

RESOLUTION NO. 15-00836

In the matter of establishing fee schedule for assigned) County Commissioners' Office,
counsel pursuant to Section 120.33(A)(3) of the Ohio) Wood County, Ohio,
Revised Code.) July 23, 2015.

WHEREAS, Wood County recognizes its responsibility under the laws of the State of Ohio and the United States of America to provide legal counsel for indigent individuals charged with loss of liberty offenses and other statutorily granted right of counsel proceedings in the Courts of Wood County; and

WHEREAS, Wood County has a county public defender office. It also has an assigned counsel system, to provide representation in indigent defense cases, in instances where there is an ethical conflict, multiple defendants, or for other reasons where representation cannot or is not provided by the Wood County Public Defender Commission. The Commissioners wish to adopt a schedule of fees for the Assigned Counsel types of services; 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 an up to date fee schedule which must be filed with the Office of the Ohio Public Defender, upon which reimbursement will be based; therefore, be it

RESOLVED, by the Board of County Commissioners, Wood County, Ohio, that all counsel eligible for payment under this schedule shall be appointed by any court within Wood County and said appointment shall be entered by a signed journal entry recorded on the Court docket.

The following plan (Exhibit A) is adopted for use by the Courts of Wood County including the Ohio Supreme Court and the District Court of Appeals:

Exhibit A

1. Payment for representation in trial level cases not involving a death penalty specification will be made on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court-services. Payment for representation in trial level cases involving a death penalty specification will be made based on the maximum rate of \$95.00 per hour for both in-court and out-of-court services.
2. The prescribed maximum fees permitted in trial level proceedings are:

| <u>Offense/Proceeding</u> | <u>Fee Maximum</u> |
|--|---|
| Aggravated Murder (w/specs) Per O.R.C. 2929.04(A) and 2941.14(B) | \$50,000 (2 attorneys)* |
| Aggravated Murder (w/o specs) | \$6,000 (1 attorney) \$8,000 (2 attorneys) |
| Murder | \$3,000 (1 attorney) |
| Felonies with possible life sentence, Repeat violent offender, major drug offender | \$2,000 |
| Felonies (1-5) | \$2,000 |
| Misdemeanors (degrees 1-4) | \$750 |
| Contempt of Court | \$300 |
| Parole, probation, judicial release, and all other proceedings not elsewhere classified | \$500 |

*Ohio Supreme Court Rules for the Appointment of Counsel in Capital Cases for the Courts of Ohio require the appointment of two (2) certified attorneys in capital offense cases. This fee is the maximum that will be paid on the combined bills of both attorneys appointed to the case.

When representing an individual on more than one charge, the State requires all such billing that tracks through the Court at the same time (known as companion cases) to appear on one fee bill.

Payment for proceedings in Juvenile Court:

3. Payment for representation in juvenile proceedings will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services.
4. The prescribed maximum fees permitted in juvenile level proceedings are:

| <u>Offense/Proceeding</u> | <u>Fee Maximum</u> |
|--|--------------------|
| Delinquency: | |
| Felonies (1-5) | \$1,000 |
| Misdemeanors | \$750 |
| Bind Over | \$500 |
| Unruly | \$950 |
| A/D/N | \$950 |
| Juvenile Traffic Offender | \$950 |
| Contempt of Court | \$300 |
| Parole, probation, judicial release, and all other proceedings not elsewhere classified | \$500 |

Hourly rates and caps that apply to the attorney will apply for any Guardian ad litem appointed if said GAL is an attorney.

When representing an individual on more than one charge, the State requires all such billing that tracks through the Court at the same time to appear on one fee bill. In Abuse/Dependency/Neglect cases, representation involving all the children in a family affected by the adjudication must appear on one fee bill.

Appellate Level Proceedings

5. Payment for representation in appellate level proceedings not involving a death sentence shall be made based on a maximum rate of \$50.00 per hour for out-of-court and \$60.00 per hour for in-court services.

6. Payment for representation of appellate level proceedings involving a death sentence will be made based on the maximum rate of \$95.00 per hour for both out-of-court and in-court services.
7. 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 sentence) | \$20,000* |
| Aggravated Murder (other sentence) | \$4,000 |
| Murder | \$2,000 |
| Felonies | \$1,000 |
| Misdemeanors | \$750 |
| Other/Juvenile | \$950 |
| Juvenile A/D/N or Permanent Custody | \$950 |

The Juvenile Appellate hourly rate and caps also apply to an attorney Guardian ad Litem.

* Ohio Supreme Court Rules for the Appointment of Counsel in Capital Cases for the Courts of Ohio require the appointment of two (2) certified attorneys in capital offense 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

8. Payment for post-conviction and state habeas corpus proceedings not involving a death sentence will be made based on the maximum rate of \$50.00 per hour for out-of-court services and \$60.00 per hour for in-court services.
9. 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 |

10. Payment for post-conviction and state habeas corpus proceedings involving a death sentence shall be made based on the maximum rate of \$95.00 per hour for both out-of-court and in-court services to a maximum of \$20,000 to be divided among services in the trial court, the Court of Appeals, and the Ohio Supreme Court.

Extraordinary Fees

11. Cases eligible for extraordinary fees or extraordinary hourly rates or extraordinary number of attorneys are ones which, because of extraordinarily complex issues, multiple offenses, lengthy trials, or other reasons, warrant compensation/additional representation at a rate which exceeds the maximums established by a county or the Ohio Public Defender. Payment for extraordinary fees/hourly rates or extra attorneys are subject to the following requirements and are hereby enacted:

Wood County hereby provides for extraordinary fees/hourly rates/or number of attorneys in this fee resolution adopted pursuant to O.R.C. 120.33(A)(3).

Extraordinary fees must be clearly documented in the appropriate sections on the Motion, Entry, and Certification form.

The Judge hearing the case must indicate approval of the extraordinary fees by checking the "Extraordinary Fees Granted" box in the Judgment Entry section on the front of the form, and a copy of the journal entry must be attached.

An entry granting additional attorneys or increased hourly rates should be obtained at the beginning of the case.

All fee bills must have sufficient hours worked to support the amount requested, except with a waiver from OPD for example in Pilot projects or specialty court billings.

Expenses

12. Payment for (experts and transcript) expenses associated with providing representation shall be made when a motion is submitted to the court and approved by the judge in advance of incurring the expense and the amount thereof is determined to be reasonable by the judge.

The invoice and copy of the entry is to be presented to the Court and the Court will arrange payment by using OPD form 209 or 205 accordingly or other form directed by the Ohio Public Defender.

Payments may be made for nominal, reasonable expenses (such as postage, copies etc.) associated with providing representation, and approved by the Court, and should be submitted on the expense portion of the attorney log. All expenses over \$1.00 requires a receipt. If individual items are under \$1.00 then the number of items and cost per item must be stated. Any mileage claimed must state the city destinations, to and from, and number of miles travelled.

Amendments to the Fee Schedule

13. Wood County Commissioners may amend this fee schedule at any time. Whenever the schedule is amended or revised, a copy of the resolution amending the fee schedule is directed to be sent to the Ohio Public Defender along with notice to all the courts and assigned counsel.

Effective Date

14. The effective date of the new Schedule of Fees for Assigned Counsel is July 23, 2015. Assigned Counsel fee bills *submitted to the court* after August 31, 2015 will be eligible for the fees established herein.

Commissioner Kuhlman moved and Commissioner Herringshaw seconded the foregoing and the roll being called on its adoption, the vote resulted as follows:

JOEL M. KUHLMAN Yes DORIS I. HERRINGSHAW, Ed.D. Yes JAMES F. CARTER Yes

Attest: Sandy A. Long
Clerk of said Board.

cc: File
Wood County Auditor
Wood County Common Pleas Court 1, 2, 4
Wood County Juvenile Court
Wood County Law Library
Mary Bodey, Court Administrator
Wood County Public Defender Commission
Wood County Bar Association
Bowling Green Municipal Court
Fostoria Municipal Court
Perrysburg Municipal Court
6th District Court of Appeals
Ohio Public Defender's Office