



ANNUAL REPORT

Fiscal Year 2022

VIRGINIA INDIGENT DEFENSE COMMISSION

1604 SANTA ROSA ROAD, SUITE 200

RICHMOND, VIRGINIA 23229

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FY22 COMMISSION

Commission Members by Statute | Virginia Code § 19.2-163.02

The Chairman of the House Committee for Courts of Justice or his designee and the Chairman of the Senate Committee on the Judiciary or his designee who shall be members of the Courts of Justice committees;

- Delegate Charniele L. Herring
- Delegate Tim Anderson
- Senator R. Creigh Deeds

Chairman of the Virginia State Crime Commission (or Designee);

- Kristen Howard

Executive Secretary of the Supreme Court (or Designee);

- Karl R. Hade

Two (2) Attorneys Designated by Virginia State Bar;

- Professor John G. Douglass
- Carolyn Grady | VIDC Chairman

Two (2) Persons Appointed by the Governor;

- Nicholas Braswell
- Professor Henry Chambers

Three (3) Persons Appointed by the Speaker of the House of Delegates;

- Guy W. Horsley, Jr.
- LaRana Owens
- Christie Leary

and Three (3) Persons Appointed by the Senate Committee on Rules.

- Steven D. Benjamin
- Artisha Gregg
- Manuel E. Leiva

Commission Staff

Executive Director: David J. Johnson

Deputy Director: Maria Jankowski

Information Technology Director: Jason Hodges

Human Resource Director: Donna Moore

Budget and Finance Director: Solomon Girmay

FY22 PUBLIC DEFENDER OFFICES

OFFICE	LOCALITIES SERVED	EST.
ALEXANDRIA	City of Alexandria	1987
ARLINGTON	County of Arlington and City of Falls Church	2005
BEDFORD	City/County of Bedford	1989
CHARLOTTESVILLE	City of Charlottesville and County of Albemarle	1998
CHESAPEAKE	City of Chesapeake	2005
CHESTERFIELD	County of Chesterfield	2021
DANVILLE	City of Danville	1990
FAIRFAX	City and County of Fairfax	1987
FRANKLIN	City of Franklin and Counties of Isle of Wight and Southampton	1989
FREDERICKSBURG	City of Fredericksburg and Counties of King George, Stafford, and Spotsylvania	1990
HALIFAX	Counties of Halifax, Lunenburg, and Mecklenburg	1990
HAMPTON	City of Hampton	2005
LEESBURG	County of Loudoun	1988
LYNCHBURG	City of Lynchburg	1991
MARTINSVILLE	City of Martinsville and Counties of Henry and Patrick	1992
NEWPORT NEWS	City of Newport News	2005
NORFOLK	City of Norfolk	2002
PETERSBURG	City of Petersburg	1979

OFFICE	LOCALITIES SERVED	EST.
PORTSMOUTH	City of Portsmouth	1986
PRINCE WILLIAM	County of Prince William	2020
PULASKI	City of Radford and the Counties of Bland, Pulaski, and Wythe	1988
RICHMOND	City of Richmond	1986
ROANOKE	City of Roanoke	1976
STAUNTON	Cities of Buena Vista, Lexington, Staunton, and Waynesboro and Counties of Augusta and Rockbridge	1972
SUFFOLK	City of Suffolk	1989
VIRGINIA BEACH	City of Virginia Beach	1973
WARRENTON	Counties of Fauquier and Rappahannock	2021
WINCHESTER	Counties of Clarke, Frederick, Page, Shenandoah, and Warren, and City of Winchester	1989

The Annual Report of the VIRGINIA INDIGENT DEFENSE COMMISSION

MISSION STATEMENT

*Dedicated to protecting and defending the rights and dignity of our clients through
zealous, compassionate, high quality legal advocacy.*

The **Virginia Indigent Defense Commission** (VIDC), in conjunction with certified court-appointed private attorneys, provides legal representation for indigent people accused of crimes for which the possible punishment is incarceration.¹

FY 2022 REVIEW

Unlike last year's record number of seven new Chief Public Defenders, only one Public Defender retired, Paul Pepper in Alexandria, who was replaced by Megan Thomas. Not only was Ms. Thomas the Deputy, but she had also served as an Assistant Public Defender and Senior Assistant Public Defender in the Alexandria office prior to accepting this new position. Between those terms, she experienced a successful time in private practice working across the Northern Virginia Courts. Ms. Thomas has hit the ground running and it has been a very smooth transition.



MEGAN THOMAS

Chief Public Defender, Arlington

Ms. Thomas is bilingual and handles a mixed misdemeanor and felony docket. During her time as a Public Defender, she has handled hundreds of cases ranging from DWI to first-degree murder, many of which she has tried to juries. In addition to her duties at the Public Defender Office, she has presented various lectures for the Alexandria Bar Association and is a member of several local community boards.

¹ U.S. Const. Amend. VI. Note that the death penalty was abolished in Virginia effective July 1, 2021.

Ms. Thomas graduated *summa cum laude* from the University of Florida in 1999 and *magna cum laude* from Catholic University, Columbus School of Law, in 2002. She joined the Office of the Public Defender in 2003 after clerking for a year in the District of Columbia. Megan took a brief hiatus in 2009 to spend time with her family, but returned to criminal defense in 2012 with the law firm King, Campbell & Poretz. During this time, she handled criminal defense cases in Alexandria, Arlington, Fairfax and Prince William County, including several high-profile murder and sex assault cases. In 2016, she returned to the Alexandria Office of the Public Defender and later became Deputy in 2019.

NEW APPELLATE PROCEDURES & RESOURCES

Given the significant changes to the Virginia Court of Appeals appellate rules effective January 1, 2022, the VIDC appellate cohort was formed as an agency-wide resource to assist with client appeals. Under the guidance of VIDC Chief Appellate Counsel, this group of up to 8 public defender attorneys focus solely on providing high quality representation for clients in the Court of Appeals and the Supreme Court. In its first year, the cohort had 102 appeals.

For FY 2022, the appellate cohort completed a total of 371 consultations. About 75 to 80% of consultations came from public defender offices and 20 to 25% from private certified court-appointed attorneys.

COMMUNITY & POLICY ENGAGEMENT

Community and policy engagement continued in FY 2022. In addition to the tens of thousands of cases handled every year across the Commonwealth by the Public Defender offices, the Executive Director, Deputy Director, Director of Policy and Education and many Public Defenders serve on various boards, commissions, committees, and other groups working toward improving the criminal justice system both statewide and in their communities. These include the The Department of Criminal Justice Services, the National Advisory Board for The Gault Center, the Criminal Law Section Board of Governors for the Virginia State Bar and the Virginia Criminal Justice Conference, among many others. The VIDC appreciates the opportunity to engage with other stakeholders to ensure that the unique challenges facing indigent defendants in the Commonwealth are not overlooked.

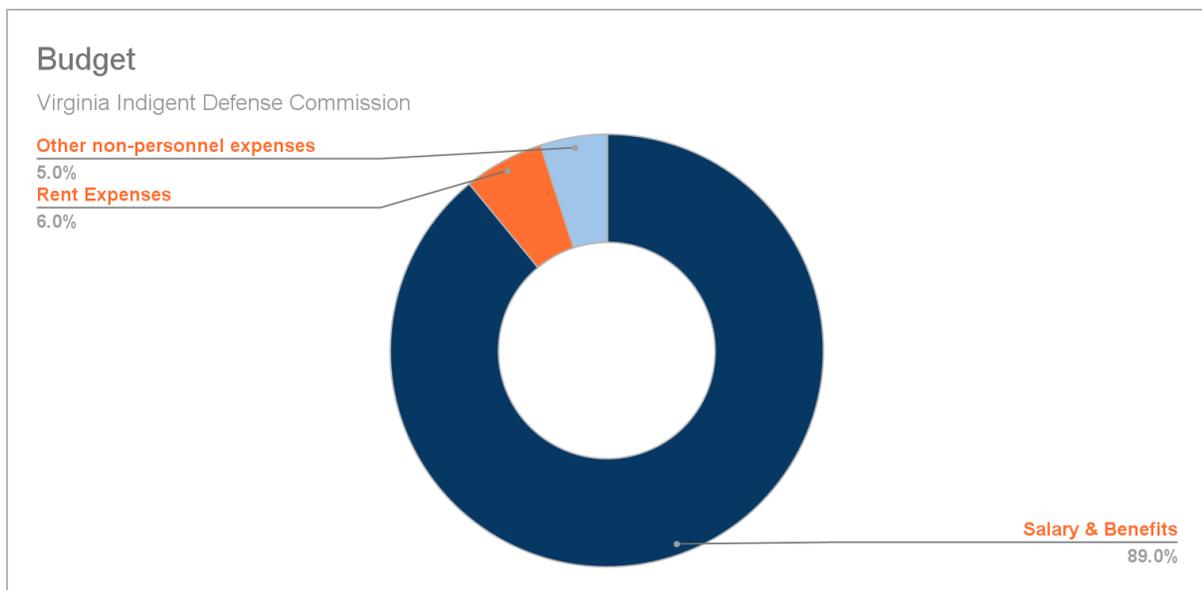
DIVERSITY & RECRUITMENT

This year the VIDC experienced the most unusual recruitment circumstances. From a diversity perspective, the VIDC has experienced great success. A total of 27.6% of VIDC employees identify as non-white, an increase of 4.6% since May 2021. Also, VIDC Head of Diversity and Recruitment spearheaded a partnership with two law schools, one a HBCU, to provide for matching funds paid internships. This netted the largest number of paid interns in VIDC history, with a total of 50% of this year's paid internships going to students of color.

Despite that success, public defender salary inadequacies made recruitment more difficult than ever. Law students are still drawn to the work, however, they are finding the positions impossible to accept while still meeting living expenses.

BUDGET

VIDC budget is driven almost entirely by personnel cost as demonstrated in the following chart.



EMPLOYEE SATISFACTION

Annual employee surveys show definitively that VIDC employees are committed to the mission, have a very favorable perception of the agency, and their office, and consider the VIDC a good place to work. Low salaries are the primary reason for employees leaving the VIDC.

VIRGINIA CODE § 19.2-163.01 - STATUTORY MANDATES

The sections of the Code of Virginia governing the VIDC include several statutory mandates, most of which concern the duty to oversee court-appointed private attorneys.

A summary of the recent actions taken and the mandate requiring such action follows.

1. VIRGINIA CODE § 19.2-163.01(A)(1)

Publicize and enforce the qualification standards for attorneys seeking eligibility to serve as court-appointed counsel for indigent defendants.

The initial qualification requirements, as well as the requalification requirements for attorneys seeking to represent indigent clients accused in criminal cases, are enumerated in Virginia Code §19.2-163.03. A list of the qualification requirements can be found on the VIDC website at www.vadefenders.org.

Applications for Initial Certification and re-certification are also available on the website. The Certification and Compliance Attorney, or the Certification and Compliance Assistant, receives applications for certification and re-certification for review and determines whether the qualification or requalification requirements have been met.

2. VIRGINIA CODE § 19.2-163.01(A)(2)

Develop initial training courses for attorneys who wish to begin serving as court-appointed counsel, and to review and certify legal education courses

that satisfy the continuing requirements for attorneys to maintain their eligibility for receiving court appointments.

The VIDC continues to offer Initial Certification training for attorneys seeking to accept court-appointed indigent criminal defense work. Typically, this 12 hour training program is offered live three times per year. The training is staffed with seasoned public defenders and other VIDC resource attorneys, including our Chief Appellate Counsel and Certification Attorney. In addition to content updates and improvements, valuable practice tips are provided throughout the program. This year, all written materials were carefully reviewed by multiple experienced attorneys to ensure they were up-to-date and always with an eye for improvement. The VIDC attorney resource website and other free resources are highlighted for the attendees.

By statute, attorneys maintain their eligibility for court appointments for a period of two years from the date of their initial certification. Prior to the expiration of each two-year period, attorneys receive multiple expiration date notifications via email along with instructions on where to find information about re-certification. Attorneys wishing to maintain certification for court-appointed work are required to complete the one-page re-certification application form. Attorneys must include on the form the information verifying their completion of the statutorily required number of Commission and Virginia State Bar Mandatory Continuing Legal Education (MCLE) approved credit hours.

The VIDC continues to provide on-going, high-quality training at no cost to all certified court-appointed attorneys. All VIDC training provided to attorneys is approved by the Virginia State Bar for MCLE credit and is eligible to be used by attorneys to maintain certification status for court appointments.

In FY 2022, re-certification training was provided via a series of live virtual webcasts, which provided increased accessibility to attorneys across the commonwealth. VIDC webcasts were open to all certified court-appointed attorneys as well as Public Defender Office staff. A total of 19 live virtual hours

of MCLE credits were provided to over 2,400 certified court-appointed attorneys. Furthermore, the webcasts and corresponding materials were also made available for replay via the online VIDC Video Replay Library, which has been accessed by over 900 attorneys.

In addition to VIDC training programs, VIDC Certification and Compliance Attorney reviews and approves MCLE approved courses provided by other organizations to determine whether courses satisfy the requirements for attorneys to maintain their eligibility for court appointments. A current list of Commission and MCLE-approved courses is provided on the VIDC website at <http://www.vadefenders.org/recertification/> and is regularly updated as new courses are submitted and approved.

3. VIRGINIA CODE § 19.2-163.01(A)(3)

Maintain a list of attorneys admitted to practice law in Virginia who are qualified to serve as court-appointed counsel for indigent defendants based upon the official standards. Disseminate the list by July 1 of each year and updates throughout the year to the Office of the Executive Secretary of the Supreme Court for distribution to the courts.

The VIDC Attorney Certification System (ACeS) is an online database that allows attorneys to apply, renew and modify their certification status via the VIDC website. ACeS continually updates the certified counsel list located on the public VIDC website (<https://aces.virginiainteractive.org/defend/>) and is accessible by court personnel to retrieve the names of certified attorneys by case type and judicial circuit/district.

As of July 22, 2022, the number of **certified attorneys totaled 1,579** and the total attorneys certified by case type were as follows:

Case Type	Number of Certified Attorneys 7/2021	Number of Certified Attorneys 7/2022	Annual Change %
FELONY	1557	1387	-11
JUVENILE	807	715	-11
MISDEMEANOR	1768	1575	-11

NOTE: An attorney may be certified for more than one case type.

A list is sent to the Office of the Executive Secretary every four months advising of attorneys who have not been re-certified or who have been removed from the certified counsel list for other reasons. The most recent list of ineligible attorneys was provided on July 1, 2022.

4. VIRGINIA CODE § 19.2-163.01(A)(4)

Establish official standards of practice for court-appointed counsel and public defenders to follow in representing their clients and guidelines for the removal of an attorney from the official list. Notify the Office of the Executive Secretary of the Supreme Court of any attorney whose name has been removed from the list.

The Standards of Practice for Indigent Defense Counsel are outlined on the VIDC website (<http://www.vadefenders.org/standardsofpractice/>). The Standards of Practice complaint process and complaint form are also located on the website. The Standards of Practice are highlighted in the live Initial Certification training and, as of June 2018, the complete Standards of Practice are included in the training manual provided to attendees.

Previously implemented efforts to raise awareness of the Standards of Practice and the enforcement thereof have continued. Currently, VIDC training programs incorporate and highlight the Standards of Practice whenever applicable.

This year, the Commission approved amendments to the Standards of Practice to reflect the changes made to appellate procedure in Virginia. These changes include the duty to file reply briefs and request oral argument to protect clients. These changes were also incorporated into the Initial Certification training.

5. **VIRGINIA CODE § 19.2-163.01(A)(5)**

Develop initial training courses for public defenders and to review and certify legal education courses that satisfy the continuing requirements for public defenders to maintain their eligibility.

All public defenders must receive the same Initial Certification training as any attorney seeking to serve as court-appointed counsel. Public defenders are encouraged to attend a live session of the Initial Certification training, however, in an effort to get new public defenders certified as quickly as possible, they are provided the option to complete the training via online video replay. In keeping with the revised Standards of Practice, all public defenders must also complete a two-hour training on defending non-citizens. Furthermore, all public defenders serving as an Appellate Supervisor must also attend a specialized appellate training provided by VIDC Chief Appellate Counsel.

All attorneys employed by the VIDC must attend an intensive week-long training program known as *Public Defender Boot Camp*, typically within the first six months of employment. The training emphasizes trial skills and addresses the rewards and challenges of public defense with the goal of developing a client-centered practice. Staffed by experienced public defender leaders, this training program is one part of an overall strategy to recruit, train, and retain quality attorneys who want to serve as public defenders. In FY 2022, two in-person training sessions were provided to new hires. Each training included five days of training and a total of 75 new public defenders were trained, 57 in December 2021 and 18 in May 2022. This event provided 27 hours of VIDC and MCLE approved training credits to be used by attorneys towards maintaining their certification status.

The VIDC Annual Public Defender Conference was canceled in 2021 due to the on-going pandemic. In place of the conference, the Training Department offered 19 hours of live MCLE approved webcasts throughout FY 2022. The webcast series was made available to all public defenders, mitigation specialists, paralegals and investigators by means of live virtual attendance or through recordings available within the online VIDC Video Replay Library. All VIDC webcasts are eligible for attorneys to use towards maintaining their certification status.

The annual Shark ATAC: Advanced Trial Advocacy College training program is an elite training program for experienced Assistant Public Defenders who show a long-term commitment to indigent defense and a desire to creatively challenge norms for the betterment of the client and the profession. Participants are accepted through an application process and take part in a three-day program focusing on advanced trial skills and strategy training. In FY 2022, the program accepted 16 attorneys to participate. Originally scheduled for February 2022, the event was ultimately postponed and rescheduled for August 2022. This event provides 17 hours of MCLE and VIDC approved credit to be used by attorneys towards maintaining their certification status.

Due to significant changes in law, VIDC Chief Appellate Counsel developed new resources, including checklists, flowcharts and sample pleadings reflecting the new rules of the Virginia Court of Appeals, which was made accessible to Public Defender Offices and private certified court-appointed attorneys. In December 2021, VIDC provided a two-hour webcast presented by VIDC Chief Appellate Counsel, an appellate cohort member, and two Court of Appeals judges regarding the new appellate rule changes. VIDC will continue to cover this topic in both a plenary and several breakout sessions planned for the October 2022 VIDC Annual Public Defender Conference.

VIDC continues to serve as a co-host, alongside University of Richmond School of Law, to provide the Annual Robert E. Shepherd Jr. Juvenile Law and Education Conference. In addition to facilitating the MCLE approval process and providing

promotional assistance, a number of VIDC attorneys served on the conference planning committee and presented at the event. The event is open to the public with all proceeds benefiting the University of Richmond School of Law. In FY 2022, the conference provided 7 hours of MCLE and VIDC approved juvenile-specific training eligible to be used by attorneys towards maintaining their juvenile certification status.

In addition to attorney-focused training programs, VIDC hosts biennial conferences to further the development and training of both Investigators and Mitigation Specialists from Public Defender Offices across the Commonwealth. In FY 2022, the VIDC Investigator Conference was held virtually through a series of live investigator-focused virtual webcasts. All webcasts were recorded and made available through the online VIDC Video Replay Library. The VIDC Mitigation Specialist Conference will be held live in September 2022.

6. VIRGINIA CODE § 19.2-163.01(A)(6)

Periodically review and report to the Virginia State Crime Commission, the House and the Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the caseload handled by each public defender office.

The VIDC counts cases by the number of individual clients represented, rather than by the number of charges defended. Many cases involve more than one charge. (See *Attachment - FY22 Caseload and Charge Data Report*). These totals include appeals to both the Court of Appeals of Virginia and Supreme Court of Virginia.

7. VIRGINIA CODE § 19.2-163.01(B)

Commission shall adopt Rules and Procedures for the conduct of its business.

The VIDC adopted its policies and procedures in November 2006. The policies and procedures are reviewed and updated as necessary, but no less than annually. This year the Commission voted on a pilot remote or telework policy.

As the majority of VIDC work is public facing, requiring substantial time either in court, at jails/detention centers/ and meeting with clients, witnesses, and others, a very limited policy was adopted. This policy will be reviewed at the next meeting of the Policy Committee. permanent adoption aligning with the Governor's policy will be recommended. The policies are provided to all employees at the time of onboarding and accessible electronically to all employees via the VIDC intranet. All employees must acknowledge receipt of the Policies when onboarded.

8. VIRGINIA CODE § 19.2-163.01(A)(14)

Report annually on or before October 1 to the Virginia State Crime Commission, the House and Senate Committees for Courts of Justice, the House Committee on Appropriations, and the Senate Committee on Finance on the state of indigent criminal defense in the Commonwealth, including Virginia's ranking amongst the 50 states in terms of pay allowed for court-appointed counsel appointed pursuant to §19.2-159 or subdivision B2 of §16.1-266.

A 2005 ABA report, **Rates of Compensation Paid to Court-Appointed Counsel in Non-Capital Felony Cases at Trial: A State-by-State Overview**, noted that Virginia's caps on court-appointed compensation placed its fees among the lowest in the nation.²

This report, specifically the ranking, sparked debate in Virginia, the result of which was an added requirement on the VIDC to report on Virginia's ranking among the fifty states for compensation of court-appointed counsel.

State-to-state comparisons are difficult because the structure and funding of indigent defense systems vary nationwide. Pursuant to Va. Code § 19.2-163, an attorney appointed to represent an indigent defendant in Virginia is compensated at an hourly rate set by the Supreme Court. The total amount or

² ABA, Rates of Compensation Paid to Court-Appointed Counsel in Non-Capital Felony Cases at Trial: A State-by State Overview, The Spangenberg Group (August 2005)

cap to be paid is set by statute and may not exceed \$120.00 for a misdemeanor in general district court, \$1,235.00 for a felony charge where the maximum period of confinement is more than 20 years, and \$445.00 for any other felony in circuit court. Fee cap waivers are available up to an additional \$120 for misdemeanors or juvenile cases in the district court (unless the juvenile case is a class 2 felony, then the waiver amount could equal up to an additional \$650). Felony charges with a penalty of 20 years or more can receive an additional waiver of up to \$850. Other felony charges may receive an additional waiver of up to \$155. With approval of the judge, Virginia also allows for a second level waiver in certain cases. These caps, even with the initial waiver, remain some of the lowest in the nation. (See Attachment - State Comparison Chart).

Compensation for court appointed counsel in Virginia on appeal is governed by Virginia Code §19.2-326 which provides in part:

In any felony or misdemeanor case...the court which an appeal is taken shall order the payment of such attorneys' fees in an amount not less than \$300, cost or necessary expenses of such attorneys in an amount deemed reasonable by the court, by the Commonwealth out of the appropriation for criminal charges. If the conviction is upheld on appeal, the attorney's fees, cost and necessary expenses of such attorney paid by the Commonwealth under provision hereof shall be assessed against the defendant.

According to the Supreme Court, during the writ stage each appeal is looked at on its own basis. Where there is a dismissal based on a procedural default the attorney receives nothing. Otherwise, generally, there is a minimum payment of \$400 and maximum of \$1200. In the case of a guilty plea, Alford plea, Anders petition, or probation violations there is a flat rate of \$400, whether or not there is oral argument. For other types of writ cases, there is a base rate of about \$400, where there is no oral argument. The attorney will receive \$400 if the petition is generally the same as the petition filed in the Court of Appeals. If there is a new petition, where the attorney substantively addresses the Court of

Appeals in the argument sections, there will be a bump of, generally, \$100. If it is a complicated case, like a capital non-death or a case with voluminous transcripts, additional money may be considered. If there is an oral argument, whether before the panel of Justices or Chief Staff Attorney, there is another bump of, generally, \$100. But, to get the \$100, it has to be more than just showing up for the argument and relying on briefs. There are slight adjustments, downward, if the case is only a misdemeanor. What results in the difference between the range of \$400 and \$1200 is the type of appeal; substantive oral argument; and whether there is a "new" petition in the Supreme Court. All this is only for the writ stage not for merit cases in the Supreme Court of Virginia.

In the Virginia Court of Appeals there is a clear fee structure as follows:

For the merit stage the total amounts are as follows: If the appeal only involves misdemeanors the compensation is \$625 and \$725 if the appeal involves a felony. If a rehearing en banc is granted, the attorney is entitled to an extra \$200.

FY22 CASELOAD & CHARGE DATA REPORT

OFFICE	CASES	CHARGES
ALEXANDRIA	1,280	2,506
ARLINGTON	1,813	3,388
BEDFORD	802	1,488
CHARLOTTESVILLE	1,698	3,282
CHESAPEAKE	3,817	7,931
CHESTERFIELD	4,297	9,159
DANVILLE	1,718	3,028
FAIRFAX	5,073	9,196
FRANKLIN	1,238	2,809
FREDERICKSBURG	4,449	9,305
HALIFAX	1,556	2,820
HAMPTON	2,414	4,330
LEESBURG	2,047	3,290
LYNCHBURG	2,110	4,096
MARTINSVILLE	1,453	2,327
NEWPORT NEWS	3,978	8,557
NORFOLK	3,494	7,261

OFFICE	CASES	CHARGES
PETERSBURG	1,109	2,180
PORTSMOUTH	2,308	4,824
PRINCE WILLIAM	5,183	10,713
PULASKI	1,382	2,427
RICHMOND	5,028	9,631
ROANOKE	2,384	4,266
STAUNTON	3,501	7,136
SUFFOLK	1,991	4,273
VA BEACH	6,819	11,897
WARRENTON	1,181	1,886
WINCHESTER	2,151	3,636

STATE COMPARISONS CHART

STATE	HOURLY RATE	CAPS	AUTHORITY/NOTES
Alabama	\$70	Capital Case: No cap Class A Felony: \$4,000 Class B Felony: \$3,000 Class C Felony: \$2,000 Juvenile: \$2,500 All Other Cases: \$1,500	Code of Ala §15-12-21 (2016) Counsel shall be entitled to reimbursement of non-overhead expenses, with expenses exceeding \$300 subject to advance approval by the trial court.
Alaska	\$60 in-court \$50 out-of-court	Misdemeanor - Guilty Plea, No Contest Plea, or Dismissal: \$400 Misdemeanor - Trial: \$800 Felony - Guilty Plea, No Contest Plea, or Dismissal: \$2,000 Felony - Trial: \$4,000 Probation Violation - Misdemeanor: \$350 Probation Violation - Felony: \$1,000	2 AAC 60.010 (1986) (Alaska Administrative Code)
Arizona	Varies	Varies (Judicial discretion)	A.R.S. § 13-4013 (2005) "Compensation for services rendered to the defendant shall be in an amount that the court in its discretion deems reasonable, considering the services performed."
Arkansas	\$90-\$110 - Capital \$70-\$90 - Homicide, Class Y or A \$60-\$80 - Other Felony \$50-\$80 - District, Juvenile, or Probate	N/A	A.C.A. § 16-87-211 (2001) Statute directs the Arkansas Public Defender Commission to set guidelines for court-appointed attorney compensation. Hourly rates provided by the Arkansas Public Defender Commission (2012).
California	Varies	Varies	Cal Pen Code § 987.2 (2002) Ca. Pen Code § 987.3 (1973) The court determines reasonable compensation.
Colorado	\$90 - Type A Felony \$85 - Type B Felony, Juvenile \$80 - Misdemeanor, Traffic \$80 - Travel	Class 1 Felony & unclassified felonies where max. penalty is death, life, or 51+ years: \$32,000 (with trial), \$16,000 (without trial) Class 2 Felony, DF 1 felonies: \$14,000 (with trial), \$7,000 (without trial) Class 3-6 Felonies: \$9,000 (with trial), \$4,500 (without trial) Misdemeanors, Traffic, & Petty Offenses: \$4,000 (with trial), \$2,000 (without trial) Juvenile: \$7,000 (trial)/ \$3,500 (without trial)	C.R.S. 21-2-101 (2007) C.R.S. 21-2-103 (2018) Describing when alternate defense counsel (as opposed to a public defender) would be appointed to represent an indigent defendant. Chief Justice Directive 04-04 (Amended July 2018) Provides alternate defense counsel hourly rates and fee caps.
Connecticut	\$85 - Felonies, serious Juvenile offenses, Habeas, appellate \$50 - Misdemeanor \$100 - Capital felony	Where flat rate compensation contracts are used, they are put in place by jurisdiction: Judicial District cases: \$1,000 Geographical Area cases: \$350 Juvenile Delinquency cases: \$350	Conn. Gen. Stat. § 51-291 (2012) By statute, the Chief Public Defender establishes the compensation for court-appointed attorneys. Division of Public Defender Services, Assigned Counsel Frequently Asked Questions (last visited July 2019) Cases are paid on an hourly rate or a flat fee and are assigned as such pursuant to the contract with the attorney. The bulk of case assignments are done through flat rate contract agreements.
Delaware	\$110 for Superior & Supreme Court \$100 for Family Court & CCP	Felony: \$2,000 (per attorney) Misdemeanors: \$1,000 (per attorney) Presumptive maximum of 125 hours for Superior and Supreme Court per month, but that can be exceeded only by his/her work on outlier cases.	Delaware Rules of Criminal Procedure, Rule 44 (2016) & Rules of the Supreme Court of the State of Delaware, Rule 26 (2019). Rules includes provisions for exceeding caps.

<p>District of Columbia</p>	<p>\$60 - in-court \$40 - out-of-court Can seek up to \$75 in certain cases</p>	<p>Felony: \$7,000 (per attorney) Misdemeanor: \$2,000 (per attorney)</p>	<p>18 U.S.C. § 3006A (2010) “The compensation maximum amounts...shall increase simultaneously by the same percentage, rounded to the nearest multiple of \$100, as the aggregate percentage increases in the maximum hourly compensation rate paid pursuant to paragraph (1) for time expended since the case maximum amounts were last adjusted” - Statute includes provisions for exceeding caps.</p>
<p>Florida</p>	<p>Flat Fees</p>	<p>Capital - 1st Degree Murder (Lead Counsel): \$25,000 Capital - 1st Degree Murder (Co-counsel): \$25,000 Capital - 1st Degree Murder (Non-Death): \$15,000 Capital Sexual Battery: \$4,000 Capital Appeals: \$9,000 Contempt Proceedings: \$500 Criminal Traffic: \$500 Extradition: \$625 Felony - Life: \$5,000 Felony - Life (RICO): \$9,000 Felony - Noncapital Murder: \$15,000 Felony - Punishable by Life: \$2,500 Felony - Punishable by Life (RICO): \$6,000 Felony 1st Degree: \$1,875 Felony 1st Degree (RICO): \$5,000 Felony 2nd Degree: \$1,250 Felony 3rd Degree: \$935 Felony/Misdemeanor (No Info Filed): \$500 Felony Appeals: \$1,875 Juvenile Delinquency - 1st Degree Felony: \$750 Juvenile Delinquency - 2nd Degree: \$500 Juvenile Delinquency - 3rd Degree: \$375 Juvenile Delinquency - Felony Life: \$875 Juvenile Delinquency - Misdemeanor: \$375 Juvenile Delinquency - Direct File or No Petition Filed: \$375 Juvenile Delinquency Appeals: \$1,250 Misdemeanor: \$500 Misdemeanor Appeals: \$935 Violation of Probation - Felony (includes VOCC): \$625 Violation of Probation - Misdemeanor (includes VOCC): \$375 Violation of Probation (VOCC) Juvenile Delinquency: \$375</p>	<p>Fla. Stat. § 27.5304 (2018) Statute includes provisions for exceeding caps.</p>
<p>Georgia</p>	<p>By contract</p>	<p>By contract</p>	<p>O.C.G.A. § 17-12-22 (2011) Georgia Public Defender Standards Council contracts with individual attorneys for conflict appointment. State Bar of Georgia: Appointed Work for Attorneys. Certain localities which have opted out of the state system set their own compensation rates for court-appointed attorneys.</p>
<p>Hawaii</p>	<p>\$90</p>	<p>Felony: \$6,000 Misdemeanor (jury trial): \$3,000 Misdemeanor (jury waived): \$1,500 Petty Misdemeanor: \$900 Appeals: \$6,025.50</p>	<p>HRS § 802-5 (2015) Statute includes provisions for exceeding caps.</p>

Idaho	Set by contract either by the local board of county commissioners or by the court	Set by contract either by the local board of county commissioners or by the court	Idaho Code § 19-859 (2014) Compensation varies by each locality, largely set by the board of county commissioners, but judges can set the compensation rates in individual cases.
Illinois	Reasonable Fee as set by the Court In Counties with populations greater than 2 million people: \$40 - in-court \$30 - out-of-court	Reasonable Fee as set by the Court In Counties with populations greater than 2 million people: Felony: \$1,250 Misdemeanor: \$150	725 ILCS 5/113-3 (2000) Statute includes provisions for exceeding caps.
Indiana	Set by the Court – per the Indiana IDC, hourly rates range from \$30-\$60, with the majority of counties going with \$40 for out-of-court time and \$50 for in-court time The Indiana Public Defender Commission requires a \$90/hour rate in all Commission counties (roughly 2/3 of counties in Indiana) \$124 - Death Penalty	N/A	Burns Ind. Code Ann. § 33-40-8-2 (2004) states that “a judge shall establish the fee to be paid to an attorney or attorneys for providing services to poor people.” Indiana Public Defender Commission can recommend standards for indigent defense.
Iowa	\$73 - Class A Felony \$68 - Class B Felony \$63 - All other cases	Adult Cases: Class A Felony: \$18,000 Class B Felony: \$3,600 Class C Felony: \$1,800 Class D Felony: \$1,200 Aggravated Misdemeanors: \$1,200 Serious Misdemeanors: \$600 Simple Misdemeanors: \$300 Misdemeanor appeals to District Court: \$300 Contempt/Show Cause: \$300 Probation/Parole violations: \$300 Juvenile Cases : Delinquency: \$1,200 Juvenile Court Review: \$300 Judicial Bypass Hearings: \$180 Juvenile Commitment Hearings: \$180 Juvenile Petition on Appeal: \$600 Motion for Further Review after Petition on Appeal: \$300	Iowa Code § 13B.4 (2017) - Flat fee contracts Iowa Code § 815.7 (2019) - Hourly rates Iowa Code § 815.10A (2013) Statute includes provisions for exceeding caps. State Public Defender Administrative Rules Chapter 12.6 (2017) Provides the attorney fee caps.
Kansas	\$80 (Negotiable) \$75 - Assigned Attorneys	Non-tried cases: Felony 1-5: \$1,500 Felony 6-10: \$1,125 Probation Revocations: \$400 Tried cases: Felony 1-3, off-grid felony offenses, felony drug offenses level 1: \$7,500 Felony 4, felony drug offenses 2-5: \$3,000 Felony 5-10: \$2,4000	K.S.A. § 22-4507 (2007) The Court can negotiate a lower hourly rate with attorneys willing to accept court appointments. If appropriations for payments are insufficient, the state board of indigent’s defense services can establish a formula for pro rata payments. Kansas Administrative Regulations 105-5-2, -6, -7, -8. Provides generally for the hourly rates and caps, as well as provisions for exceeding caps. It appears that localities set caps for misdemeanor cases. See Douglas County Kansas Rules and Suggestions for Completing Misdemeanor Vouchers
Kentucky	Set by contract by the Department of Public Advocacy	Set by contract by the Department of Public Advocacy	KRS § 31.235 (2002) The court shall pay reasonable and necessary fees but not in excess of fees established by the Department of Public Advocacy.

Louisiana	Flat fee contracts	Flat fee contracts	La. R.S. 15:147(C)(1) (2017) The Louisiana Public Defender Board enters into contracts with attorneys to provide indigent defense services.
Maine	\$60	Murder: Fee set by Executive Director Class A: \$3,000 Class B and C (against person): \$2,250 Class B and C (against property): \$1,500 Class D and E (Superior or Unified Criminal Court): \$750 Class D and E (District Court): \$540 Probation Revocations: \$540 Juvenile: \$540	15 M.R.S. § 810 (2018) 4 M.R.S. § 1804(3)(F) (2019) The Maine Commission on Indigent Legal Services sets the rate for court appointed counsel. Code of Maine Rules § 94-649, Chapter 301 (2011). Provides the hourly rates and caps.
Maryland	Same hourly rate as federal panel attorneys. Panel attorneys are paid \$60 for most cases and \$75 cases involving potential life sentence	District Court - federal misdemeanor Circuit Court - federal felony Juvenile Court - federal felony	By COMAR regulation 14.06.02.06, we are permitted to match up to the rate paid by the federal public defender/CJA panel. But this rate is practically limited by budget constraints as appropriated by the State of Maryland (Criminal Procedure sec. 16-208(d)(5)).
Massachusetts	\$120 - Homicide \$85 - Superior Court non-homicide \$65 - District Court \$65 - Children/Family Law, Sex Offender, Mental Health	Annual cap on billable hours: 1,650	ALM GI ch. 211D, §11 (2018) Notwithstanding the billable hour limitation in subsection (b), the chief counsel of the committee may waive the annual cap on billable hours for private counsel appointed or assigned to indigent cases if the chief counsel finds that: (i) there is limited availability of qualified counsel in that practice area; (ii) there is limited availability of qualified counsel in a geographic area; or (iii) increasing the limit would improve efficiency and quality of service; provided, however, that counsel appointed or assigned to such cases within the private counsel division shall not be paid for any time billed in excess of 2,000 billable hours. It shall be the responsibility of private counsel to manage their billable hours.
Michigan	Misdemeanor \$100, Felony \$110-120	Determined by Michigan Indigent Defense Commission	Standard 8 Attorney Compensation (Economic Disincentives or Incentives)
Minnesota	State Board of Public Defense determines rates	State Board of Public Defense determines rates	Minn. Stat. §611.215(2)(c)(3) (2007) State Board of Public Defense responsible for appointment of counsel and collection of costs. Minn. Stat. §611.27 (2014). The state's obligation for the costs of the public defender services (including court-appointed attorney fees) is limited to the appropriations made to the Board of Public Defense.
Mississippi	Set by the Court	Circuit Court: \$1,000 Court not of record: \$200 Capital Cases: \$2,000 Appeals to State Supreme Court: \$1,000	Miss. Code Ann. §99-15-17 (1980)
Missouri	Flat fee contracts Jury Trial - \$1,500 for 1st day, \$750 for each additional day (partial days prorated) Bench Trial - \$750/day, prorated	Murder first degree: \$10,000 Other homicide: \$6,000 Felony Class A/B - Drugs: \$750 Felony Class A/B - Other: \$1,500 Felony Class A/B - Sex: \$2,000 Felony Class C/D/E - Drugs: \$750 Felony Class C/D/E - Other: \$750 Felony Class C/D/E - Sex: \$1,500 Misdemeanor: \$375 Juvenile - Non-violent offense: \$500 Juvenile - Violent offense: \$750 Probation Violation: \$375 Direct Appeal: \$3,750	§600.042 R.S.Mo. (2019) The state Public Defender contracts with private attorneys for legal services. §600.021 R.S.Mo. (1986) The commission contracts with private attorneys to provide defense services. Missouri State Public Defender Website – https://publicdefender.mo.gov/private-counsel-opportunities/mspd-contracting/panel-rates/

Montana	Non-Capital - \$56	Statute allows for fixed fee contracts	47-1-121, MCA (2019) The Public Defender Commission adopts rules to provide reasonable compensation to contract attorneys.
Nebraska	Set by Court or Public Defender Commission	N/A	R.R.S. Neb. §29-3927 (2014) Public Defender Commission is responsible for determining compensation rates for contracting attorneys and court-appointed attorneys. R.R.S. Neb §29-3905 (1990) Allows the court to fix reasonable expenses and fees.
Nevada	\$125 - Capital cases \$100 - all other cases	Capital, or life case: \$20,000 Felony not punishable by death or life in prison or a gross misdemeanor: \$2,500 Misdemeanor: \$750 Gross Misdemeanor or Felony Appeal: \$2,500 Misdemeanor Appeals: \$750	Nev. Rev. Stat. Ann. §7.125 (2013) Statute includes provisions for exceeding caps.
New Hampshire	\$100 – Major Crimes \$60 – all others	Homicides under RSA 630:1-2 (per co-counsel): \$20,000 Felony – Sexual Assault: \$8,000 Felony: \$4,100 Misdemeanor: \$1,400 Supreme Court Appeals: \$2,000	Rules of the Supreme Court of the State of New Hampshire, Rule 47 (2015) Rule includes provisions for exceeding caps.
New Jersey	\$60 - in-court \$50 - out-of-court \$252 - full day (per diem) \$60 – in-court (appellate cases) \$50 – out-of-court (appellate cases) \$250 – oral argument (appellate cases)	N/A	N.J. Stat. §2A:158A-7 (1994) Public Defender establishes compensation with contract OPD Pool Attorney Application Process (2019) These guidelines set the current rates.
New Mexico	Flat-fee contracts generally \$85 - First degree murder and first degree felonies \$42.50 travel time	Can vary by district 1st Degree Murder: \$5,400 1st Degree Felony (Life): \$5,400 1st Degree Felony: \$800 or \$750 2nd Degree Felony: \$780 or \$700 3rd Degree Felony: \$750 or \$645 4th Degree Felony: \$650 or \$540 Juvenile: \$350 or \$300 Misdemeanor Trial: \$180 Retrial: Half the Original Fee	N.M. Stat. Ann. §31-15-7 (2014) Public Defender to establish fee schedule for court appointed counsel. Public Defender Contract Counsel Sample Contract (2018) Lists flat fee schedules on pages 19-20.
New York	\$75 – Felony both in and out of court \$60 – Misdemeanor both in and out of court	Felony: \$4,400 Misdemeanor: \$2,400	NY CLS County §722-b (2004) Statute includes provisions for exceeding caps.
North Carolina	\$100 - Capital Cases, Appeals, & post-conviction \$85 - Class A-D felony \$65 – Class E-I felony \$65 - All other cases resolved in District court \$65 - All other cases resolved in Superior Court \$85 – Non-Capital Appeals and Post-Conviction (A-D Felony) \$75 – All other Non-Capital Appeals and Post-Conviction	No caps in general Capital – cannot bill more than \$35,000 pre-trial, \$10,000 for mitigation, or \$10,000 for investigation	N.C. Gen. Stat. § 7A-498.5 (2015) Office of Indigent Defense Services responsible for setting rates. Private Assigned Counsel Rates were updated December 1, 2018.

<p>North Dakota</p>	<p>By contract, either using a flat fee or hourly rates According to Commission office, standard monthly contract rate is \$75/hr. Statutory Reimbursement amounts are as follows Felony- \$575, Misdemeanor- \$300, Juvenile-\$450, Post Conviction -1350, Appeal-\$2,250</p>	<p>Felony - \$2000 Misdemeanor - \$850 Juvenile - \$850 Post-conviction - \$500 Appeal - \$2,000 Any other matter - \$500</p>	<p>N.D. Cent. Code, § 54-61-02 (2017) Commission on Legal Counsel has authority to set fees. N.D. Cent. Code, § 29-07-01.1 (2013) Lawyers representing indigent persons must be compensated at a reasonable rate determined by the commission on legal counsel for indigents. Provides the presumed rates for cases as determined by the Commission. Policy on Payment of Extraordinary Attorney Fees (last viewed 2019) Provides policy for exceeding caps, as well as the caps themselves.</p>
<p>Ohio</p>	<p>\$75 - in-court or out-of-court \$125 - death penalty cases, both in-court and out-of-court</p>	<p>Adult Aggravated Murder (w/ specs) - no fee maximum 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 (degrees 4-5) - \$3,500 Misdemeanor (degrees 1-4) - \$2,000 Misdemeanor OVI/BAC - \$2,500 Contempt - \$500 Probation violations - \$750 Preliminary Hearings - \$300 Sex Offender - \$750 Juvenile Aggravated Murder (w/ specs) - no fee maximum Aggravated Murder (w/o specs) - \$7,500/1 attorney, \$12,500/2 attorneys Murder - \$6,000 Felony (degrees 1-2) - \$5,000 Felony (degrees 3-5) - \$3,500 Misdemeanor - \$2,000 Misdemeanor OVI/BAC - \$2,500 Contempt - \$500 Probation violations - \$750 Sex Offender - \$750 Appellate Level Proceedings Death Sentence - no fee maximum Cumulative Minimum Sentence exceeds 25 years - \$8,000 Felony (degrees 1-2) - \$5,000 Felony (degree 3) - \$3,500 Felony (degrees 4-5) - \$2,500 Felony Plea - \$1,500 Misdemeanors - \$2,000</p>	<p>ORC Ann. 120.33 (2017) The Board of County Commissioners shall establish a schedule of fees by case or an hourly basis. The County must file an up-to-date fee schedule with the Ohio Public Defender, who then will reimburse up to the maximum set by the Ohio Public Defender State Maximum Fee Schedule. Statute includes provisions for exceeding caps. Ohio Public Defender Standards and Guidelines for Appointed Counsel Reimbursement (2019). Manual on Ohio Public Defender's website that provides the hourly rates and caps. https://analytics.das.ohio.gov/t/PUBPUB/views/OhioFeeSchedulesStory3/Story1?iframeSizedToWindow=true&embed=y&showAppBanner=false&display_count=no&showVizHome=no&render=true</p>

Oklahoma	Flat-fee contracts	Felony: \$3,500 Misdemeanor, Juvenile, Traffic: \$800	22 Okl. St. §1355.8 (2001) Statute includes provisions for exceeding caps.
Oregon	\$61 - Capital lead counsel \$46 - Capital co-counsel \$46 - Non-capital cases	Where flat rate compensation contracts are in place: Judicial District cases \$1,000, Geographical Area Cases \$350, Juvenile delinquency \$350	ORS §151.216 (2018) The Public Defense Services Commission adopts guidelines regarding the fair compensation of appointed counsel. Public Defense Payment Policy and Procedures (2019)- Provides guidelines for obtaining an increase in the set hourly rates (section 2.2). Also sets out the hourly rates (Exhibit 2).
Pennsylvania	Set by the Court	Set by the Court	16 P.S. §9960.7 (1969) Attorney to be rewarded reasonable compensation to be fixed by the Court.
Rhode Island	\$100 - Murder \$90 - Class 1 Felony \$60 - Class 2 Felony \$50 - Misdemeanor Appeal (Superior Court) \$30 - Violation of Court Order (non-payment of fines, costs) \$85 - Criminal Appeal \$85 - Misc. Appeals & Petitions Some courts provide \$200/day or \$300/day for certain case types Family Court: \$30 - Dependency, Neglect, Abuse, Arraignment \$50 - DUI \$50 - Misdemeanor	Murder: \$30,000 Class 1 Felony: \$10,000 Class 2 Felony: \$5,000 Misdemeanor Appeal (Superior Court): \$1,500 Violation of Court Order (non-payment of fines, costs): \$1,500 Criminal Appeal: \$5,200 Misc. Appeals & Petitions: \$5,200 Family Court Dependency/etc.: \$1,000 DUI: \$2,500 Misdemeanor: \$1,500	General Laws of Rhode Island §8-15-2 (1969) Statute cited in Executive Order (see below) which provides chief justice of the court to ensure that court-appointed attorneys are paid in a fair and equitable fashion. Supreme Court Executive Order re Indigent Defense Service Payment Rates (2019) - Provides the hourly rates and caps. Additional case types included beyond those listed.
South Carolina	\$60 - in-court \$40 - out-of-court	Felony: \$3,500 Misdemeanor: \$1,000	S.C. Code Ann. §17-3-50 (2007) Includes provisions for exceeding hourly rates and caps. In 2013 SC created a contract program which contracts with private attorneys to handle non-capital criminal conflict cases for a flat fee. Therefore the hourly rates and caps are rarely if ever apply anymore.
South Dakota	\$97	N/A	S.D. Codified Laws § 23A-40-8 (1983) Reasonable amount to be paid based upon guidelines established by the presiding judge of the circuit court. Office of the State Court Administrator re 2019 Court-Appointed Attorney Fees and Mileage Provides the hourly rate.
Tennessee	Non-Capital Cases \$50 - in and out of court Capital Cases \$100 - Lead Counsel \$80 - Co-Counsel \$80 - Post-conviction	First Degree Murder or Class A or B felony in trial court: \$6,000 Felony other than First Degree Murder or Class A or B felony: \$4,000 Preliminary hearings for felonies, juvenile charged w/non-capital felony: \$1,500 Misdemeanor, probation violation: \$1,000 Contempt of Court, parole revocation: \$500	Tennessee Supreme Court Rule 13 (checked 2019) Rule includes provisions for exceeding caps (see specifically section 2(e)(1)).
Texas	Set by Court	Set by Court	Texas Code of Criminal Procedure Article 26.05 (2019) Counsel to be paid a reasonable fee as set by the court.
Utah	Rate per guidelines set by the county or municipality	Rate per guidelines set by the county or municipality	Utah Code Ann. § 78B-22-302 (2019) Utah Code Ann. § 78B-22-203 (2019) Attorney shall be paid reasonable compensation by the court.

Vermont	\$50	<p>Felony with possible life sentence or death penalty: \$25,000</p> <p>Other major felony: \$5,000</p> <p>Minor felony or Juvenile: \$2,000</p> <p>Misdemeanors & all other proceedings: \$1,000</p> <p>Appeals: \$2,000</p>	<p>13 V.S.A. § 5205 (1982)</p> <p>The Supreme Court shall set reasonable rates of compensation.</p> <p>Vt. A.O. 4 § 6 (1993)</p> <p>Administrative Order of the Supreme Court. Provides the hourly rates and caps, as well as provisions for exceeding the caps.</p>
Virginia	\$90	<p>Felony with 20 years or more sentence (resolved in district court or circuit court): \$1,235</p> <p>Other felony (resolved in district court or circuit court): \$445</p> <p>Misdemeanor in Circuit Court: \$158</p> <p>District Court cases (misdemeanors, felony preliminary hearings where the felony was not resolved in district court): \$120</p>	<p>Va. Code § 19.2-163 (2009)</p> <p>Fee cap waivers are available up to an additional \$120 for misdemeanors or juvenile cases in the district court (unless the juvenile case is a class 2 felony, then the waiver amount could equal up to an additional \$650). Felony charges with a penalty of 20 year or more can receive an additional waiver of up to \$850. Other felony charges may receive an additional waiver of up to \$155. With approval of the judge, Virginia also allows for a second level waiver in certain cases.</p>
Washington	Set by local government or Court	Set by local government or Court	<p>Rev. Code Wash. (ARCW) §10.101.030</p> <p>The court shall provide reasonable compensation to a court-appointed attorney.</p>
West Virginia	<p>\$80 - in-court</p> <p>\$60 - out-of-court</p>	<p>Felony offenses with possibility of life in prison: court discretion</p> <p>All other cases: \$3,000</p>	<p>W. Va. Code §29-21-13a (2019)</p> <p>Statute includes provisions for exceeding caps.</p>
Wisconsin	\$70 - in-court and out-of-court	N/A	Wis. Stat. § 977.08 (2018)
Wyoming	<p>\$100 - in court</p> <p>\$35-\$60 - out-of-court</p>	N/A	Wyoming Rules of Criminal Procedure Rule 44(e) (2019)