

As Introduced

**130th General Assembly
Regular Session
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H. B. No. 186

Representatives Boose, Gerberry

**Cosponsors: Representatives Ashford, Blair, Brown, Buchy, Grossman, Hill,
Rogers, Ruhl, Stebelton**

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A B I L L

To amend sections 120.01, 120.03, 120.04, 120.06, 1
120.08, 120.13, 120.14, 120.15, 120.16, 120.18, 2
120.23, 120.33, 120.34, 120.35, 120.36, 120.40, 3
307.441, 2941.51, 2945.37, 2945.40, and 2953.21 4
and to repeal sections 120.24, 120.25, 120.26, 5
120.27, and 120.28 of the Revised Code to provide 6
a 50 per cent reimbursement to the counties for 7
their indigent defense costs, to increase the 8
guaranteed reimbursement rate for such indigent 9
defense costs, to require the State Public 10
Defender to approve the establishment of county 11
public defender commissions, to approve the 12
appointment or retention of the county public 13
defender, and to set a statewide schedule of 14
hourly rates and per case maximums to be paid to 15
appointed counsel, to eliminate the option for a 16
county to operate a joint-county public defender 17
system, to permit the State Public Defender to 18
create state-run regional and district offices 19
that would operate in lieu of the county-run 20
systems, to allow the State Public Defender to use 21
the Indigent Defense Support Fund to pay the 22

state's portion of costs for the regional and 23
district offices, to provide that the Governor's 24
next appointment to the Ohio Public Defender 25
Commission be from a list of nominees submitted by 26
the County Commissioners Association of Ohio, and 27
to allow the State Public Defender to contract 28
directly with a municipal corporation to provide 29
representation in municipal ordinance cases. 30

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 120.01, 120.03, 120.04, 120.06, 31
120.08, 120.13, 120.14, 120.15, 120.16, 120.18, 120.23, 120.33, 32
120.34, 120.35, 120.36, 120.40, 307.441, 2941.51, 2945.37, 33
2945.40, and 2953.21 of the Revised Code be amended to read as 34
follows: 35

Sec. 120.01. There is hereby created the Ohio public defender 36
commission to provide, supervise, and coordinate legal 37
representation at state expense for indigent and other persons. 38
The commission shall consist of nine members, one of whom shall be 39
~~chairman~~ chairperson. The ~~chairman~~ chairperson shall be appointed 40
by the governor with the advice and consent of the senate. Four 41
members shall be appointed by the governor, two of whom shall be 42
from each of the two major political parties. The first 43
appointment by the governor after the effective date of this 44
amendment shall be selected from a list of up to five nominees 45
submitted to the governor by the county commissioners association 46
of Ohio. Four members shall be appointed by the supreme court, two 47
of whom shall be from each of the two major political parties. The 48
~~chairman~~ chairperson, and not less than two of the members 49
appointed by the governor, and not less than two of the members 50
appointed by the supreme court shall be attorneys admitted to the 51

practice of law in this state. 52

Within thirty days after ~~the effective date of this section~~ 53
January 13, 1976, the governor and the supreme court shall make 54
initial appointments to the commission. Of the initial 55
appointments made to the commission by the governor, the 56
appointment of the ~~chairman~~ chairperson shall be for a term of two 57
years. Of the other four appointments, one shall be for a term 58
ending one year after ~~the effective date of this section~~ January 59
13, 1976, one shall be for a term ending two years after that 60
date, one shall be for a term ending three years after that date, 61
and one shall be for a term ending four years after that date. Of 62
the initial appointments made to the commission by the supreme 63
court, one shall be for a term ending one year after ~~the effective~~ 64
~~date of this section~~ January 13, 1976, one shall be for a term 65
ending two years after that date, one shall be for a term ending 66
three years after that date, and one shall be for a term ending 67
four years after that date. Thereafter, terms of office shall be 68
for four years, each term ending on the same day of the same month 69
of the year as did the term which it succeeds. Any member 70
appointed to fill a vacancy occurring prior to the expiration of 71
the term for which ~~his~~ the member's predecessor was appointed 72
shall hold office for the remainder of such term. Any member shall 73
continue in office subsequent to the expiration date of ~~his~~ the 74
member's term until ~~his~~ a successor takes office or until a period 75
of sixty days has elapsed, whichever occurs first. 76

Sec. 120.03. (A) The Ohio public defender commission shall 77
appoint the state public defender, who shall serve at the pleasure 78
of the commission. 79

(B) The Ohio public defender commission shall establish rules 80
for the conduct of the offices of the county ~~and joint county~~ 81
public defenders, for the conduct of regional and district offices 82

of the state public defender, and for the conduct of county 83
appointed counsel systems in the state. These rules shall include, 84
but are not limited to, the following: 85

(1) Standards of indigency and minimum qualifications for 86
legal representation by a public defender or appointed counsel. In 87
establishing standards of indigency and determining who is 88
eligible for legal representation by a public defender or 89
appointed counsel, the commission shall consider an indigent 90
person to be an individual who at the time ~~his~~ the person's need 91
is determined is unable to provide for the payment of an attorney 92
and all other necessary expenses of representation. Release on 93
bail shall not prevent a person from being determined to be 94
indigent. 95

(2) Standards for the hiring of outside counsel; 96

(3) Standards for contracts by a public defender with law 97
schools, legal aid societies, and nonprofit organizations for 98
providing counsel; 99

(4) Standards for the qualifications, training, and size of 100
the legal and supporting staff for a public defender, facilities, 101
and other requirements needed to maintain and operate an office of 102
a public defender; 103

(5) Minimum caseload standards; 104

(6) Procedures for the assessment and collection of the costs 105
of legal representation that is provided by public defenders or 106
appointed counsel; 107

(7) Standards and guidelines for determining whether a client 108
is able to make an up-front contribution toward the cost of ~~his~~ 109
the client's legal representation; 110

(8) Procedures for the collection of up-front contributions 111
from clients who are able to contribute toward the cost of their 112

legal representation, as determined pursuant to the standards and 113
guidelines developed under division (B)(7) of this section. All of 114
such up-front contributions shall be paid into the appropriate 115
county fund. 116

(9) Standards for contracts between a board of county 117
commissioners, a county public defender commission, or a joint 118
county public defender commission and a municipal corporation for 119
the legal representation of indigent persons charged with 120
violations of the ordinances of the municipal corporation. 121

(C) The Ohio public defender commission shall adopt rules 122
prescribing minimum qualifications of counsel appointed pursuant 123
to this chapter or appointed by the courts. Without limiting its 124
general authority to prescribe different qualifications for 125
different categories of appointed counsel, the commission shall 126
prescribe, by rule, special qualifications for counsel and 127
co-counsel appointed in capital cases. 128

(D) In administering the office of the Ohio public defender 129
commission: 130

(1) The commission shall do the following: 131

(a) Approve an annual operating budget; 132

(b) Make an annual report to the governor, the general 133
assembly, and the supreme court of Ohio on the operation of the 134
state public defender's office, the county appointed counsel 135
systems, and the county and joint county public defenders' 136
offices. 137

(2) The commission may do the following: 138

(a) Accept the services of volunteer workers and consultants 139
at no compensation other than reimbursement of actual and 140
necessary expenses; 141

(b) Prepare and publish statistical and case studies and 142

other data pertinent to the legal representation of indigent persons; 143
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(c) Conduct programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons. 145
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(E) There is hereby established in the state treasury the public defender training fund for the deposit of fees received by the Ohio public defender commission from educational seminars, and the sale of publications, on topics concerning criminal law and procedure. Expenditures from this fund shall be made only for the operation of activities authorized by division (D)(2)(c) of this section. 148
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(F)(1) In accordance with sections 109.02, 109.07, and 109.361 to 109.366 of the Revised Code, but subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of the Ohio public defender commission, the state public defender, assistant state public defenders, and other employees of the commission or the state public defender. 155
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(2) Subject to division (E) of section 120.06 of the Revised Code, the attorney general shall represent or provide for the representation of attorneys described in division (C) of section 120.41 of the Revised Code in malpractice or other civil actions or proceedings that arise from alleged actions or omissions related to responsibilities derived pursuant to this chapter, or in civil actions that are based upon alleged violations of the constitution or statutes of the United States, including section 1983 of Title 42 of the United States Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that arise from alleged actions or omissions related to responsibilities derived pursuant to this chapter. For purposes of the representation, sections 109.361 to 109.366 of the Revised Code shall apply to an attorney described 162
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in division (C) of section 120.41 of the Revised Code as if ~~he~~ the 175
attorney were an officer or employee, as defined in section 109.36 176
of the Revised Code, and the Ohio public defender commission or 177
the state public defender, whichever contracted with the attorney, 178
shall be considered ~~his~~ the attorney's employer. 179

Sec. 120.04. (A) The state public defender shall serve at the 180
pleasure of the Ohio public defender commission and shall be an 181
attorney with a minimum of four years of experience in the 182
practice of law and be admitted to the practice of law in this 183
state at least one year prior to appointment. 184

(B) The state public defender shall do all of the following: 185

(1) Maintain a central office in Columbus. The central office 186
shall be provided with a library of adequate size, considering the 187
needs of the office and the accessibility of other libraries, and 188
other necessary facilities and equipment. 189

(2) Appoint assistant state public defenders, all of whom 190
shall be attorneys admitted to the practice of law in this state, 191
and other personnel necessary for the operation of the state 192
public defender office. Assistant state public defenders shall be 193
appointed on a full-time basis. The state public defender, 194
assistant state public defenders, and employees appointed by the 195
state public defender shall not engage in the private practice of 196
law. 197

(3) Supervise the compliance of county public defender 198
offices, ~~joint county public defender offices,~~ and county 199
appointed counsel systems with standards established by rules of 200
the Ohio public defender commission pursuant to division (B) of 201
section 120.03 of the Revised Code; 202

(4) Keep and maintain financial records of all cases handled 203
and develop records for use in the calculation of direct and 204

indirect costs, in the operation of the office, and report 205
periodically, but not less than annually, to the commission on all 206
relevant data on the operations of the office, costs, projected 207
needs, and recommendations for legislation or amendments to court 208
rules, as may be appropriate to improve the criminal justice 209
system; 210

(5) Collect all moneys due the state for reimbursement for 211
legal services under this chapter and under section 2941.51 of the 212
Revised Code and institute any actions in court on behalf of the 213
state for the collection of such sums that the state public 214
defender considers advisable. Except as provided otherwise in 215
division (D) of section 120.06 of the Revised Code, all moneys 216
collected by the state public defender under this chapter and 217
section 2941.51 of the Revised Code shall be deposited in the 218
state treasury to the credit of the client payment fund, which is 219
hereby created. All moneys credited to the fund shall be used by 220
the state public defender to appoint assistant state public 221
defenders and to provide other personnel, equipment, and 222
facilities necessary for the operation of the state public 223
defender office, to reimburse counties for the operation of county 224
public defender offices, ~~joint county public defender offices,~~ and 225
county appointed counsel systems pursuant to sections 120.18, 226
~~120.28,~~ and 120.33 of the Revised Code, or to provide assistance 227
to counties in the operation of county indigent defense systems. 228

(6) With respect to funds appropriated to the commission to 229
pay criminal costs, perform the duties imposed by sections 2949.19 230
and 2949.201 of the Revised Code; 231

(7) Establish standards and guidelines for the reimbursement, 232
pursuant to sections 120.18, ~~120.28,~~ 120.33, 2941.51, and 2949.19 233
of the Revised Code, of counties for the operation of county 234
public defender offices, ~~joint county public defender offices,~~ and 235
county appointed counsel systems and for other costs related to 236

felony prosecutions;	237
(8) Establish maximum amounts that the state will reimburse	238
the counties pursuant to sections 120.18, 120.28 , 120.33, and	239
2941.51 of the Revised Code;	240
(9) Establish maximum amounts that the state will reimburse	241
the counties pursuant to section 120.33 of the Revised Code for	242
each specific type of legal service performed by a county	243
appointed counsel system;	244
(10) Administer sections 120.18, 120.28 , 120.33, 2941.51, and	245
2949.19 of the Revised Code and make reimbursements pursuant to	246
those sections;	247
(11) <u>(10)</u> Administer the program established pursuant to	248
sections 120.51 to 120.55 of the Revised Code for the charitable	249
public purpose of providing financial assistance to legal aid	250
societies. Neither the state public defender nor any of the state	251
public defender's employees who is responsible in any way for the	252
administration of that program and who performs those	253
administrative responsibilities in good faith is in any manner	254
liable if a legal aid society that is provided financial	255
assistance under the program uses the financial assistance other	256
than in accordance with sections 120.51 to 120.55 of the Revised	257
Code or fails to comply with the requirements of those sections.	258
(12) <u>(11)</u> Establish an office for the handling of appeal and	259
postconviction matters;	260
(13) <u>(12)</u> Provide technical aid and assistance to county	261
public defender offices, joint county public defender offices , and	262
other local counsel providing legal representation to indigent	263
persons, including representation and assistance on appeals;	264
<u>(13) Determine the system for indigent defense used by a</u>	265
<u>county pursuant to division (C)(10) of this section or pursuant to</u>	266
<u>sections 120.14 and 120.33 of the Revised Code;</u>	267

<u>(14) Establish the hourly rates and per case maximums to be</u>	268
<u>paid to counsel appointed to provide representation to indigent</u>	269
<u>persons pursuant to sections 120.33 and 120.35 of the Revised Code</u>	270
<u>in accordance with division (E) of this section.</u>	271
(C) The state public defender may do any of the following:	272
(1) In providing legal representation, conduct	273
investigations, obtain expert testimony, take depositions, use	274
other discovery methods, order transcripts, and make all other	275
preparations which are appropriate and necessary to an adequate	276
defense or the prosecution of appeals and other legal proceedings;	277
(2) Seek, solicit, and apply for grants for the operation of	278
programs for the defense of indigent persons from any public or	279
private source, and may receive donations, grants, awards, and	280
similar funds from any lawful source. Such funds shall be	281
deposited in the state treasury to the credit of the public	282
defender gifts and grants fund, which is hereby created.	283
(3) Make all the necessary arrangements to coordinate the	284
services of the office with any federal, county, or private	285
programs established to provide legal representation to indigent	286
persons and others, and to obtain and provide all funds allowable	287
under any such programs;	288
(4) Consult and cooperate with professional groups concerned	289
with the causes of criminal conduct, the reduction of crime, the	290
rehabilitation and correction of persons convicted of crime, the	291
administration of criminal justice, and the administration and	292
operation of the state public defender's office;	293
(5) Accept the services of volunteer workers and consultants	294
at no compensation other than reimbursement for actual and	295
necessary expenses;	296
(6) Prescribe any forms <u>and require the use of any electronic</u>	297
<u>forms or information technology systems provided by the state</u>	298

public defender office that are necessary for the uniform 299
operation of this chapter; 300

(7) Contract with a county public defender commission ~~or a~~ 301
~~joint county public defender commission~~ to provide all or any part 302
of the services that a county public defender ~~or joint county~~ 303
~~public defender~~ is required or permitted to provide by this 304
chapter, or contract with a board of county commissioners of a 305
county that is not served by a county public defender commission 306
~~or a joint county public defender commission~~ for the provision of 307
services in accordance with section 120.33 of the Revised Code or 308
contract with a municipal corporation for the provision of legal 309
representation in cases in which a violation of an ordinance of a 310
municipal corporation is alleged. All money received by the state 311
public defender pursuant to such a contract shall be credited to 312
either the ~~multi-county~~ multicounty: county share fund or, if 313
received as a result of a contract with Trumbull county, the 314
Trumbull county: county share fund. 315

(8) Authorize persons employed as criminal investigators to 316
attend the Ohio peace officer training academy or any other peace 317
officer training school for training; 318

(9) Procure a policy or policies of malpractice insurance 319
that provide coverage for the state public defender and assistant 320
state public defenders in connection with malpractice claims that 321
may arise from their actions or omissions related to 322
responsibilities derived pursuant to this chapter; 323

(10) Create regional and district offices pursuant to section 324
120.23 of the Revised Code and in accordance with rules adopted 325
under this section and section 120.03 of the Revised Code, in lieu 326
of the system for indigent defense used by a county pursuant to 327
sections 120.14 and 120.33 of the Revised Code. 328

(D) No person employed by the state public defender as a 329

criminal investigator shall attend the Ohio peace officer training 330
academy or any other peace officer training school unless 331
authorized to do so by the state public defender. 332

(E) The initial hourly rates established under division 333
(B)(14) of this section may not exceed the state public defender 334
fee schedule in effect on the effective date of this amendment. 335
Increases in those hourly rates shall not exceed five per cent or 336
the rate established by the consumer price index for the midwest 337
region, whichever is lower, per annum. 338

(F) As used in this section, "state public defender office" 339
includes the central office, regional offices, district offices, 340
and county or multi-county branch offices of the state public 341
defender's office. 342

Sec. 120.06. (A)(1) The state public defender, when 343
designated by the court or requested by a county public defender 344
or joint county public defender, may provide legal representation 345
in all courts throughout the state to indigent adults and 346
juveniles who are charged with the commission of an offense or act 347
for which the penalty or any possible adjudication includes the 348
potential loss of liberty. 349

(2) The state public defender may provide legal 350
representation to any indigent person who, while incarcerated in 351
any state correctional institution, is charged with a felony 352
offense, for which the penalty or any possible adjudication that 353
may be imposed by a court upon conviction includes the potential 354
loss of liberty. 355

(3) The state public defender may provide legal 356
representation to any person incarcerated in any correctional 357
institution of the state, in any matter in which the person 358
asserts the person is unlawfully imprisoned or detained. 359

(4) The state public defender, in any case in which the state public defender has provided legal representation or is requested to do so by a county public defender ~~or joint county public defender~~, may provide legal representation on appeal.

(5) The state public defender, when ~~designated~~ appointed by the court or requested by a county public defender, ~~joint county public defender~~, or the director of rehabilitation and correction, shall provide legal representation in parole and probation revocation matters or matters relating to the revocation of community control or post-release control under a community control sanction or post-release control sanction, unless the state public defender finds that the alleged parole or probation violator or alleged violator of a community control sanction or post-release control sanction has the financial capacity to retain the alleged violator's own counsel.

(6) If the state public defender contracts with a county public defender commission, ~~a joint county public defender commission~~, or a board of county commissioners for the provision of services, under authority of division (C)(7) of section 120.04 of the Revised Code, the state public defender shall provide legal representation in accordance with the contract.

(B) The state public defender shall not be required to prosecute any appeal, postconviction remedy, or other proceeding pursuant to division (A)(3), (4), or (5) of this section, unless the state public defender first is satisfied that there is arguable merit to the proceeding.

(C) A court may appoint counsel or allow an indigent person to select the indigent's own personal counsel to assist the state public defender as co-counsel when the interests of justice so require. When co-counsel is appointed to assist the state public defender, the co-counsel shall receive any compensation that the court may approve, ~~not to exceed the amounts provided for in~~

accordance with the hourly rates and per case maximums established 392
by the state public defender pursuant to division (B)(14) of 393
section ~~2941.51~~ 120.04 of the Revised Code. 394

(D)(1) When the state public defender is ~~designated~~ appointed 395
by the court or requested by a county public defender ~~or joint~~ 396
~~county public defender~~ to provide legal representation for an 397
indigent person in any case, other than pursuant to a contract 398
entered into under authority of division (C)(7) of section 120.04 399
of the Revised Code, the state public defender shall send to the 400
county in which the case is filed a bill detailing the actual cost 401
of the representation that separately itemizes legal fees and 402
expenses. The county, upon receipt of an itemized bill from the 403
state public defender pursuant to this division, shall pay the 404
state public defender each of the following amounts: 405

(a) For the amount identified as legal fees in the itemized 406
bill, one hundred per cent of the amount identified as legal fees 407
less the state reimbursement rate as calculated by the state 408
public defender pursuant to ~~section 120.34~~ sections 120.33 and 409
120.35 of the Revised Code for the month the case terminated, as 410
set forth in the itemized bill; 411

(b) For the amount identified as expenses in the itemized 412
bill, one hundred per cent. 413

(2) Upon payment of the itemized bill under division (D)(1) 414
of this section, the county may submit the cost of the expenses, 415
excluding legal fees, to the state public defender for 416
reimbursement pursuant to section 120.33 of the Revised Code. 417

(3) When the state public defender provides investigation or 418
mitigation services to private appointed counsel or to a county ~~or~~ 419
~~joint county~~ public defender as approved by the appointing court, 420
other than pursuant to a contract entered into under authority of 421
division (C)(7) of section 120.04 of the Revised Code, the state 422

public defender shall send to the county in which the case is 423
filed a bill itemizing the actual cost of the services provided. 424
The county, upon receipt of an itemized bill from the state public 425
defender pursuant to this division, shall pay one hundred per cent 426
of the amount as set forth in the itemized bill. Upon payment of 427
the itemized bill received pursuant to this division, the county 428
may submit the cost of the investigation and mitigation services 429
to the state public defender for reimbursement pursuant to section 430
120.33 of the Revised Code. 431

(4) There is hereby created in the state treasury the county 432
representation fund for the deposit of moneys received from 433
counties under this division. All moneys credited to the fund 434
shall be used by the state public defender to provide legal 435
representation for indigent persons when ~~designated~~ appointed by 436
the court or requested by a county ~~or joint county~~ public defender 437
or to provide investigation or mitigation services, including 438
investigation or mitigation services to private appointed counsel 439
or a county ~~or joint county~~ public defender, as approved by the 440
court. 441

(E)(1) Notwithstanding any contrary provision of sections 442
109.02, 109.07, 109.361 to 109.366, and 120.03 of the Revised Code 443
that pertains to representation by the attorney general, an 444
assistant attorney general, or special counsel of an officer or 445
employee, as defined in section 109.36 of the Revised Code, or of 446
an entity of state government, the state public defender may elect 447
to contract with, and to have the state pay pursuant to division 448
(E)(2) of this section for the services of, private legal counsel 449
to represent the Ohio public defender commission, the state public 450
defender, assistant state public defenders, other employees of the 451
commission or the state public defender, and attorneys described 452
in division (C) of section 120.41 of the Revised Code in a 453
malpractice or other civil action or proceeding that arises from 454

alleged actions or omissions related to responsibilities derived 455
pursuant to this chapter, or in a civil action that is based upon 456
alleged violations of the constitution or statutes of the United 457
States, including section 1983 of Title 42 of the United States 458
Code, 93 Stat. 1284 (1979), 42 U.S.C.A. 1983, as amended, and that 459
arises from alleged actions or omissions related to 460
responsibilities derived pursuant to this chapter, if the state 461
public defender determines, in good faith, that the defendant in 462
the civil action or proceeding did not act manifestly outside the 463
scope of the defendant's employment or official responsibilities, 464
with malicious purpose, in bad faith, or in a wanton or reckless 465
manner. If the state public defender elects not to contract 466
pursuant to this division for private legal counsel in a civil 467
action or proceeding, then, in accordance with sections 109.02, 468
109.07, 109.361 to 109.366, and 120.03 of the Revised Code, the 469
attorney general shall represent or provide for the representation 470
of the Ohio public defender commission, the state public defender, 471
assistant state public defenders, other employees of the 472
commission or the state public defender, or attorneys described in 473
division (C) of section 120.41 of the Revised Code in the civil 474
action or proceeding. 475

(2)(a) Subject to division (E)(2)(b) of this section, payment 476
from the state treasury for the services of private legal counsel 477
with whom the state public defender has contracted pursuant to 478
division (E)(1) of this section shall be accomplished only through 479
the following procedure: 480

(i) The private legal counsel shall file with the attorney 481
general a copy of the contract; a request for an award of legal 482
fees, court costs, and expenses earned or incurred in connection 483
with the defense of the Ohio public defender commission, the state 484
public defender, an assistant state public defender, an employee, 485
or an attorney in a specified civil action or proceeding; a 486

written itemization of those fees, costs, and expenses, including 487
the signature of the state public defender and the state public 488
defender's attestation that the fees, costs, and expenses were 489
earned or incurred pursuant to division (E)(1) of this section to 490
the best of the state public defender's knowledge and information; 491
a written statement whether the fees, costs, and expenses are for 492
all legal services to be rendered in connection with that defense, 493
are only for legal services rendered to the date of the request 494
and additional legal services likely will have to be provided in 495
connection with that defense, or are for the final legal services 496
rendered in connection with that defense; a written statement 497
indicating whether the private legal counsel previously submitted 498
a request for an award under division (E)(2) of this section in 499
connection with that defense and, if so, the date and the amount 500
of each award granted; and, if the fees, costs, and expenses are 501
for all legal services to be rendered in connection with that 502
defense or are for the final legal services rendered in connection 503
with that defense, a certified copy of any judgment entry in the 504
civil action or proceeding or a signed copy of any settlement 505
agreement entered into between the parties to the civil action or 506
proceeding. 507

(ii) Upon receipt of a request for an award of legal fees, 508
court costs, and expenses and the requisite supportive 509
documentation described in division (E)(2)(a)(i) of this section, 510
the attorney general shall review the request and documentation; 511
determine whether any of the limitations specified in division 512
(E)(2)(b) of this section apply to the request; and, if an award 513
of legal fees, court costs, or expenses is permissible after 514
applying the limitations, prepare a document awarding legal fees, 515
court costs, or expenses to the private legal counsel. The 516
document shall name the private legal counsel as the recipient of 517
the award; specify the total amount of the award as determined by 518
the attorney general; itemize the portions of the award that 519

represent legal fees, court costs, and expenses; specify any 520
limitation applied pursuant to division (E)(2)(b) of this section 521
to reduce the amount of the award sought by the private legal 522
counsel; state that the award is payable from the state treasury 523
pursuant to division (E)(2)(a)(iii) of this section; and be 524
approved by the inclusion of the signatures of the attorney 525
general, the state public defender, and the private legal counsel. 526

(iii) The attorney general shall forward a copy of the 527
document prepared pursuant to division (E)(2)(a)(ii) of this 528
section to the director of budget and management. The award of 529
legal fees, court costs, or expenses shall be paid out of the 530
state public defender's appropriations, to the extent there is a 531
sufficient available balance in those appropriations. If the state 532
public defender does not have a sufficient available balance in 533
the state public defender's appropriations to pay the entire award 534
of legal fees, court costs, or expenses, the director shall make 535
application for a transfer of appropriations out of the emergency 536
purposes account or any other appropriation for emergencies or 537
contingencies in an amount equal to the portion of the award that 538
exceeds the sufficient available balance in the state public 539
defender's appropriations. A transfer of appropriations out of the 540
emergency purposes account or any other appropriation for 541
emergencies or contingencies shall be authorized if there are 542
sufficient moneys greater than the sum total of then pending 543
emergency purposes account requests, or requests for releases from 544
the other appropriation. If a transfer of appropriations out of 545
the emergency purposes account or other appropriation for 546
emergencies or contingencies is made to pay an amount equal to the 547
portion of the award that exceeds the sufficient available balance 548
in the state public defender's appropriations, the director shall 549
cause the payment to be made to the private legal counsel. If 550
sufficient moneys do not exist in the emergency purposes account 551
or other appropriation for emergencies or contingencies to pay an 552

amount equal to the portion of the award that exceeds the 553
sufficient available balance in the state public defender's 554
appropriations, the private legal counsel shall request the 555
general assembly to make an appropriation sufficient to pay an 556
amount equal to the portion of the award that exceeds the 557
sufficient available balance in the state public defender's 558
appropriations, and no payment in that amount shall be made until 559
the appropriation has been made. The private legal counsel shall 560
make the request during the current biennium and during each 561
succeeding biennium until a sufficient appropriation is made. 562

(b) An award of legal fees, court costs, and expenses 563
pursuant to division (E) of this section is subject to the 564
following limitations: 565

(i) The maximum award or maximum aggregate of a series of 566
awards of legal fees, court costs, and expenses to the private 567
legal counsel in connection with the defense of the Ohio public 568
defender commission, the state public defender, an assistant state 569
public defender, an employee, or an attorney in a specified civil 570
action or proceeding shall not exceed fifty thousand dollars. 571

(ii) The private legal counsel shall not be awarded legal 572
fees, court costs, or expenses to the extent the fees, costs, or 573
expenses are covered by a policy of malpractice or other 574
insurance. 575

(iii) The private legal counsel shall be awarded legal fees 576
and expenses only to the extent that the fees and expenses are 577
reasonable in light of the legal services rendered by the private 578
legal counsel in connection with the defense of the Ohio public 579
defender commission, the state public defender, an assistant state 580
public defender, an employee, or an attorney in a specified civil 581
action or proceeding. 582

(c) If, pursuant to division (E)(2)(a) of this section, the 583

attorney general denies a request for an award of legal fees, 584
court costs, or expenses to private legal counsel because of the 585
application of a limitation specified in division (E)(2)(b) of 586
this section, the attorney general shall notify the private legal 587
counsel in writing of the denial and of the limitation applied. 588

(d) If, pursuant to division (E)(2)(c) of this section, a 589
private legal counsel receives a denial of an award notification 590
or if a private legal counsel refuses to approve a document under 591
division (E)(2)(a)(ii) of this section because of the proposed 592
application of a limitation specified in division (E)(2)(b) of 593
this section, the private legal counsel may commence a civil 594
action against the attorney general in the court of claims to 595
prove the private legal counsel's entitlement to the award sought, 596
to prove that division (E)(2)(b) of this section does not prohibit 597
or otherwise limit the award sought, and to recover a judgment for 598
the amount of the award sought. A civil action under division 599
(E)(2)(d) of this section shall be commenced no later than two 600
years after receipt of a denial of award notification or, if the 601
private legal counsel refused to approve a document under division 602
(E)(2)(a)(ii) of this section because of the proposed application 603
of a limitation specified in division (E)(2)(b) of this section, 604
no later than two years after the refusal. Any judgment of the 605
court of claims in favor of the private legal counsel shall be 606
paid from the state treasury in accordance with division (E)(2)(a) 607
of this section. 608

(F) If a court appoints the office of the state public 609
defender to represent a petitioner in a postconviction relief 610
proceeding under section 2953.21 of the Revised Code, the 611
petitioner has received a sentence of death, and the proceeding 612
relates to that sentence, all of the attorneys who represent the 613
petitioner in the proceeding pursuant to the appointment, whether 614
an assistant state public defender, the state public defender, or 615

another attorney, shall be certified under Rule 20 of the Rules of Superintendence for the Courts of Ohio to represent indigent defendants charged with or convicted of an offense for which the death penalty can be or has been imposed.

(G) As used in this section:

(1) "Community control sanction" has the same meaning as in section 2929.01 of the Revised Code.

(2) "Post-release control sanction" has the same meaning as in section 2967.01 of the Revised Code.

Sec. 120.08. There is hereby created in the state treasury the indigent defense support fund, consisting of money paid into the fund pursuant to sections 4507.45, 4509.101, 4510.22, and 4511.19 of the Revised Code and pursuant to sections 2937.22, 2949.091, and 2949.094 of the Revised Code out of the additional court costs imposed under those sections. The state public defender shall use at least eighty-eight per cent of the money in the fund for the purposes of reimbursing county governments for expenses incurred pursuant to sections 120.18, ~~120.28~~, and 120.33 of the Revised Code and operating its system pursuant to division (C)(7) of section 120.04 of the Revised Code and division (B) of section 120.33 of the Revised Code. Disbursements from the fund to county governments ~~shall be made at least once per year and~~ shall be allocated proportionately so that each county receives an equal percentage of its total cost for operating its county public defender system, its joint county public defender system, its county appointed counsel system, or its system operated under division (C)(7) of section 120.04 of the Revised Code and division (B) of section 120.33 of the Revised Code. The state public defender may use not more than twelve per cent of the money in the fund for the purposes of appointing assistant state public defenders, providing other personnel, equipment, and facilities

necessary for the operation of the state public defender office, 647
and providing training, developing and implementing electronic 648
forms, or establishing and maintaining an information technology 649
system used for the uniform operation of this chapter. 650

Sec. 120.13. (A) ~~The~~ Upon approval of the state public 651
defender, the county commissioners in any county may establish or 652
maintain a county public defender commission. The commission shall 653
have five members, three of whom shall be appointed by the board 654
of county commissioners, and two by the judge, or the presiding 655
judge if there is one, of the court of common pleas of the county. 656
At least one member appointed by each of these appointing bodies 657
shall be an attorney admitted to the practice of law in this 658
state. 659

(B) The board of county commissioners shall select a specific 660
day for the county public defender commission to be established 661
and on which all members' appointments shall take effect, and 662
shall notify the Ohio public defender commission of the date. 663

(C) Of the initial appointments made to the county public 664
defender commission, two appointments by the county commissioners 665
and one appointment by the court shall be for a term of two years 666
ending two years after the date the commission is established, and 667
one appointment by each of the appointing bodies shall be for a 668
term ending four years after the date the commission is 669
established. Thereafter, terms of office shall be for four years, 670
each term ending on the same day of the same month of the year as 671
did the term which it succeeds. Each member shall hold office from 672
the date of appointment until the end of the term for which the 673
member was appointed. Any member appointed to fill a vacancy 674
occurring prior to the expiration of the term for which the 675
member's predecessor was appointed shall hold office for the 676
remainder of such term. Any member shall continue in office 677

subsequent to the expiration date of the member's term until a 678
successor takes office, or until a period of sixty days has 679
elapsed, whichever occurs first. 680

(D) The members of the commission shall choose as chairperson 681
one of the commission members, who shall serve as chairperson for 682
two years. Meetings shall be held at least quarterly and at such 683
other times as called by the chairperson or by request of the 684
county public defender. Members of the commission may receive an 685
amount fixed by the county commissioners, but not in excess of the 686
amounts set for the members of the Ohio public defender commission 687
pursuant to section 124.14 of the Revised Code per diem for every 688
meeting of the board they attend, and necessary expenses including 689
mileage for each mile necessarily traveled. 690

(E) ~~The~~ Upon approval of the state public defender, the 691
county commissioners may terminate the county public defender 692
commission ~~at any time if at least ninety days prior to~~ 693
~~termination, the commissioners notify the Ohio public defender~~ 694
~~commission in writing of the termination date.~~ Upon the 695
termination date all pending county public defender matters shall 696
be transferred to the state public defender, ~~a joint county public~~ 697
~~defender,~~ or appointed counsel. 698

(F) The cost of representation in all matters assumed by the 699
state public defender shall be charged to the counties in 700
accordance with division (D) of section 120.06 of the Revised 701
Code. 702

Sec. 120.14. (A)(1) ~~Except~~ Upon approval of the state public 703
defender, and except as provided in division (A)(2) of this 704
section, the county public defender commission shall appoint and 705
retain the county public defender and may remove ~~him~~ the county 706
public defender from office only for good cause. 707

(2) If a county public defender commission contracts with the 708

state public defender or with one or more nonprofit organizations 709
for the state public defender or the organizations to provide all 710
of the services that the county public defender is required or 711
permitted to provide by this chapter, the commission shall not 712
appoint a county public defender. 713

(B) The commission shall ~~determine~~ propose the 714
qualifications, compensation, and size of the supporting staff and 715
facilities and other requirements needed to maintain and operate 716
the office of the county public defender, subject to the approval 717
of the state public defender. 718

(C) In administering the office of county public defender, 719
the commission shall: 720

(1) Recommend to the county commissioners an annual operating 721
budget which is subject to the review, amendment, and approval of 722
the board of county commissioners; 723

(2)(a) Make an annual report to the county commissioners and 724
the Ohio public defender commission on the operation of the county 725
public defender's office, including complete and detailed 726
information on finances and costs that separately states costs and 727
expenses that are reimbursable under section 120.35 of the Revised 728
Code, and any other data and information requested by the state 729
public defender; 730

(b) Make monthly reports relating to reimbursement and 731
associated case data pursuant to the rules of the Ohio public 732
defender commission to the board of county commissioners and the 733
Ohio public defender commission on the total costs of the public 734
defender's office. 735

(3) Cooperate with the Ohio public defender commission in 736
maintaining the standards established by rules of the Ohio public 737
defender commission pursuant to divisions (B) and (C) of section 738
120.03 of the Revised Code, and cooperate with the state public 739

defender in ~~his~~ the state public defender's programs providing 740
technical aid and assistance to county systems. 741

(D) The commission may accept the services of volunteer 742
workers and consultants at no compensation except reimbursement 743
for actual and necessary expenses. 744

(E) The commission may contract with any municipal 745
corporation, within the county served by the county public 746
defender, for the county public defender to provide legal 747
representation for indigent persons who are charged with a 748
violation of the ordinances of the municipal corporation. 749

(F) A county public defender commission, with the approval of 750
the board of county commissioners regarding all provisions that 751
pertain to the financing of defense counsel for indigent persons, 752
may contract with the state public defender or with any nonprofit 753
organization, the primary purpose of which is to provide legal 754
representation to indigent persons, for the state public defender 755
or the organization to provide all or any part of the services 756
that a county public defender is required or permitted to provide 757
by this chapter. A contract entered into pursuant to this division 758
may provide for payment for the services provided on a per case, 759
hourly, or fixed contract basis. The state public defender and any 760
nonprofit organization that contracts with a county public 761
defender commission pursuant to this division shall do all of the 762
following: 763

(1) Comply with all standards established by the rules of the 764
Ohio public defender commission; 765

(2) Comply with all standards established by the state public 766
defender; 767

(3) Comply with all statutory duties and other laws 768
applicable to county public defenders. 769

Sec. 120.15. (A) The county public defender shall be 770
appointed by the county public defender commission for a term not 771
to exceed four years. ~~He~~ The county public defender shall be an 772
attorney with a minimum of two years experience in the practice of 773
law and be admitted to the practice of law in Ohio at least one 774
year prior to ~~his~~ appointment. 775

(B) In carrying out the responsibilities and performing the 776
duties of ~~his~~ office, the county public defender shall: 777

(1) Maintain an office, approved by the commission, provided 778
with a library of adequate size, considering the needs of the 779
office and the accessibility of other libraries, and other 780
necessary facilities and equipment; 781

(2) Keep and maintain financial records of all cases handled 782
and develop records for use in the calculation of direct and 783
indirect costs in the operation of the office and report monthly 784
pursuant to the rules of the Ohio public defender commission to 785
the county public defender commission and to the Ohio public 786
defender commission on all relevant data on the operations of the 787
office, costs, projected needs, and recommendations for 788
legislation or amendments to court rules, as may be appropriate to 789
improve the criminal justice system; 790

(3) Collect all moneys due from contracts with municipal 791
corporations or for reimbursement for legal services under this 792
chapter and institute such actions in court for the collection of 793
such sums as ~~he~~ the county public defender considers advisable. 794
All moneys collected or received by the public defender shall be 795
paid into the county treasury to the credit of the general revenue 796
fund. 797

(4) Appoint assistant county public defenders and all other 798
personnel necessary to the functioning of the county public 799
defender's office, subject to the authority of the county public 800

defender commission to determine the size and qualifications of 801
the staff pursuant to division (B) of section 120.14 of the 802
Revised Code. All assistant county public defenders shall be 803
admitted to the practice of law in Ohio, ~~and may be appointed on a~~ 804
~~full or part time basis.~~ 805

(C) The county public defender may exercise the rights 806
authorized in division (C) of section 120.04 of the Revised Code. 807

(D) The county public defender shall determine indigency of 808
persons, subject to review by the court, in the same manner as 809
provided in section 120.05 of the Revised Code. Each monthly 810
report submitted to the board of county commissioners and the 811
state public defender shall include a certification by the county 812
public defender that all persons provided representation by the 813
county public defender's office during the month covered by the 814
report were indigent under the standards of the Ohio public 815
defender commission. 816

Sec. 120.16. (A)(1) The county public defender shall provide 817
legal representation to indigent adults and juveniles who are 818
charged with the commission of an offense or act that is a 819
violation of a state statute and for which the penalty or any 820
possible adjudication includes the potential loss of liberty and 821
in postconviction proceedings as defined in this section. 822

(2) The county public defender may provide legal 823
representation to indigent adults and juveniles charged with the 824
violation of an ordinance of a municipal corporation for which the 825
penalty or any possible adjudication includes the potential loss 826
of liberty, if the county public defender commission has 827
contracted with the municipal corporation to provide legal 828
representation for indigent persons charged with a violation of an 829
ordinance of the municipal corporation. 830

(B) The county public defender shall provide the legal 831

representation authorized by division (A) of this section at every 832
stage of the proceedings following arrest, detention, service of 833
summons, or indictment. 834

(C) The county public defender may request the state public 835
defender to prosecute any appeal or other remedy before or after 836
conviction that the county public defender decides is in the 837
interests of justice, and may provide legal representation in 838
parole and probation revocation matters and matters relating to 839
the revocation of community control or post-release control under 840
a community control sanction or post-release control sanction. 841

(D) The county public defender shall not be required to 842
prosecute any appeal, postconviction remedy, or other proceeding, 843
unless the county public defender is first satisfied there is 844
arguable merit to the proceeding. 845

(E) ~~Nothing in this section shall prevent a court from~~ 846
~~appointing counsel other than the county public defender or from~~ 847
~~allowing an indigent person to select the indigent person's own~~ 848
~~personal counsel to represent the indigent person. A court may~~ 849
~~also appoint counsel or allow an indigent person to select the~~ 850
~~indigent person's own personal counsel to assist the county public~~ 851
~~defender as co-counsel when the interests of justice so require~~ 852
A court may appoint counsel other than the county public defender 853
when the county public defender cannot provide representation due 854
to a conflict of interest or when, according to rules established 855
by the Ohio public defender commission, the workload of the county 856
public defender is of such size or complexity as to threaten the 857
quality of representation of the client by the county public 858
defender. 859

(F) Information as to the right to legal representation by 860
the county public defender or assigned counsel shall be afforded 861
to an accused person immediately upon arrest, when brought before 862
a magistrate, or when formally charged, whichever occurs first. 863

(G) If a court appoints the office of the county public 864
defender to represent a petitioner in a postconviction relief 865
proceeding under section 2953.21 of the Revised Code, the 866
petitioner has received a sentence of death, and the proceeding 867
relates to that sentence, all of the attorneys who represent the 868
petitioner in the proceeding pursuant to the appointment, whether 869
an assistant county public defender or the county public defender, 870
shall be certified under Rule 20 of the Rules of Superintendence 871
for the Courts of Ohio to represent indigent defendants charged 872
with or convicted of an offense for which the death penalty can be 873
or has been imposed. 874

(H) As used in this section: 875

(1) "Community control sanction" has the same meaning as in 876
section 2929.01 of the Revised Code. 877

(2) "Post-release control sanction" has the same meaning as 878
in section 2967.01 of the Revised Code. 879

Sec. 120.18. (A) The county public defender commission's 880
report to the board of county commissioners shall be audited by 881
the county auditor. The board of county commissioners, after 882
review and approval of the audited report, may then certify it to 883
the state public defender for reimbursement. If a request for the 884
reimbursement of any operating expenditure incurred by a county 885
public defender office is not received by the state public 886
defender within sixty days after the end of the calendar month in 887
which the expenditure is incurred, the state public defender shall 888
not pay the requested reimbursement, unless the county has 889
requested, and the state public defender has granted, an extension 890
of the sixty-day time limit. Each request for reimbursement shall 891
include a certification by the county public defender that the 892
persons provided representation by the county public defender's 893
office during the period covered by the report were indigent and, 894

for each person provided representation during that period, a 895
financial disclosure form completed by the person on a form 896
prescribed by the state public defender. The state public defender 897
shall also review the report and, in accordance with the 898
standards, guidelines, and maximums established pursuant to 899
divisions (B)(7) and (8) of section 120.04 of the Revised Code, 900
prepare a voucher for ~~fifty per cent~~ a percentage defined in 901
division (C) of this section of the total cost of each county 902
public defender's office for the period of time covered by the 903
certified report and a voucher for ~~fifty per cent~~ a percentage 904
defined in division (C) of this section of the costs and expenses 905
that are reimbursable under section 120.35 of the Revised Code, if 906
~~any, or, if the amount of money appropriated by the general~~ 907
~~assembly to reimburse counties for the operation of county public~~ 908
~~defender offices, joint county public defender offices, and county~~ 909
~~appointed counsel systems is not sufficient to pay fifty per cent~~ 910
~~of the total cost of all of the offices and systems, for the~~ 911
~~lesser amount required by section 120.34 of the Revised Code.~~ For 912
the purposes of this section, "total cost" means total expenses 913
minus costs and expenses reimbursable under section 120.35 of the 914
Revised Code and any funds received by the county public defender 915
commission pursuant to a contract, except a contract entered into 916
with a municipal corporation pursuant to division (E) of section 917
120.14 of the Revised Code, gift, or grant. 918

(B) If the county public defender fails to maintain the 919
standards for the conduct of the office established by rules of 920
the Ohio public defender commission pursuant to divisions (B) and 921
(C) of section 120.03 or the standards established by the state 922
public defender pursuant to division (B)(7) of section 120.04 of 923
the Revised Code, the Ohio public defender commission shall notify 924
the county public defender commission and the board of county 925
commissioners of the county that the county public defender has 926
failed to comply with its rules or the standards of the state 927

public defender. Unless the county public defender commission or 928
the county public defender corrects the conduct of the county 929
public defender's office to comply with the rules and standards 930
within ninety days after the date of the notice, the state public 931
defender may deny payment of all or part of the county's 932
reimbursement from the state provided for in division (A) of this 933
section. 934

(C) In accordance with the standards, guidelines, and 935
maximums established pursuant to divisions (B)(7) and (8) of 936
section 120.04 of the Revised Code: 937

(1) Beginning January 1, 2014, the state public defender 938
shall reimburse no less than fifty per cent of the total cost of 939
each county public defender's office and fifty per cent of the 940
costs and expenses that are reimbursable under section 120.35 of 941
the Revised Code, if any. 942

(2) Beginning January 1, 2015, the state public defender 943
shall reimburse no less than sixty per cent of the total cost of 944
each county public defender's office and fifty per cent of the 945
costs and expenses that are reimbursable under section 120.35 of 946
the Revised Code, if any. 947

(3) Beginning January 1, 2016, the state public defender 948
shall reimburse no less than seventy per cent of the total cost of 949
each county public defender's office and fifty per cent of the 950
costs and expenses that are reimbursable under section 120.35 of 951
the Revised Code, if any. 952

(4) Beginning January 1, 2017, the state public defender 953
shall reimburse no less than eighty per cent of the total cost of 954
each county public defender's office and fifty per cent of the 955
costs and expenses that are reimbursable under section 120.35 of 956
the Revised Code, if any. 957

(5) Beginning January 1, 2018, the state public defender 958

shall reimburse no less than ninety per cent of the total cost of 959
each county public defender's office and fifty per cent of the 960
costs and expenses that are reimbursable under section 120.35 of 961
the Revised Code, if any. 962

(6) Beginning January 1, 2019, the state public defender 963
shall reimburse one hundred per cent of the total cost of each 964
county public defender's office and fifty per cent of the costs 965
and expenses that are reimbursable under section 120.35 of the 966
Revised Code, if any. 967

Sec. 120.23. ~~(A) The boards of county commissioners in two or~~ 968
~~more adjoining or neighboring counties may form themselves into a~~ 969
~~joint board and proceed to organize a district for the~~ 970
~~establishment of a joint county public defender commission. The~~ 971
~~commission shall have three members from each county, who shall be~~ 972
~~appointed by the board of county commissioners of the county There~~ 973
~~shall be a regional director for each regional state public~~ 974
~~defender office established by the state public defender. The~~ 975
~~state public defender shall appoint each regional director from a~~ 976
~~list of not less than six nominees. In each region that consists~~ 977
~~of one or two counties, the legislative authority of each county~~ 978
~~shall nominate three persons, and the judges of the court of~~ 979
~~common pleas of each county collectively shall nominate three~~ 980
~~persons. In each region that consists of three or more counties,~~ 981
~~the legislative authority of each county shall nominate one~~ 982
~~person, and the judges of the court of common pleas of each county~~ 983
~~collectively shall nominate one person. The regional director~~ 984
~~shall serve at the pleasure of the state public defender. No~~ 985
~~person who has been discharged for cause as a regional director by~~ 986
~~the state public defender may be nominated to be a regional~~ 987
~~director.~~ 988

~~(B) The boards shall agree on a specific date for the joint~~ 989

~~county public defender commission to be established, on which date~~ 990
~~the appointments of all members shall take effect. The joint board~~ 991
~~shall notify the Ohio public defender commission of the date There~~ 992
~~shall be a district director for each district office who shall be~~ 993
~~selected by the regional director for the region within which the~~ 994
~~district office resides. The district director shall serve at the~~ 995
~~pleasure of the regional director with the consent of the state~~ 996
~~public defender.~~ 997

(C) ~~Of the initial appointments made by each county to the~~ 998
~~joint county public defender commission, one appointment shall be~~ 999
~~for a term of one year ending one year after the date the~~ 1000
~~commission is established, one appointment shall be for a term of~~ 1001
~~two years ending two years after the date the commission is~~ 1002
~~established, and one appointment shall be for a period of three~~ 1003
~~years, ending three years after the date the commission is~~ 1004
~~established. Thereafter, terms of office shall be for three years,~~ 1005
~~each term ending on the same day of the same month of the year as~~ 1006
~~did the term which it succeeds. Each member shall hold office from~~ 1007
~~the date of appointment until the end of the term for which the~~ 1008
~~member was appointed. Any member appointed to fill a vacancy~~ 1009
~~occurring prior to the expiration of the term for which the~~ 1010
~~member's predecessor was appointed shall hold office for the~~ 1011
~~remainder of the term. Any member shall continue in office~~ 1012
~~subsequent to the expiration date of the member's term until a~~ 1013
~~successor takes office, or until a period of sixty days has~~ 1014
~~elapsed, whichever occurs first In any county where a regional or~~ 1015
~~district office has been established, the state public defender~~ 1016
~~shall calculate total costs for providing such services within the~~ 1017
~~county and shall send to the county in which the services are~~ 1018
~~rendered a bill detailing the actual cost of the representation~~ 1019
~~and operations. The county, upon receipt of a bill from the state~~ 1020
~~public defender pursuant to this division, shall pay the state~~ 1021
~~public defender one hundred per cent of the amount identified less~~ 1022

the state reimbursement rate pursuant to section 120.18 of the 1023
Revised Code. 1024

~~(D) The members of the commission shall choose as chairperson 1025
one of the commission members, who shall serve as chairperson for 1026
two years. Meetings shall be held at least quarterly and at such 1027
other times as called by the chairperson or by request of the 1028
joint county public defender. Members of the commission may 1029
receive an amount fixed by the agreement of the boards of 1030
commissioners of the counties in the district, but not in excess 1031
of the amount set for the members of the Ohio public defender 1032
commission pursuant to section 124.14 of the Revised Code per diem 1033
for every meeting of the commission they attend, and necessary 1034
expenses including mileage for each mile necessarily traveled. 1035~~

~~(E) The agreement of the boards of county commissioners 1036
establishing the joint county public defender commission shall 1037
provide for the allocation of the proportion of expenses to be 1038
paid by each county, which may be based upon population, number of 1039
cases, or such other factors as the commissioners determine to be 1040
appropriate. The county commissioners may amend their agreement 1041
from time to time to provide for a different allocation of the 1042
proportion of expenses to be paid by each county. 1043~~

~~(F) The county auditor of the county with the greatest 1044
population is hereby designated as the fiscal officer of a joint 1045
county public defender district organized under this section. The 1046
county auditors of the several counties composing the joint county 1047
public defender commission district shall meet at the commission 1048
office not less than once in each six months, to adjust accounts 1049
and to transact such other duties in connection with the 1050
commission as pertain to the business of their office. 1051~~

~~(G) Each member of the board of county commissioners who 1052
meets by appointment to consider the organization of a joint 1053
county public defender commission shall, upon presentation of 1054~~

~~properly certified accounts, be paid the member's necessary expenses upon a warrant drawn by the county auditor of the member's county.~~ 1055
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~~(H) The board of county commissioners of any county within a joint county public defender commission district may withdraw from the district. Such withdrawal shall not be effective until at least ninety days after the board has notified the Ohio public defender commission, the joint county public defender commission of the district, and each board of county commissioners in the district, in writing of the termination date. The failure of a board of county commissioners to approve an annual operating budget for the office of the joint county public defender as provided in division (C)(1) of section 120.24 of the Revised Code constitutes a notice of withdrawal by the county from the district, effective on the ninetieth day after commencement of the next fiscal year. Upon the termination date, all joint county public defender matters relating to the withdrawing county shall be transferred to the state public defender, a county public defender, or appointed counsel.~~ 1058
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~~(I) The cost of representation in all matters assumed by the state public defender shall be charged to the counties in accordance with division (D) of section 120.06 of the Revised Code.~~ 1074
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~~Members of the joint county public defender commission who are residents of a county withdrawing from such district are deemed to have resigned their positions upon the completion of the withdrawal procedure provided by this section. Vacancies thus created shall not be filled.~~ 1078
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~~If two or more counties remain within the district after the withdrawal, the boards of county commissioners of the remaining adjoining or neighboring counties may agree to continue the operation of the joint county public defender commission and to~~ 1083
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~~reallocate the proportionate share of expenses to be paid by each participating county.~~ 1087
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Sec. 120.33. (A) In lieu of using a county public defender ~~or joint county public defender~~ to represent indigent persons in the 1089
proceedings set forth in division (A) of section 120.16 of the 1090
Revised Code and upon approval of the state public defender, the 1091
board of county commissioners of any county may adopt a resolution 1092
to pay counsel who are either personally selected by the indigent 1093
person or appointed by the court. The resolution shall include 1094
those provisions the board of county commissioners considers 1095
necessary to provide effective representation of indigent persons 1096
in any proceeding for which counsel is provided under this 1097
section. The resolution shall include provisions for contracts 1098
with any municipal corporation under which the municipal 1099
corporation shall reimburse the county for counsel appointed to 1100
represent indigent persons charged with violations of the 1101
ordinances of the municipal corporation. Counsel appointed by any 1102
court shall be paid in accordance with the hourly rates and per 1103
case maximums established by the Ohio public defender commission 1104
pursuant to division (B)(14) of section 120.04 of the Revised 1105
Code. 1106
1107

(1) In a county that adopts a resolution to pay counsel, an 1108
indigent person shall have the right to do either of the 1109
following: 1110

(a) To select the person's own personal counsel to represent 1111
the person in any proceeding included within the provisions of the 1112
resolution; 1113

(b) To request the court to appoint counsel to represent the 1114
person in such a proceeding. 1115

(2) The court having jurisdiction over the proceeding in a 1116
county that adopts a resolution to pay counsel shall, after 1117

determining that the person is indigent and entitled to legal representation under this section, do either of the following:

(a) By signed journal entry recorded on its docket, enter the name of the lawyer selected by the indigent person as counsel of record;

(b) Appoint counsel for the indigent person if the person has requested the court to appoint counsel and, by signed journal entry recorded on its dockets, enter the name of the lawyer appointed for the indigent person as counsel of record.

~~(3) The board of county commissioners shall establish a schedule of fees by case or on an hourly basis to be paid to counsel for legal services provided pursuant to a resolution adopted under this section. Prior to establishing the schedule, the board of county commissioners shall request the bar association or associations of the county to submit a proposed schedule. The schedule submitted shall be subject to the review, amendment, and approval of the board of county commissioners.~~

~~(4) Counsel selected by the indigent person or appointed by the court at the request of an indigent person in a county that adopts a resolution to pay counsel, except for counsel appointed to represent a person charged with any violation of an ordinance of a municipal corporation that has not contracted with the county commissioners for the payment of appointed counsel, shall be paid by the county and shall receive the compensation and expenses the court approves. Each request for payment shall be accompanied by a financial disclosure form and an affidavit of indigency that are completed by the indigent person on forms prescribed by the state public defender. Compensation and expenses shall not exceed the amounts fixed by the board of county commissioners in the schedule adopted pursuant to division (A)(3) of this section. No court shall approve compensation and expenses that exceed the amount fixed pursuant to division (A)(3)(B)(14) of this section 120.04 of~~

the Revised Code. 1150

The fees and expenses approved by the court shall not be 1151
taxed as part of the costs and shall be paid by the county. 1152
However, if the person represented has, or may reasonably be 1153
expected to have, the means to meet some part of the cost of the 1154
services rendered to the person, the person shall pay the county 1155
an amount that the person reasonably can be expected to pay. 1156
Pursuant to section 120.04 of the Revised Code, the county shall 1157
pay to the state public defender a percentage of the payment 1158
received from the person in an amount proportionate to the 1159
percentage of the costs of the person's case that were paid to the 1160
county by the state public defender pursuant to this section. The 1161
money paid to the state public defender shall be credited to the 1162
client payment fund created pursuant to division (B)(5) of section 1163
120.04 of the Revised Code. 1164

The county auditor shall draw a warrant on the county 1165
treasurer for the payment of counsel in the amount fixed by the 1166
court, plus the expenses the court fixes and certifies to the 1167
auditor. The county auditor shall report periodically, but not 1168
less than annually, to the board of county commissioners and to 1169
the state public defender the amounts paid out pursuant to the 1170
approval of the court. The board of county commissioners, after 1171
review and approval of the auditor's report, or the county 1172
auditor, with permission from and notice to the board of county 1173
commissioners, may then certify it to the state public defender 1174
for reimbursement. The state public defender may pay a requested 1175
reimbursement only if the request for reimbursement is accompanied 1176
by a financial disclosure form ~~and an affidavit of indigency~~ 1177
completed by the indigent person on forms prescribed by the state 1178
public defender or if the court certifies by electronic signature 1179
as prescribed by the state public defender that a financial 1180
disclosure form ~~and affidavit of indigency~~ have has been completed 1181

by the indigent person and are available for inspection. If a 1182
request for the reimbursement of the cost of counsel in any case 1183
is not received by the state public defender within ninety days 1184
after the end of the calendar month in which the case is finally 1185
disposed of by the court, unless the county has requested and the 1186
state public defender has granted an extension of the ninety-day 1187
limit, the state public defender shall not pay the requested 1188
reimbursement. The state public defender shall also review the 1189
report and, in accordance with the standards, guidelines, and 1190
maximums established pursuant to divisions (B)(7) and (8) of 1191
section 120.04 of the Revised Code, prepare a voucher for ~~fifty~~ 1192
~~per cent~~ a percentage defined in division (A)(4) of this section 1193
of the total cost of each county appointed counsel system in the 1194
period of time covered by the certified report and a voucher for 1195
~~fifty per cent~~ a percentage defined in division (A)(4) of this 1196
section of the costs and expenses that are reimbursable under 1197
section 120.35 of the Revised Code, if any, ~~or, if the amount of~~ 1198
~~money appropriated by the general assembly to reimburse counties~~ 1199
~~for the operation of county public defender offices, joint county~~ 1200
~~public defender offices, and county appointed counsel systems is~~ 1201
~~not sufficient to pay fifty per cent of the total cost of all of~~ 1202
~~the offices and systems other than costs and expenses that are~~ 1203
~~reimbursable under section 120.35 of the Revised Code, for the~~ 1204
~~lesser amount required by section 120.34 of the Revised Code.~~ 1205

(4) In accordance with the standards, guidelines, and 1206
maximums established pursuant to divisions (B)(7) and (8) of 1207
section 120.04 of the Revised Code: 1208

(a) Beginning January 1, 2014, the state public defender 1209
shall reimburse no less than fifty per cent of the total cost of 1210
each county appointed counsel system and fifty per cent of the 1211
costs and expenses that are reimbursable under section 120.35 of 1212
the Revised Code, if any. 1213

(b) Beginning January 1, 2015, the state public defender shall reimburse no less than sixty per cent of the total cost of each county appointed counsel system and fifty percent of the costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any.

(c) Beginning January 1, 2016, the state public defender shall reimburse no less than seventy per cent of the total cost of each county appointed counsel system and fifty per cent of the costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any.

(d) Beginning January 1, 2017, the state public defender shall reimburse no less than eighty per cent of the total cost of each county appointed counsel system and fifty per cent of the costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any.

(e) Beginning January 1, 2018, the state public defender shall reimburse no less than ninety per cent of the total cost of each county appointed counsel system and fifty per cent of the costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any.

(f) Beginning January 1, 2019, the state public defender shall reimburse one hundred per cent of the total cost of each county appointed counsel system and fifty per cent of the costs and expenses that are reimbursable under section 120.35 of the Revised Code, if any.

(5) If any county appointed counsel system fails to maintain the standards for the conduct of the system established by the rules of the Ohio public defender commission pursuant to divisions (B) and (C) of section 120.03 or the standards established by the state public defender pursuant to division (B)(7) of section 120.04 of the Revised Code, the Ohio public defender commission

shall notify the board of county commissioners of the county that 1245
the county appointed counsel system has failed to comply with its 1246
rules or the standards of the state public defender. Unless the 1247
board of county commissioners corrects the conduct of its 1248
appointed counsel system to comply with the rules and standards 1249
within ninety days after the date of the notice, the state public 1250
defender may deny all or part of the county's reimbursement from 1251
the state provided for in division (A)~~(4)~~(3) of this section. 1252

(B) In lieu of using a county public defender ~~or joint county~~ 1253
~~public defender~~ to represent indigent persons in the proceedings 1254
set forth in division (A) of section 120.16 of the Revised Code, 1255
and in lieu of adopting the resolution and following the procedure 1256
described in division (A) of this section, the board of county 1257
commissioners of any county may contract with the state public 1258
defender for the state public defender's legal representation of 1259
indigent persons. A contract entered into pursuant to this 1260
division may provide for payment for the services provided on a 1261
per case, hourly, or fixed contract basis. 1262

(C) If a court appoints an attorney pursuant to this section 1263
to represent a petitioner in a postconviction relief proceeding 1264
under section 2953.21 of the Revised Code, the petitioner has 1265
received a sentence of death, and the proceeding relates to that 1266
sentence, the attorney who represents the petitioner in the 1267
proceeding pursuant to the appointment shall be certified under 1268
Rule 20 of the Rules of Superintendence for the Courts of Ohio to 1269
represent indigent defendants charged with or convicted of an 1270
offense for which the death penalty can be or has been imposed. 1271

Sec. 120.34. ~~The total amount of money paid to all counties 1272
in any fiscal year pursuant to sections 120.18, 120.28, and 120.33 1273
of the Revised Code for the reimbursement of a percentage of the 1274
counties' cost of operating county public defender offices, joint 1275~~

~~county public defender offices, and county appointed counsel 1276
systems shall not exceed the total amount appropriated for that 1277
fiscal year by the general assembly for the reimbursement of the 1278
counties for the operation of the offices and systems. If the 1279
amount appropriated by the general assembly in any fiscal year is 1280
insufficient to pay fifty per cent of the total cost in the fiscal 1281
year of all county public defender offices, all joint county 1282
public defender offices, and all county appointed counsel systems, 1283
the amount of money paid in that fiscal year pursuant to sections 1284
120.18, 120.28, and 120.33 of the Revised Code to each county for 1285
the fiscal year shall be reduced proportionately so that each 1286
county is paid an equal percentage of its total cost in the fiscal 1287
year for operating its county public defender system, its joint 1288
county public defender system, and its county appointed counsel 1289
system. 1290~~

~~The total amount of money paid to all counties in any fiscal 1291
year pursuant to section 120.35 of the Revised Code for the 1292
reimbursement of a percentage of the counties' costs and expenses 1293
of conducting the defense in capital cases shall not exceed the 1294
total amount appropriated for that fiscal year by the general 1295
assembly for the reimbursement of the counties for conducting the 1296
defense in capital cases. If the amount appropriated by the 1297
general assembly in any fiscal year is insufficient to pay fifty 1298
per cent of the counties' total costs and expenses of conducting 1299
the defense in capital cases in the fiscal year, the amount of 1300
money paid in that fiscal year pursuant to section 120.35 of the 1301
Revised Code to each county for the fiscal year shall be reduced 1302
proportionately so that each county is paid an equal percentage of 1303
its costs and expenses of conducting the defense in capital cases 1304
in the fiscal year. 1305~~

~~If any county receives an amount of money pursuant to section 1306
120.18, 120.28, 120.33, or 120.35 of the Revised Code that is in 1307~~

excess of the amount of reimbursement it is entitled to receive 1308
pursuant to this section, the state public defender shall request 1309
the board of county commissioners to return the excess payment and 1310
the board of county commissioners, upon receipt of the request, 1311
shall direct the appropriate county officer to return the excess 1312
payment to the state. 1313

~~Within thirty days of the end of each fiscal quarter, the 1314
state public defender shall provide to the office of budget and 1315
management and the legislative budget office of the legislative 1316
service commission an estimate of the amount of money that will be 1317
required for the balance of the fiscal year to make the payments 1318
required by sections 120.18, 120.28, 120.33, and 120.35 of the 1319
Revised Code. 1320~~

Sec. 120.35. The state public defender shall, pursuant to 1321
section 120.18, ~~120.28~~, 120.33, or 2941.51 of the Revised Code, 1322
reimburse fifty per cent of all costs and expenses of conducting 1323
the defense in capital cases. ~~If appropriations are insufficient 1324
to pay fifty per cent of such costs and expenses, the state public 1325
defender shall reimburse such costs and expenses as provided in 1326
section 120.34 of the Revised Code. 1327~~

Sec. 120.36. (A)(1) Subject to division (A)(2), (3), (4), 1328
(5), or (6) of this section, if a person who is a defendant in a 1329
criminal case or a party in a case in juvenile court requests or 1330
is provided a state public defender, a county ~~or joint county~~ 1331
public defender, or any other counsel appointed by the court, the 1332
court in which the criminal case is initially filed or the 1333
juvenile court, whichever is applicable, shall assess, unless the 1334
application fee is waived or reduced, a non-refundable application 1335
fee of twenty-five dollars. 1336

The court shall direct the person to pay the application fee 1337

to the clerk of court. The person shall pay the application fee to 1338
the clerk of court at the time the person files ~~an affidavit of~~ 1339
~~indigency or~~ a financial disclosure form with the court, a state 1340
public defender, a county ~~or joint county~~ public defender, or any 1341
other counsel appointed by the court or within seven days of that 1342
date. If the person does not pay the application fee within that 1343
seven-day period, the court shall assess the application fee at 1344
sentencing or at the final disposition of the case. 1345

(2) For purposes of this section, a criminal case includes 1346
any case involving a violation of any provision of the Revised 1347
Code or of an ordinance of a municipal corporation for which the 1348
potential penalty includes loss of liberty and includes any 1349
contempt proceeding in which a court may impose a term of 1350
imprisonment. 1351

(3) In a juvenile court proceeding, the court shall not 1352
assess the application fee against a child if the court appoints a 1353
guardian ad litem for the child or the court appoints an attorney 1354
to represent the child at the request of a guardian ad litem. 1355

(4) The court shall not assess an application fee for a 1356
postconviction proceeding or when the defendant files an appeal. 1357

(5)(a) Except when the court assesses an application fee 1358
pursuant to division (A)(5)(b) of this section, the court shall 1359
assess an application fee when a person is charged with a 1360
violation of a community control sanction or a violation of a 1361
post-release control sanction. 1362

(b) If a charge of violating a community control sanction or 1363
post-release control sanction described in division (A)(5)(a) of 1364
this section results in a person also being charged with violating 1365
any provision of the Revised Code or an ordinance of a municipal 1366
corporation, the court shall only assess an application fee for 1367
the case that results from the additional charge. 1368

(6) If a case is transferred from one court to another court 1369
and the person failed to pay the application fee to the court that 1370
initially assessed the application fee, the court that initially 1371
assessed the fee shall remove the assessment, and the court to 1372
which the case was transferred shall assess the application fee. 1373

(7) The court shall assess an application fee pursuant to 1374
this section one time per case. For purposes of assessing the 1375
application fee, a case means one complete proceeding or trial 1376
held in one court for a person on an indictment, information, 1377
complaint, petition, citation, writ, motion, or other document 1378
initiating a case that arises out of a single incident or a series 1379
of related incidents, or when one individual is charged with two 1380
or more offenses that the court handles simultaneously. The court 1381
may waive or reduce the fee for a specific person in a specific 1382
case upon a finding that the person lacks financial resources that 1383
are sufficient to pay the fee or that payment of the fee would 1384
result in an undue hardship. 1385

(B) No court, state public defender, county or joint county 1386
public defender, or other counsel appointed by the court shall 1387
deny a person the assistance of counsel solely due to the person's 1388
failure to pay the application fee assessed pursuant to division 1389
(A) of this section. A person's present inability, failure, or 1390
refusal to pay the application fee shall not disqualify that 1391
person from legal representation. 1392

(C) The application fee assessed pursuant to division (A) of 1393
this section is separate from and in addition to any other amount 1394
assessed against a person who is found to be able to contribute 1395
toward the cost of the person's legal representation pursuant to 1396
division ~~(D)~~(C) of section 2941.51 of the Revised Code. 1397

(D) The clerk of the court that assessed the fees shall 1398
forward all application fees collected pursuant to this section to 1399
the county treasurer for deposit in the county treasury. The 1400

county shall retain eighty per cent of the application fees so 1401
collected to offset the costs of providing legal representation to 1402
indigent persons. Not later than the last day of each month, the 1403
county auditor shall remit twenty per cent of the application fees 1404
so collected in the previous month to the state public defender. 1405
The state public defender shall deposit the remitted fees into the 1406
state treasury to the credit of the client payment fund created 1407
pursuant to division (B)(5) of section 120.04 of the Revised Code. 1408
The state public defender may use that money in accordance with 1409
that section. 1410

(E) On or before the twentieth day of each month beginning in 1411
February of the year 2007, each clerk of court shall provide to 1412
the state public defender a report including all of the following: 1413

(1) The number of persons in the previous month who requested 1414
or were provided a state public defender, county or joint county 1415
public defender, or other counsel appointed by the court; 1416

(2) The number of persons in the previous month for whom the 1417
court waived the application fee pursuant to division (A) of this 1418
section; 1419

(3) The dollar value of the application fees assessed 1420
pursuant to division (A) of this section in the previous month; 1421

(4) The amount of assessed application fees collected in the 1422
previous month; 1423

(5) The balance of unpaid assessed application fees at the 1424
open and close of the previous month. 1425

(F) As used in this section: 1426

(1) "Clerk of court" means the clerk of the court of common 1427
pleas of the county, the clerk of the juvenile court of the 1428
county, the clerk of the domestic relations division of the court 1429
of common pleas of the county, the clerk of the probate court of 1430

the county, the clerk of a municipal court in the county, the 1431
clerk of a county-operated municipal court, or the clerk of a 1432
county court in the county, whichever is applicable. 1433

(2) "County-operated municipal court" has the same meaning as 1434
in section 1901.03 of the Revised Code. 1435

Sec. 120.40. (A) The pay ranges established by the board of 1436
county commissioners for the county public defender ~~and those~~ 1437
~~established by the joint board of county commissioners for the~~ 1438
~~joint county public defender~~ shall not exceed the pay ranges 1439
assigned under section 325.11 of the Revised Code for county 1440
prosecutors. 1441

(B) The pay ranges established by the board of county 1442
commissioners for the staff of the county public defender ~~and~~ 1443
~~those established by the joint board of county commissioners for~~ 1444
~~the staff of the joint county public defender~~ shall not exceed the 1445
pay ranges assigned under section 124.14 of the Revised Code for 1446
comparable positions of the staff of the Ohio public defender. 1447

Sec. 307.441. (A) The board of county commissioners of each 1448
county may procure a policy or policies of insurance insuring the 1449
county recorder and the clerk of the court of common pleas and 1450
their deputies against liability on account of errors or omissions 1451
unknowingly made by them and for which they may be held liable. 1452

The policy or policies of insurance shall be in an amount of 1453
not less than fifty thousand dollars. 1454

(B) The board of county commissioners of each county may 1455
procure a policy or policies of insurance insuring the sheriff and 1456
~~his~~ the sheriff's deputies against liability arising from the 1457
performance of their official duties. 1458

(C) The board of county commissioners of each county may 1459
procure a policy or policies of insurance insuring the prosecuting 1460

attorney and assistant prosecuting attorneys against liability 1461
arising from the performance of their official duties. 1462

(D) The board of county commissioners of each county may 1463
procure a policy or policies of insurance insuring the coroner, 1464
county engineer, county auditor, each county commissioner, and the 1465
county treasurer and their assistants against liability arising 1466
from the performance of their official duties. 1467

(E) The board of county commissioners of each county may 1468
procure a policy or policies of insurance insuring any county 1469
employee against liability arising from the performance of the 1470
county employee's official duties. 1471

(F) If the board of county commissioners of any county 1472
procures a policy or policies of insurance insuring any county 1473
official against liability arising from the performance of the 1474
county official's official duties as provided by divisions (A) to 1475
(D) of this section, it shall not refuse to procure a policy or 1476
policies of insurance insuring any other county official as 1477
authorized in those divisions, if such policy or policies are 1478
reasonably available. 1479

(G) The board of county commissioners of any county may 1480
procure a policy or policies of insurance insuring the county 1481
director of job and family services, county department of job and 1482
family services employees, or foster caregivers associated with 1483
the county department of job and family services, against 1484
liability arising from the performance of their official duties. 1485

(H) The board of county commissioners of each county may 1486
procure a policy or policies of insurance insuring the county 1487
public defender and the members of the county public defender 1488
commission against liability arising from the performance of their 1489
official duties. ~~A joint board of county commissioners formed~~ 1490
~~pursuant to section 120.23 of the Revised Code may, in accordance~~ 1491

~~with the agreement of the participating boards of county
commissioners, procure a policy or policies of insurance insuring
the joint county public defender and the members of the joint
county public defender commission against liability arising from
the performance of their official duties.~~

(I) The board of county commissioners of each county may
procure a policy or policies of insurance insuring the judges of
the court of common pleas and any county court in the county, and
the employees of those courts, against liability arising from the
performance of their official duties.

Sec. 2941.51. (A) Counsel appointed to a case or selected by
an indigent person ~~under division (E) of section 120.16 or
division (E) of section 120.26 of the Revised Code, or otherwise
appointed by the court, except for counsel appointed by the court
to provide legal representation for a person charged with a
violation of an ordinance of a municipal corporation, shall be
paid for their services by the county~~ the compensation and
expenses that the trial court approves. Compensation and expenses
shall comply with the hourly rates and per case maximums
established by the state public defender pursuant to division
(B)(14) of section 120.04 of the Revised Code. Each request for
payment shall be accompanied by a financial disclosure form ~~and an
affidavit of indigency that are~~ is completed by the indigent
person on forms prescribed by the state public defender.
~~Compensation and expenses shall not exceed the amounts fixed by
the board of county commissioners pursuant to division (B) of this
section.~~

(B) ~~The board of county commissioners shall establish a
schedule of fees by case or on an hourly basis to be paid by the
county for legal services provided by appointed counsel. Prior to
establishing such schedule, the board shall request the bar~~

~~association or associations of the county to submit a proposed~~ 1523
~~schedule. The schedule submitted shall be subject to the review,~~ 1524
~~amendment, and approval of the board of county commissioners.~~ 1525

~~(C)~~ In a case where counsel have been appointed to conduct an 1526
appeal under Chapter 120. of the Revised Code, such compensation 1527
shall be fixed by the court of appeals or the supreme court, as 1528
provided in ~~divisions~~ division (A) ~~and (B)~~ of this section. 1529

~~(D)~~(C) The fees and expenses approved by the court under this 1530
section shall not be taxed as part of the costs and shall be paid 1531
by the county. However, if the person represented has, or 1532
reasonably may be expected to have, the means to meet some part of 1533
the cost of the services rendered to the person, the person shall 1534
pay the county an amount that the person reasonably can be 1535
expected to pay. Pursuant to section 120.04 of the Revised Code, 1536
the county shall pay to the state public defender a percentage of 1537
the payment received from the person in an amount proportionate to 1538
the percentage of the costs of the person's case that were paid to 1539
the county by the state public defender pursuant to this section. 1540
The money paid to the state public defender shall be credited to 1541
the client payment fund created pursuant to division (B)(5) of 1542
section 120.04 of the Revised Code. 1543

~~(E)~~(D) The county auditor shall draw a warrant on the county 1544
treasurer for the payment of such counsel in the amount fixed by 1545
the court, plus the expenses that the court fixes and certifies to 1546
the auditor. The county auditor shall report periodically, but not 1547
less than annually, to the board of county commissioners and to 1548
the Ohio public defender commission the amounts paid out pursuant 1549
to the approval of the court under this section, separately 1550
stating costs and expenses that are reimbursable under section 1551
120.35 of the Revised Code. The board, after review and approval 1552
of the auditor's report, may then certify it to the state public 1553
defender for reimbursement. The request for reimbursement shall be 1554

accompanied by a financial disclosure form completed by each 1555
indigent person for whom counsel was provided on a form prescribed 1556
by the state public defender. The state public defender shall 1557
review the report and, in accordance with the standards, 1558
guidelines, and maximums established pursuant to divisions (B)(7) 1559
and (8) of section 120.04 of the Revised Code, pay ~~fifty per cent~~ 1560
a percentage in accordance with division (A)(4) of section 120.33 1561
of the Revised Code of the total cost, other than costs and 1562
expenses that are reimbursable under section 120.35 of the Revised 1563
Code, if any, of paying appointed counsel in each county and pay 1564
fifty per cent of costs and expenses that are reimbursable under 1565
section 120.35 of the Revised Code, if any, to the board. 1566

~~(F)~~(E) If any county system for paying appointed counsel 1567
fails to maintain the standards for the conduct of the system 1568
established by the rules of the Ohio public defender commission 1569
pursuant to divisions (B) and (C) of section 120.03 of the Revised 1570
Code or the standards established by the state public defender 1571
pursuant to division (B)(7) of section 120.04 of the Revised Code, 1572
the commission shall notify the board of county commissioners of 1573
the county that the county system for paying appointed counsel has 1574
failed to comply with its rules. Unless the board corrects the 1575
conduct of its appointed counsel system to comply with the rules 1576
within ninety days after the date of the notice, the state public 1577
defender may deny all or part of the county's reimbursement from 1578
the state provided for in this section. 1579

Sec. 2945.37. (A) As used in sections 2945.37 to 2945.402 of 1580
the Revised Code: 1581

(1) "Prosecutor" means a prosecuting attorney or a city 1582
director of law, village solicitor, or similar chief legal officer 1583
of a municipal corporation who has authority to prosecute a 1584
criminal case that is before the court or the criminal case in 1585

which a defendant in a criminal case has been found incompetent to stand trial or not guilty by reason of insanity. 1586
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(2) "Examiner" means either of the following: 1588

(a) A psychiatrist or a licensed clinical psychologist who satisfies the criteria of division (I)(1) of section 5122.01 of the Revised Code or is employed by a certified forensic center designated by the department of mental health to conduct examinations or evaluations. 1589
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(b) For purposes of a separate mental retardation evaluation that is ordered by a court pursuant to division (H) of section 2945.371 of the Revised Code, a psychologist designated by the director of developmental disabilities pursuant to that section to conduct that separate mental retardation evaluation. 1594
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(3) "Nonsecured status" means any unsupervised, off-grounds movement or trial visit from a hospital or institution, or any conditional release, that is granted to a person who is found incompetent to stand trial and is committed pursuant to section 2945.39 of the Revised Code or to a person who is found not guilty by reason of insanity and is committed pursuant to section 2945.40 of the Revised Code. 1599
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(4) "Unsupervised, off-grounds movement" includes only off-grounds privileges that are unsupervised and that have an expectation of return to the hospital or institution on a daily basis. 1606
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(5) "Trial visit" means a patient privilege of a longer stated duration of unsupervised community contact with an expectation of return to the hospital or institution at designated times. 1610
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(6) "Conditional release" means a commitment status under which the trial court at any time may revoke a person's conditional release and order the rehospitalization or 1614
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reinstitutionalization of the person as described in division (A) 1617
of section 2945.402 of the Revised Code and pursuant to which a 1618
person who is found incompetent to stand trial or a person who is 1619
found not guilty by reason of insanity lives and receives 1620
treatment in the community for a period of time that does not 1621
exceed the maximum prison term or term of imprisonment that the 1622
person could have received for the offense in question had the 1623
person been convicted of the offense instead of being found 1624
incompetent to stand trial on the charge of the offense or being 1625
found not guilty by reason of insanity relative to the offense. 1626

(7) "Licensed clinical psychologist," "mentally ill person 1627
subject to hospitalization by court order," and "psychiatrist" 1628
have the same meanings as in section 5122.01 of the Revised Code. 1629

(8) "Mentally retarded person subject to institutionalization 1630
by court order" has the same meaning as in section 5123.01 of the 1631
Revised Code. 1632

(B) In a criminal action in a court of common pleas, a county 1633
court, or a municipal court, the court, prosecutor, or defense may 1634
raise the issue of the defendant's competence to stand trial. If 1635
the issue is raised before the trial has commenced, the court 1636
shall hold a hearing on the issue as provided in this section. If 1637
the issue is raised after the trial has commenced, the court shall 1638
hold a hearing on the issue only for good cause shown or on the 1639
court's own motion. 1640

(C) The court shall conduct the hearing required or 1641
authorized under division (B) of this section within thirty days 1642
after the issue is raised, unless the defendant has been referred 1643
for evaluation in which case the court shall conduct the hearing 1644
within ten days after the filing of the report of the evaluation 1645
or, in the case of a defendant who is ordered by the court 1646
pursuant to division (H) of section 2945.371 of the Revised Code 1647
to undergo a separate mental retardation evaluation conducted by a 1648

psychologist designated by the director of developmental 1649
disabilities, within ten days after the filing of the report of 1650
the separate mental retardation evaluation under that division. A 1651
hearing may be continued for good cause. 1652

(D) The defendant shall be represented by counsel at the 1653
hearing conducted under division (C) of this section. If the 1654
defendant is unable to obtain counsel, the court shall appoint 1655
counsel under Chapter 120. of the Revised Code ~~or under the~~ 1656
~~authority recognized in division (C) of section 120.06, division~~ 1657
~~(E) of section 120.16, division (E) of section 120.26, or section~~ 1658
~~2941.51 of the Revised Code before proceeding with the hearing.~~ 1659

(E) The prosecutor and defense counsel may submit evidence on 1660
the issue of the defendant's competence to stand trial. A written 1661
report of the evaluation of the defendant may be admitted into 1662
evidence at the hearing by stipulation, but, if either the 1663
prosecution or defense objects to its admission, the report may be 1664
admitted under sections 2317.36 to 2317.38 of the Revised Code or 1665
any other applicable statute or rule. 1666

(F) The court shall not find a defendant incompetent to stand 1667
trial solely because the defendant is receiving or has received 1668
treatment as a voluntary or involuntary mentally ill patient under 1669
Chapter 5122. or a voluntary or involuntary mentally retarded 1670
resident under Chapter 5123. of the Revised Code or because the 1671
defendant is receiving or has received psychotropic drugs or other 1672
medication, even if the defendant might become incompetent to 1673
stand trial without the drugs or medication. 1674

(G) A defendant is presumed to be competent to stand trial. 1675
If, after a hearing, the court finds by a preponderance of the 1676
evidence that, because of the defendant's present mental 1677
condition, the defendant is incapable of understanding the nature 1678
and objective of the proceedings against the defendant or of 1679
assisting in the defendant's defense, the court shall find the 1680

defendant incompetent to stand trial and shall enter an order 1681
authorized by section 2945.38 of the Revised Code. 1682

(H) Municipal courts shall follow the procedures set forth in 1683
sections 2945.37 to 2945.402 of the Revised Code. Except as 1684
provided in section 2945.371 of the Revised Code, a municipal 1685
court shall not order an evaluation of the defendant's competence 1686
to stand trial or the defendant's mental condition at the time of 1687
the commission of the offense to be conducted at any hospital 1688
operated by the department of mental health. Those evaluations 1689
shall be performed through community resources including, but not 1690
limited to, certified forensic centers, court probation 1691
departments, and community mental health agencies. All expenses of 1692
the evaluations shall be borne by the legislative authority of the 1693
municipal court, as defined in section 1901.03 of the Revised 1694
Code, and shall be taxed as costs in the case. If a defendant is 1695
found incompetent to stand trial or not guilty by reason of 1696
insanity, a municipal court may commit the defendant as provided 1697
in sections 2945.38 to 2945.402 of the Revised Code. 1698

Sec. 2945.40. (A) If a person is found not guilty by reason 1699
of insanity, the verdict shall state that finding, and the trial 1700
court shall conduct a full hearing to determine whether the person 1701
is a mentally ill person subject to hospitalization by court order 1702
or a mentally retarded person subject to institutionalization by 1703
court order. Prior to the hearing, if the trial judge believes 1704
that there is probable cause that the person found not guilty by 1705
reason of insanity is a mentally ill person subject to 1706
hospitalization by court order or mentally retarded person subject 1707
to institutionalization by court order, the trial judge may issue 1708
a temporary order of detention for that person to remain in effect 1709
for ten court days or until the hearing, whichever occurs first. 1710

Any person detained pursuant to a temporary order of 1711

detention issued under this division shall be held in a suitable facility, taking into consideration the place and type of confinement prior to and during trial.

(B) The court shall hold the hearing under division (A) of this section to determine whether the person found not guilty by reason of insanity is a mentally ill person subject to hospitalization by court order or a mentally retarded person subject to institutionalization by court order within ten court days after the finding of not guilty by reason of insanity. Failure to conduct the hearing within the ten-day period shall cause the immediate discharge of the respondent, unless the judge grants a continuance for not longer than ten court days for good cause shown or for any period of time upon motion of the respondent.

(C) If a person is found not guilty by reason of insanity, the person has the right to attend all hearings conducted pursuant to sections 2945.37 to 2945.402 of the Revised Code. At any hearing conducted pursuant to one of those sections, the court shall inform the person that the person has all of the following rights:

(1) The right to be represented by counsel and to have that counsel provided at public expense if the person is indigent, with the counsel to be appointed by the court under Chapter 120. of the Revised Code ~~or under the authority recognized in division (C) of section 120.06, division (E) of section 120.16, division (E) of section 120.26, or section 2941.51 of the Revised Code;~~

(2) The right to have independent expert evaluation and to have that independent expert evaluation provided at public expense if the person is indigent;

(3) The right to subpoena witnesses and documents, to present evidence on the person's behalf, and to cross-examine witnesses

against the person; 1743

(4) The right to testify in the person's own behalf and to 1744
not be compelled to testify; 1745

(5) The right to have copies of any relevant medical or 1746
mental health document in the custody of the state or of any place 1747
of commitment other than a document for which the court finds that 1748
the release to the person of information contained in the document 1749
would create a substantial risk of harm to any person. 1750

(D) The hearing under division (A) of this section shall be 1751
open to the public, and the court shall conduct the hearing in 1752
accordance with the Rules of Civil Procedure. The court shall make 1753
and maintain a full transcript and record of the hearing 1754
proceedings. The court may consider all relevant evidence, 1755
including, but not limited to, any relevant psychiatric, 1756
psychological, or medical testimony or reports, the acts 1757
constituting the offense in relation to which the person was found 1758
not guilty by reason of insanity, and any history of the person 1759
that is relevant to the person's ability to conform to the law. 1760

(E) Upon completion of the hearing under division (A) of this 1761
section, if the court finds there is not clear and convincing 1762
evidence that the person is a mentally ill person subject to 1763
hospitalization by court order or a mentally retarded person 1764
subject to institutionalization by court order, the court shall 1765
discharge the person, unless a detainer has been placed upon the 1766
person by the department of rehabilitation and correction, in 1767
which case the person shall be returned to that department. 1768

(F) If, at the hearing under division (A) of this section, 1769
the court finds by clear and convincing evidence that the person 1770
is a mentally ill person subject to hospitalization by court 1771
order, the court shall commit the person either to the department 1772
of mental health for treatment in a hospital, facility, or agency 1773

as determined clinically appropriate by the department of mental 1774
health or to another medical or psychiatric facility, as 1775
appropriate. Prior to placing the defendant, the department of 1776
mental health shall obtain court approval for that placement. If, 1777
at the hearing under division (A) of this section, the court 1778
determines by clear and convincing evidence that the person 1779
requires treatment for mental retardation, it shall commit the 1780
person to a facility operated by the department of developmental 1781
disabilities or another facility, as appropriate. Further 1782
proceedings shall be in accordance with sections 2945.401 and 1783
2945.402 of the Revised Code. In determining the place of 1784
commitment, the court shall consider the extent to which the 1785
person is a danger to the person and to others, the need for 1786
security, and the type of crime involved and shall order the least 1787
restrictive alternative available that is consistent with public 1788
safety and the welfare of the person. In weighing these factors, 1789
the court shall give preference to protecting public safety. 1790

(G) If a court makes a commitment of a person under division 1791
(F) of this section, the prosecutor shall send to the hospital, 1792
facility, or agency where the person is placed by the department 1793
of mental health or to the defendant's place of commitment all 1794
reports of the person's current mental condition, and, except as 1795
otherwise provided in this division, any other relevant 1796
information, including, but not limited to, a transcript of the 1797
hearing held pursuant to division (A) of this section, copies of 1798
relevant police reports, and copies of any prior arrest and 1799
conviction records that pertain to the person and that the 1800
prosecutor possesses. The prosecutor shall send the reports of the 1801
person's current mental condition in every case of commitment, 1802
and, unless the prosecutor determines that the release of any of 1803
the other relevant information to unauthorized persons would 1804
interfere with the effective prosecution of any person or would 1805
create a substantial risk of harm to any person, the prosecutor 1806

also shall send the other relevant information. Upon admission of
a person committed under division (F) of this section, the place
of commitment shall send to the board of alcohol, drug addiction,
and mental health services or the community mental health board
serving the county in which the charges against the person were
filed a copy of all reports of the person's current mental
condition and a copy of the other relevant information provided by
the prosecutor under this division, including, if provided, a
transcript of the hearing held pursuant to division (A) of this
section, the relevant police reports, and the prior arrest and
conviction records that pertain to the person and that the
prosecutor possesses.

(H) A person who is committed pursuant to this section shall
not voluntarily admit the person or be voluntarily admitted to a
hospital or institution pursuant to section 5122.02, 5122.15,
5123.69, or 5123.76 of the Revised Code.

Sec. 2953.21. (A)(1)(a) Any person who has been convicted of
a criminal offense or adjudicated a delinquent child and who
claims that there was such a denial or infringement of the
person's rights as to render the judgment void or voidable under
the Ohio Constitution or the Constitution of the United States,
and any person who has been convicted of a criminal offense that
is a felony and who is an offender for whom DNA testing that was
performed under sections 2953.71 to 2953.81 of the Revised Code or
under former section 2953.82 of the Revised Code and analyzed in
the context of and upon consideration of all available admissible
evidence related to the person's case as described in division (D)
of section 2953.74 of the Revised Code provided results that
establish, by clear and convincing evidence, actual innocence of
that felony offense or, if the person was sentenced to death,
establish, by clear and convincing evidence, actual innocence of
the aggravating circumstance or circumstances the person was found

guilty of committing and that is or are the basis of that sentence 1839
of death, may file a petition in the court that imposed sentence, 1840
stating the grounds for relief relied upon, and asking the court 1841
to vacate or set aside the judgment or sentence or to grant other 1842
appropriate relief. The petitioner may file a supporting affidavit 1843
and other documentary evidence in support of the claim for relief. 1844

(b) As used in division (A)(1)(a) of this section, "actual 1845
innocence" means that, had the results of the DNA testing 1846
conducted under sections 2953.71 to 2953.81 of the Revised Code or 1847
under former section 2953.82 of the Revised Code been presented at 1848
trial, and had those results been analyzed in the context of and 1849
upon consideration of all available admissible evidence related to 1850
the person's case as described in division (D) of section 2953.74 1851
of the Revised Code, no reasonable factfinder would have found the 1852
petitioner guilty of the offense of which the petitioner was 1853
convicted, or, if the person was sentenced to death, no reasonable 1854
factfinder would have found the petitioner guilty of the 1855
aggravating circumstance or circumstances the petitioner was found 1856
guilty of committing and that is or are the basis of that sentence 1857
of death. 1858

(c) As used in divisions (A)(1)(a) and (b) of this section, 1859
"former section 2953.82 of the Revised Code" means section 2953.82 1860
of the Revised Code as it existed prior to ~~the effective date of~~ 1861
~~this amendment~~ July 6, 2010. 1862

(2) Except as otherwise provided in section 2953.23 of the 1863
Revised Code, a petition under division (A)(1) of this section 1864
shall be filed no later than one hundred eighty days after the 1865
date on which the trial transcript is filed in the court of 1866
appeals in the direct appeal of the judgment of conviction or 1867
adjudication or, if the direct appeal involves a sentence of 1868
death, the date on which the trial transcript is filed in the 1869
supreme court. If no appeal is taken, except as otherwise provided 1870

in section 2953.23 of the Revised Code, the petition shall be 1871
filed no later than one hundred eighty days after the expiration 1872
of the time for filing the appeal. 1873

(3) In a petition filed under division (A) of this section, a 1874
person who has been sentenced to death may ask the court to render 1875
void or voidable the judgment with respect to the conviction of 1876
aggravated murder or the specification of an aggravating 1877
circumstance or the sentence of death. 1878

(4) A petitioner shall state in the original or amended 1879
petition filed under division (A) of this section all grounds for 1880
relief claimed by the petitioner. Except as provided in section 1881
2953.23 of the Revised Code, any ground for relief that is not so 1882
stated in the petition is waived. 1883

(5) If the petitioner in a petition filed under division (A) 1884
of this section was convicted of or pleaded guilty to a felony, 1885
the petition may include a claim that the petitioner was denied 1886
the equal protection of the laws in violation of the Ohio 1887
Constitution or the United States Constitution because the 1888
sentence imposed upon the petitioner for the felony was part of a 1889
consistent pattern of disparity in sentencing by the judge who 1890
imposed the sentence, with regard to the petitioner's race, 1891
gender, ethnic background, or religion. If the supreme court 1892
adopts a rule requiring a court of common pleas to maintain 1893
information with regard to an offender's race, gender, ethnic 1894
background, or religion, the supporting evidence for the petition 1895
shall include, but shall not be limited to, a copy of that type of 1896
information relative to the petitioner's sentence and copies of 1897
that type of information relative to sentences that the same judge 1898
imposed upon other persons. 1899

(B) The clerk of the court in which the petition is filed 1900
shall docket the petition and bring it promptly to the attention 1901
of the court. The clerk of the court in which the petition is 1902

filed immediately shall forward a copy of the petition to the 1903
prosecuting attorney of that county. 1904

(C) The court shall consider a petition that is timely filed 1905
under division (A)(2) of this section even if a direct appeal of 1906
the judgment is pending. Before granting a hearing on a petition 1907
filed under division (A) of this section, the court shall 1908
determine whether there are substantive grounds for relief. In 1909
making such a determination, the court shall consider, in addition 1910
to the petition, the supporting affidavits, and the documentary 1911
evidence, all the files and records pertaining to the proceedings 1912
against the petitioner, including, but not limited to, the 1913
indictment, the court's journal entries, the journalized records 1914
of the clerk of the court, and the court reporter's transcript. 1915
The court reporter's transcript, if ordered and certified by the 1916
court, shall be taxed as court costs. If the court dismisses the 1917
petition, it shall make and file findings of fact and conclusions 1918
of law with respect to such dismissal. 1919

(D) Within ten days after the docketing of the petition, or 1920
within any further time that the court may fix for good cause 1921
shown, the prosecuting attorney shall respond by answer or motion. 1922
Within twenty days from the date the issues are raised, either 1923
party may move for summary judgment. The right to summary judgment 1924
shall appear on the face of the record. 1925

(E) Unless the petition and the files and records of the case 1926
show the petitioner is not entitled to relief, the court shall 1927
proceed to a prompt hearing on the issues even if a direct appeal 1928
of the case is pending. If the court notifies the parties that it 1929
has found grounds for granting relief, either party may request an 1930
appellate court in which a direct appeal of the judgment is 1931
pending to remand the pending case to the court. 1932

(F) At any time before the answer or motion is filed, the 1933
petitioner may amend the petition with or without leave or 1934

prejudice to the proceedings. The petitioner may amend the 1935
petition with leave of court at any time thereafter. 1936

(G) If the court does not find grounds for granting relief, 1937
it shall make and file findings of fact and conclusions of law and 1938
shall enter judgment denying relief on the petition. If no direct 1939
appeal of the case is pending and the court finds grounds for 1940
relief or if a pending direct appeal of the case has been remanded 1941
to the court pursuant to a request made pursuant to division (E) 1942
of this section and the court finds grounds for granting relief, 1943
it shall make and file findings of fact and conclusions of law and 1944
shall enter a judgment that vacates and sets aside the judgment in 1945
question, and, in the case of a petitioner who is a prisoner in 1946
custody, shall discharge or resentence the petitioner or grant a 1947
new trial as the court determines appropriate. The court also may 1948
make supplementary orders to the relief granted, concerning such 1949
matters as rearraignment, retrial, custody, and bail. If the trial 1950
court's order granting the petition is reversed on appeal and if 1951
the direct appeal of the case has been remanded from an appellate 1952
court pursuant to a request under division (E) of this section, 1953
the appellate court reversing the order granting the petition 1954
shall notify the appellate court in which the direct appeal of the 1955
case was pending at the time of the remand of the reversal and 1956
remand of the trial court's order. Upon the reversal and remand of 1957
the trial court's order granting the petition, regardless of 1958
whether notice is sent or received, the direct appeal of the case 1959
that was remanded is reinstated. 1960

(H) Upon the filing of a petition pursuant to division (A) of 1961
this section by a person sentenced to death, only the supreme 1962
court may stay execution of the sentence of death. 1963

(I)(1) If a person sentenced to death intends to file a 1964
petition under this section, the court shall appoint counsel to 1965
represent the person upon a finding that the person is indigent 1966

and that the person either accepts the appointment of counsel or 1967
is unable to make a competent decision whether to accept or reject 1968
the appointment of counsel. The court may decline to appoint 1969
counsel for the person only upon a finding, after a hearing if 1970
necessary, that the person rejects the appointment of counsel and 1971
understands the legal consequences of that decision or upon a 1972
finding that the person is not indigent. 1973

(2) The court shall not appoint as counsel under division 1974
(I)(1) of this section an attorney who represented the petitioner 1975
at trial in the case to which the petition relates unless the 1976
person and the attorney expressly request the appointment. The 1977
court shall appoint as counsel under division (I)(1) of this 1978
section only an attorney who is certified under Rule 20 of the 1979
Rules of Superintendence for the Courts of Ohio to represent 1980
indigent defendants charged with or convicted of an offense for 1981
which the death penalty can be or has been imposed. The 1982
ineffectiveness or incompetence of counsel during proceedings 1983
under this section does not constitute grounds for relief in a 1984
proceeding under this section, in an appeal of any action under 1985
this section, or in an application to reopen a direct appeal. 1986

(3) Division (I) of this section does not preclude attorneys 1987
who represent the state of Ohio from invoking the provisions of 28 1988
U.S.C. 154 with respect to capital cases that were pending in 1989
federal habeas corpus proceedings prior to July 1, 1996, insofar 1990
as the petitioners in those cases were represented in proceedings 1991
under this section by one or more counsel appointed by the court 1992
under this section ~~or~~ section 120.06, 120.16, ~~120.26~~, or 120.33, 1993
or former section 120.26 of the Revised Code and those appointed 1994
counsel meet the requirements of division (I)(2) of this section. 1995

(J) Subject to the appeal of a sentence for a felony that is 1996
authorized by section 2953.08 of the Revised Code, the remedy set 1997
forth in this section is the exclusive remedy by which a person 1998

may bring a collateral challenge to the validity of a conviction 1999
or sentence in a criminal case or to the validity of an 2000
adjudication of a child as a delinquent child for the commission 2001
of an act that would be a criminal offense if committed by an 2002
adult or the validity of a related order of disposition. 2003

Section 2. That existing sections 120.01, 120.03, 120.04, 2004
120.06, 120.08, 120.13, 120.14, 120.15, 120.16, 120.18, 120.23, 2005
120.33, 120.34, 120.35, 120.36, 120.40, 307.441, 2941.51, 2945.37, 2006
2945.40, and 2953.21 and sections 120.24, 120.25, 120.26, 120.27, 2007
and 120.28 of the Revised Code are hereby repealed. 2008