of reimbursement established by the Ohio Public Defender is reduced to less than seventy percent (70%), then, all bills submitted on or after the first day of the month following such two-month-reduction and thereafter, payment and/or reimbursement of fees shall be at the rate of sixty-five dollars (\$65.00) per hour of representation both in and out of Court.

If, for two consecutive months, the percentage rate of reimbursement established by the Ohio Public Defender is increased from a lower rate to seventy percent (70%) or greater, then, all bills of counsel submitted on or after the first day of the month following such two-month-increase, payment and/or reimbursement of fees shall be at the rate of seventy-five dollars (\$75) per hour of representation both in and out of court.

The Ohio Public Defender reimbursement rates and percentages utilized for purposes of this resolution are published periodically by the Ohio Public Defender and are available on the Ohio Public Defender's website.

BE IT FURTHER RESOLVED that all other portions of the Board's April 27, 2022 Resolution remain in full force and effect.

Upon roll call the vote resulted as follows:

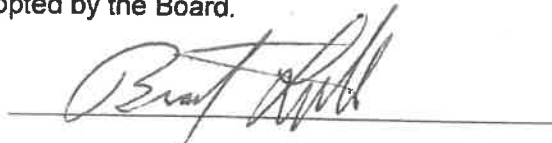
Mr. Regula - **YES**

Ms. Creighton - **YES**

Mr. Smith - **YES**

CERTIFICATE

I, Assistant Clerk of the Board and County Administrator, hereby certify the foregoing to be a true and correct copy of the resolution adopted by the Board.



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Subject **A Resolution Amending Stark County's Assigned Counsel Fee Resolution Adopted on October 5, 2006.**

Commissioner Creighton moved for the adoption of the following resolution, which was seconded by Commissioner Regula:

WHEREAS, it is considered timely to revise the schedule of fees for assigned counsel in the Courts of Stark County; and

WHEREAS, pursuant to ORC 120.33 (A) (3) The schedule shall be subject to the review, amendment, and approval of the Board of County Commissioners by adopted resolution; and

NOW THEREFORE BE IT RESOLVED, that pursuant to O.R.C. 120.33 and Section 2941.51, the fee schedule contained in the October 5, 2006 resolution is hereby amended as follows, effective in cases wherein counsel is appointed on or after June 1, 2022:

MAXIMUM FEE SCHEDULE FOR ASSIGNED COUNSEL

(A) The following is the MAXIMUM schedule of fees allowed to attorneys who have been appointed to represent indigent Defendants. Pursuant to R.C. §120.33(A)(4) *The payment of extraordinary fees due to complex issues, multiple offenses, lengthy trials, or other reasons, warranting compensation at a rate which exceeds the maximums established by a county or the OPD is hereby authorized contingent upon proper application and approval as determined by each respective Court.*

(B) Expenses must be approved by the Judge before incurred and itemized when presented for payment. The fees are as follows:

(1) Payment and/or reimbursement for non-capital offense representation shall be made on the basis of seventy-five dollars (\$75.00) per hour of representation, both in and out of Court, up to the following maximum amounts for the following offense classifications and other proceedings:

Offense/Proceeding	Maximum Fee
Aggravated murder (w/specs) per R.C. § 2929.04(A) per R.C. § 2941.14(B)	\$125/hr - no maximum as set by Capital Fee Council per R.C. § 120.33(D)
Aggravated murder (w/o specs)	\$15,000/1 attorney \$25,000/2 attorneys
Murder	\$10,000
Felony with possible life sentence/ repeat violent offender/major drug offender	\$10,000
Felony (degrees 1-2)	\$8,000
Felony (degree 3)	\$5,000
Felony (degree 4-5)	\$3,500
Misdemeanor (degrees 1-4)	\$2,000
Misdemeanor OVI/BAC	\$2,500
Contempt of court	\$500
Violation (Probation/Community Control)	\$750
Preliminary Hearings	\$300
Sex Offender Classification	\$750
Other	\$750
Juvenile Proceedings	
Aggravated murder (w/specs) per R.C. §§ 2929.04(A) and 2941.14(B)	\$125/hr no maximum as set by Capital Fee Council per R.C. § 120.33(D)
Aggravated murder (w/o specs)	\$7500/1 attorney \$12,500/2 attorneys
Murder	\$6,000
Felony adjudication (degrees 1-2)	\$5,000
Felony adjudication (degrees 3-5)	\$3,500
Misdemeanor OVI/BAC	\$2,500

Misdemeanor	\$2,000
Traffic	\$300
Objections	\$750
Unruly	\$1,000
Bindover – Mandatory	\$750/1 attorney \$1,200/2 attorneys
Bindover – Discretionary	\$2,000/1 attorney \$3,000/2 attorneys
Reverse bindover amenability	\$1,500
SYO	Adult degree + 50%/2 attorneys
SYO invocation	\$2,000/1 attorney \$3,000/2 attorneys
Adult in Juvenile Court	\$1,500
Violation (Probation/Community Control)	\$750
Violation (Parole/Supervised Release)	\$750
VCO	\$750
ADN Initial Custody	\$1,500
ADN Annual After Custody	\$1,500
Permanent Custody	\$2,500
Contempt of Court	\$500
Purge Hearing	\$150
Sex Offender Classification/ Reclassification/ Declassification	\$750
Expungement	\$300
Other	\$750
Probate Proceedings	
Termination of parental rights	\$2,500

(2) Payment and/or reimbursement for entrance of pleas should be on the basis of seventy-five dollars (\$75.00) both in and out of Court, up to the prescribed maximums for each offense classification.

(3) Payment and/or reimbursement for expenses associated with providing representation shall be made **only** if eligible under the Ohio Public Defender published expense reimbursement Guidelines, and if submitted with the attorney's fee certificate (OPD-1026), *Affidavit of Indigency*, *Journal Entry of Appointment* and approved by the trial Judge. Appointed counsel is reminded that the County is only reimbursed (or partially reimbursed) for such expenditures when the fee certificates are submitted in a timely manner. Judges may refuse to approve any fee certificates submitted for approval to the court beyond sixty (60) days after the end of the calendar month in which the case was finally disposed of or terminated, pursuant to O.R.C. 120.33 (A)(4) except when the attorney intends to file a motion for appeal, a motion for a new trial, or a motion to recommend shock probation. In these instances, the due date is extended to sixty (60) days beyond the date of this post trial action.

(4) Payment and/or reimbursement for appellate representation shall be made on the basis of seventy-five dollars (\$75.00) per hour for in or out of court representation for non-capital cases. Payment and/or reimbursement shall be made when submitted with the appropriate certificate (OPD-E-204) approved by the Appellate Court.

(5) Payment and/or reimbursement for representation in appellate level proceedings involving a death sentence will be made based on the maximum rate of one hundred twenty-five dollars (\$125.00) per hour for both in-court and out-of-court services.

The prescribed maximum fees permitted in appellate level proceedings are:

Offense/Proceeding	Fee Maximum
Death Sentence	\$125/hour with no maximum
Cumulative Minimum Sentence exceeds 25 years	\$8,000
Felony degrees 1-2) Trial	\$5,000
Felony (degree 3) Trial	\$3,500
Felony (degrees 4-5) Trial	\$2,500
Misdemeanor Trial	\$2,000
Felony Plea	\$1,500
Misdemeanor Plea	\$1,000
ADN Permanent Custody	\$3,500
Probate	\$3,500
Unruly	\$1,000

Other	\$1,000
26(B) Murnahan Felony (degrees 1-2) Trial	\$3,000
26(B) Murnahan Felony (degree 3)	\$2,000
26(B) Murnahan Felony (degrees 4-5)	\$1,000
OSC Jurisdiction Memorandum	\$1,500

(6) The hourly rate and maximum fees set forth above shall continue in force and effect provided that the percentage rate of reimbursement established by Ohio Public Defender (or authorized by the General Assembly) is seventy (70%) or greater of the rate and maximum fee established by the Ohio Public Defender in the Standards and Guidelines for Appointed Counsel Reimbursement, Maximum Fee Schedule for Appointed Counsel Reimbursement, County Public Defender Office Reimbursement Standards, revised September 2021.

If, for two consecutive months, the percentage rate of reimbursement established by the Ohio Public Defender is reduced to less than seventy percent (70%), then, for appointments of counsel commencing on the first day of the month following such two-month-reduction and thereafter, payment and/or reimbursement of fees shall be at the rate of sixty-five dollars (\$65.00) per hour of representation both in and out of Court, for all cases except cases pending at the time of said rate change.

If, for two consecutive months, the percentage rate of reimbursement established by the Ohio Public Defender is increased from a lower rate to seventy percent (70%) or greater, then, for appointments of counsel commencing on the first day of the month following such two-month-increase, payment and/or reimbursement of fees shall be at the rate of seventy-five dollars (\$75) per hour of representation both in and out of court.

The Ohio Public Defender reimbursement rates and percentages utilized for purposes of this resolution are published periodically by the Ohio Public Defender and are available on the Ohio Public Defender's website.

TIME IS OF THE ESSENCE FOR SUBMITTING FEE REIMBURSEMENT REQUESTS

(7) Appointed attorneys and guardians ad litem shall correctly submit all prescribed forms within thirty (30) days after the end of the month from which a judgment or order disposing of a case for which appointed counsel fees are requested. Failure to correctly complete and submit all prescribed forms within the thirty (30) day period will result in a 15% reduction in the fees and expenses paid to counsel. Forms for reimbursement submitted after seventy-five (75) days will not be paid.

Upon roll call the vote resulted as follows:

Mr. Regula - YES

Ms. Creighton - YES

Mr. Smith - YES

CERTIFICATE

I, Assistant Clerk of the Board and County Administrator, hereby certify the foregoing to be a true and correct copy of the resolution adopted by the Board.