

APPENDIX A: TRIAL-LEVEL INDIGENT DEFENSE DELIVERY SYSTEMS FOR
FELONY & MISDEMEANOR CHARGES*

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Alabama ³⁷⁸	Local	<p>Alabama has only nine public defender offices in the state. The vast majority of counties in Alabama rely on assigned counsel or contract systems.</p> <p>From October of 2017 to September of 2018, private attorneys made over 50,000 claims for compensation in counties without public defenders.</p>	
Alaska ³⁷⁹	Mixed (The state provides for representation, but localities handle defense represen-	Alaska has two agencies to provide indigent defense representation—the Public Defender Agency assumes primary responsibility and has a mix of full-time, salaried	Flat-fee contract counsel in Anchorage handle between 4,500–5,000 municipal criminal cases a year, which is more than one fifth of the total caseload of 23,902 cases

* This table is necessarily incomplete because many states do not keep reliable data about who handles indigent defense caseloads. Counties and localities often do not keep track of the proportion of cases handled by public defenders versus assigned counsel and flat-fee contract attorneys. When data is collected, it may be collected sporadically or inconsistently. In addition, jurisdictions use different labels, with some calling individuals “public defenders” even when they are paid by the hour or through flat-fee contracts. For these reasons, I have been able to collect different amounts and kinds of data for different jurisdictions. This table also represents a snapshot in time; these numbers may fluctuate from year to year. More important than any one individual cell in this table are the clear patterns showing that states (a) continue to heavily rely on assigned-counsel and flat-fee contract systems and (b) frequently delegate the responsibility to structure indigent defense to county or local actors.

378. ALA. CODE §§ 15-12-4, 15-12-21, 15-12-40 (2018); ALABAMA REPORT OF THE OFFICE OF INDIGENT DEFENSE SERVICES (2021); Ivana Hrynkiw, *How Much Does Your County Spend to Defend Indigents?*, BIRMINGHAM REAL-TIME NEWS, <https://www.al.com/news/birmingham/2018/12/how-much-does-your-county-spend-to-defend-criminals.html> [perma.cc/LU7A-RVN6] (last updated Dec. 27, 2018, 1:20 PM).

379. ALASKA STAT. ANN. §§ 18.85.010 to 18.85.170, 44.21.400 to 44.21.470 (West 2023); ALASKA DEP’T OF ADMIN. OVERSIGHT & REV. UNIT, REVIEW OF THE EFFICIENCY AND EFFECTIVENESS OF THE PUBLIC DEFENDER AGENCY (2019).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Alaska [cont.]	tation for municipal ordinance violations.)	public defenders and contract attorneys. The Office of Public Advocacy handles conflict cases and relies heavily on contracts with private counsel for direct representation. Neither public defender agency handles municipal ordinance cases, which include jailable misdemeanors like DWI, domestic violence, assault, theft, and vehicle tampering.	handled by both statewide public defender agencies in 2019. ³⁸⁰
Arizona ³⁸¹	Local	Ten Arizona counties have public defender offices. The other five counties rely entirely on contracts with private attorneys. ³⁸²	<p><i>Cochise County</i> (Fiscal Year 20/21):</p> <ul style="list-style-type: none"> • Total cases: 3,316 • Private counsel: 36% (1,214 cases) • Public Defender Offices: 64% (Public Defender: 888 cases; Legal Defender: 227 cases; Office of Legal Advocate: 987 cases) • Private attorneys handled 14% of felony case-load and the majority of misdemeanor cases.³⁸³

380. Wellner, *supra* note 39; Email from Richard K. Payne to Makayla Lopez, *supra* note 302; ALASKA DEP'T OF ADMIN. OVERSIGHT & REV. UNIT, *supra* note 379, at 2 (noting that there were 23,902 cases in Fiscal Year 2019).

381. ARIZ. REV. STAT. ANN. §§ 11-581 to 11-588 (2020 & Supp. 2022).

382. CARROLL, *supra* note 135.

383. See COCHISE COUNTY ADOPTED BUDGET FY2021–2022, at 116; COCHISE COUNTY PUBLIC LEGAL SERVICES ANNUAL REPORT FISCAL YEAR 2021/–22, at 1 (discussing Fiscal Year 2020–21).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Arizona [cont.]			<p><i>Pima County</i> (Fiscal Year 19/20):</p> <ul style="list-style-type: none"> • Total cases: 14,478 • Private counsel: almost 23% (3,289 cases) • Public Defender Offices: 77% (Public Defender: 8,861 felony and misdemeanor cases; Legal Defender: 2,022 felony cases; Legal Advocate: 306 felony cases) • Private counsel handled 58% of the misdemeanor cases in Pima County.³⁸⁴
Arkansas ³⁸⁵	State	Arkansas has public defender offices in each of its twenty-three judicial circuits, but they contain a mixture of full-time and part-time defenders. Arkansas also has a conflict public defender office in Little Rock and another regional conflict office serving Madison and Washington counties. The Arkansas Public Defense Commission spent \$1,260,405.06 on private-at-	

384. See PIMA CNTY., ARIZONA ADOPTED BUDGET FISCAL YEAR 2021/2022, at 13–77 to 13–88.

385. ARK. CODE ANN. §§ 16-87-201 to 16-87-218, 16-87-301 to 16-87-307 (2005 & Supp. 2023); Email from Charlotte Bogan, Att’y, Ark. Pub. Def. Comm’n, to Lila Shelley & Shay Elbaum, Univ. of Mich. L. Sch. (Apr. 21, 2022, 12:20 PM) (on file with author).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Arkansas [cont.]		torney appointments in conflict and overflow cases in Fiscal Year 18–19. ³⁸⁶	
California ³⁸⁷	Local	Thirty-four of California's fifty-eight counties have full-time public defender offices. One county—San Mateo—has an assigned-counsel system, and the remaining twenty-three counties rely on contract counsel. ³⁸⁸ Even in counties with public defender offices, private attorneys will often handle conflict cases through assigned-counsel or contract systems. ³⁸⁹	<p>Contract defenders and assigned counsel are the primary method of providing indigent defense in 41% of California counties.³⁹⁰</p> <p>All of California's largest counties, and about 75% of its medium-sized counties, have public defender offices. Among the less-populated California counties, about 80% rely on contract defenders.³⁹¹</p> <p>In Contra Costa County, which has a public defender office, 22.4% of misdemeanor</p>

386. See GREGG E. PARRISH, ARK. PUB. DEF. COMM'N, ANNUAL REPORT SUMMARY FISCAL YEAR 2018–2019.

387. See CAL. GOV'T CODE §§ 15400–25 (West 2009), 5700–11 (West 2008); CAL. PENAL CODE § 987.2 (West 2021).

388. GABRIEL PETEK, LEGIS. ANALYST'S OFF., ASSESSING THE PROVISION OF CRIMINAL INDIGENT DEFENSE 4 (2022); Eagly et al., *supra* note 102; *Santa Cruz County Opens First Public Defender's Office*, CBS NEWS BAY AREA (Jul. 7, 2022, 9:02 AM), <https://www.cbsnews.com/sanfrancisco/news/santa-cruz-county-opens-first-public-defenders-office> [perma.cc/HEB6-MFCT]; Charles D. Weisselberg, *Look Forward, Not Back: A Perspective on Defense Lawyering in the United States*, in POOR DEFENCE LAWYERING: A COMPARATIVE VIEW (Michele Panzavolta & Andrew Sanders eds., forthcoming) (manuscript at 19), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=4530784 [perma.cc/C7PA-LCWE].

389. *E.g.*, David Carroll & Aditi Goel, *The State of the Nation on Gideon's 60th Anniversary*, SIXTH AMEND. CTR.: PLEADING THE SIXTH (Mar. 14, 2023), <https://sixthamendment.org/the-state-of-the-nation-on-gideons-60th-anniversary> [perma.cc/CK8X-M8XJ] (discussing the new Santa Cruz Public Defender Office and emphasizing that assigned counsel still handle conflict cases).

390. Eagly et al., *supra* note 102, at 27.

391. *Id.* at 28.

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
California [cont.]			cases and 13.5% of felony cases in 2020 were referred to assigned counsel due to conflicts of interest or excessive caseloads. ³⁹²
Colorado ³⁹³	Mixed (The state provides representation, but localities handle defense representation for municipal ordinance violations.)	<p>Colorado has both a statewide public defender agency and an Office of the Alternate Defense Counsel (OADC) to handle conflict cases, but OADC is essentially an assigned-counsel system with private-attorney appointments for conflict representation.</p> <p>Colorado's public defender systems do not typically handle municipal cases. Denver and Aurora have municipal public defender offices, but they rely on assigned counsel for conflict cases, and the rest of the counties in Colorado rely on contract, court-appointed counsel, or managed assigned-counsel programs to cover all jailable municipal offenses.³⁹⁴</p>	In 2020, the Colorado State Public Defender assigned 9% of its cases to assigned counsel or contract attorneys due to conflicts of interest. ³⁹⁵

392. ROBIN LIPETZKY, CONTRA COSTA OFF. OF THE PUB. DEF., PERFORMANCE REPORT 6 (2021), [https://www.contracosta.ca.gov/DocumentCenter/View/71325/Public-Defender-PERFORMANCE-REPORT?bidId=\[perma.cc/EQD2-QHTC\]](https://www.contracosta.ca.gov/DocumentCenter/View/71325/Public-Defender-PERFORMANCE-REPORT?bidId=[perma.cc/EQD2-QHTC]).

393. See COLO. REV. STAT. §§ 21-1-101 to 21-1-107, 21-2-101 to 21-2-109 (2021).

394. NAT'L LEGAL AID & DEF. ASS'N, REVIEW OF THE AURORA, COLORADO MUNICIPAL PUBLIC DEFENDER SYSTEM 17-22 (2021).

395. MEGAN A. RING, OFF. OF THE STATE PUB. DEF., FISCAL YEAR 2021-2022 BUDGET REQUEST 26 (2020), <https://www.coloradodefenders.us/wp-content/uploads/2020/11/FINAL-FY22-OSPD-Budget-Request.pdf> [perma.cc/QQ6Y-PU3C].

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Connecticut ³⁹⁶	State	Connecticut has a statewide public defender agency but assigns conflict cases to a panel of private attorneys. ³⁹⁷	During Fiscal Year 2021, the state public defender transferred 17% of its cases (17,519 out of 102,597 cases) to assigned counsel. ³⁹⁸
Delaware ³⁹⁹	State	Delaware has a statewide public defender agency and also oversees the Office of Conflicts Counsel, which administers flat-fee contracts to cover conflict cases (though certain conditions may trigger an opportunity for counsel to earn an hourly rate above the flat fee). ⁴⁰⁰	The Public Defender's Office represents approximately 83% of indigent defendants, leaving 17% for private/contract counsel. ⁴⁰¹
Florida ⁴⁰²	Mixed (Primary representation is locally chosen but the state provides for much of the	Each of Florida's twenty judicial circuits has a public defender office and there are five regional conflict defender offices throughout the state with full and part-time staff to handle conflict representation. ⁴⁰³	Of the 173,403 noncapital cases handled in the circuits in Fiscal Year 21–22, 16,332 (9.4%) involved conflicts of

396. See CONN. GEN. STAT. §§ 51-289 to 51-300 (2011).

397. *FAQ Regarding Assigned Counsel*, CONN. DIV. OF PUB. DEF. SERVS., <https://portal.ct.gov/OCPD/Assigned-Counsel/FAQ-Regarding-Assigned-Counsel> [perma.cc/XS7E-EUP].

398. CONN. DIV. OF PUB. DEF. SERVS., ANNUAL REPORT FISCAL YEAR 2020/2021: STILL DEFENDING 15–16.

399. DEL. CODE ANN. tit. 46, §§ 4601–08 (2023).

400. *OCC Billing Policy*, DEL. OFF. OF CONFLICTS COUNS., <https://conflictscounsel.delaware.gov/documents/occ-billing-policy-revised-6-27-17> [perma.cc/D3W3-F65D] (revised June 27, 2017).

401. S.B. 47, 148th Gen. Assemb., Reg. Sess. (Del. 2015) (Original Synopsis of An Act to Amend the Delaware Code Relating to Criminal Defense for Indigent Persons).

402. FLA. STAT. §§ 27.40 to 27.59 (2022).

403. *Justice Administrative Commission: Public Defenders*, OFF. OF PROGRAM POL'Y ANALYSIS & GOV'T ACCOUNTABILITY, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=1024> [perma.cc/QNV9-CBPM]; *Justice Administrative Commission: Criminal Conflict and Civil Regional Counsels*, OFF. OF PROGRAM POL'Y ANALYSIS &

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Florida [cont.]	conflict representation.)	If neither the defender nor the conflict office can handle a case, there is a panel of private assigned counsel available to be paid an hourly rate. ⁴⁰⁴	interest that required appointment of private counsel. ⁴⁰⁵
Georgia ⁴⁰⁶	Local	Each of the fifty judicial circuits in the state has one circuit defender appointed by a local panel of attorneys. The circuit defender then hires assistant defenders. When there is a conflict of interest in a case, it can be sent to another circuit defender office or sent out to private counsel. Six of the circuits—Gwinnett, Bell-Forsyth, Blue Ridge, Cobb, Douglas, and Houston—have opted out of the system. ⁴⁰⁷	
Hawaii ⁴⁰⁸	State	Hawaii has a statewide public defender agency and uses an assigned-counsel system for conflict cases. ⁴⁰⁹	Between January 1, 2021, and December 31, 2022, public defenders handled 73.6% of all criminal cases (4,257 out

GOV'T ACCOUNTABILITY, <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?program-Number=1021> [perma.cc/6JRG-YH DU].

404. See JUST. ADMIN. COMM'N, IFC V. COURT-APPOINTED REPRESENTATION 2, <https://www.justiceadmin.org/jac/IFC-vs-Court-Appointed%20Flowchart.pdf> [perma.cc/63ST-9FQX].

405. FY 21–22 PUBLIC DEFENDER LEGISLATIVE REPORT, CIRCUIT 1–20, QUARTERLY TOTAL REPORT—TRIALS.

406. GA. CODE ANN. §§ 17-12-1 to 17-12-12.1 (2020).

407. CARL VINSON, UNIV. OF GA. INST. OF GOV'T, GEORGIA CRIMINAL JUSTICE DATA LANDSCAPE REPORT: CRIMINAL COURT SYSTEM 22–23 (2021). See generally Robert L. Tsai, *The Public Defender Movement in the Age of Mass Incarceration: Georgia's Experience*, 1 J. AM. CONST. HIST. 85 (2023).

408. HAW. REV. STAT. ANN. §§ 802-1 to 802-12 (LexisNexis 2016).

409. *Id.* §§ 802-5(a), 802-8.

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Hawaii [cont.]			of 5,781) while court-appointed counsel handled 11.7% (678 out of 5,781). ⁴¹⁰
Idaho ⁴¹¹	Local	<p>Only fourteen of Idaho's forty-four counties have public defender offices. The other thirty counties contract with private attorneys to provide indigent defense services.⁴¹²</p> <p>One county with a public defender office has a conflict public defender office (Bonneville).⁴¹³ All of the others contract with private attorneys to handle conflict cases.⁴¹⁴</p>	In 2021, contract counsel handled 28% of felony and misdemeanor cases in the state (17,949 out of 63,569 cases). ⁴¹⁵
Illinois ⁴¹⁶	Local	Every county in Illinois has a public defender office, but 57 of the 102 counties have part-time defenders, many of whom work under fixed-fee contracts. ⁴¹⁷	

410. Data provided by the Rsch. & Stat. Off., Haw. State Judiciary (Feb. 14, 2023) (on file with author); Telephone Interview with Lee Hayakawa, Assistant Pub. Def., State of Haw. Off. of the Pub. Def. (Jan. 31, 2023) (indicating that the majority of the caseload is handled by public defenders).

411. IDAHO CODE §§ 19-848 to 19-866 (2017).

412. Letter from Kathleen J. Elliott, Exec. Dir., Idaho State Pub. Def. Comm'n, to Kathryn Buggs, Univ. of Mich. L. Sch. (Apr. 14, 2022) (on file with author).

413. *Id.*

414. IDAHO POL'Y INST. AT BOISE STATE UNIV., IDAHO PUBLIC DEFENSE WORKLOAD STUDY 3 (2018), <https://pdc.idaho.gov/wp-content/uploads/2018/03/PDC-WORKLOAD-STUDY-online-version.pdf> [perma.cc/2C7N-T26L].

415. See data provided by Kathleen J. Elliott, Exec. Dir., Idaho State Pub. Def. Comm'n (Apr. 14, 2022) (on file with author).

416. 55 ILL. COMP. STAT. ANN. 5 / 3-4000 to 5 / 3-4013 (West 2005).

417. ILLINOIS REPORT, *supra* 63, at 28, 46, 144.

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Indiana ⁴¹⁸	Local	<p>Indiana has a mix of public defender offices, contract systems, and assigned-counsel programs.⁴¹⁹ Sixty-seven of Indiana's ninety-two counties have a county public defender board and a comprehensive plan for indigent defense such that they receive state funding for noncapital indigent defense.⁴²⁰ These sixty-seven counties do not necessarily have public defender offices. They may have a comprehensive plan that relies on contract attorneys or assigned counsel paid by the hour. And even those with public defender offices still rely on contract attorneys or assigned counsel for conflict cases.⁴²¹</p> <p>Of the remaining twenty-five counties, only three (Henry, Montgomery, and Wayne) have public defender offices. Those three counties</p>	<p>2021 data collected from sixty-seven of the state's ninety-two counties (which account for approximately 75% of the state's population) reveal that 35% of both the felony caseload (14,789 of 41,829 cases) and the misdemeanor caseload (11,362 of 32,759 cases) were handled by contract attorneys or assigned counsel.⁴²²</p>

418. IND. CODE ANN. §§ 33-40-1-1 to 33-40-1-6 (West 2018).

419. INDIANA REPORT, *supra* note 63; CARROLL, *supra* note 135.

420. Data provided by Torrin Liddell, Analyst, Pub. Def. Comm'n Rsch. & Stat. (March 25, 2022) (on file with author).

421. *See id.*; *see also* County Eligibility Status for Reimbursement in Non-Capital Cases, INDIANA PUB. DEF. COMM'N (2023), <https://www.in.gov/publicdefender/county-eligibility-status/> [perma.cc/C5J6-UURF].

422. *See* data provided by Torrin Liddell, Pub. Def. Comm'n Rsch. & Stat. Analyst (March 25, 2022) (on file with author).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Indiana [cont.]		constitute 2.3% of Indiana's population. ⁴²³	
Iowa ⁴²⁴	State	In Iowa, there is a statewide public defender agency and contract attorneys are used to handle conflict cases. ⁴²⁵	<p>According to a 2020 report, public defenders handled 91,758 charges while contract attorneys filed 67,234 claims for payment.⁴²⁶</p> <p>The State Public Defender estimates that half of their cases are handled by contract attorneys.⁴²⁷</p>
Kansas ⁴²⁸	Mixed (The state provides for felony representation, but localities provide representation for misdemeanors.)	<p>There is a statewide public defender agency that handles some felony cases and contracts with private attorneys to handle the remaining felony caseload. And there are assigned-counsel systems in place to handle conflicts.⁴²⁹</p> <p>Misdemeanors are handled primarily by private counsel at the county level</p>	According to the Board of Indigent Defense Services 2020 Annual Report, public defenders handled 44% of the felony cases statewide (11,456 felony cases) whereas private appointed counsel handled 56% (14,781 felony cases). ⁴³⁰

423. *Indiana*, U.S. CENSUS BUREAU: QUICKFACTS, <https://www.census.gov/quickfacts/fact/dashboard/IN/POP010220> [perma.cc/695H-TEL].

424. IOWA CODE §§ 13B.1 to 13.B.13, 815.1 (2023).

425. IOWA OFF. OF THE STATE PUB. DEF., FISCAL YEAR 2020 PERFORMANCE REPORT (2020), <https://mydata.iowa.gov/Accountable-Government-Act/Iowa-Office-of-the-State-Public-Defender-FY-2020-P/p9qn-5cxy> [perma.cc/EV47-HLT3].

426. *Id.*

427. Telephone Interview with Jeff Wright, Chief Pub. Def., Off. of the State Pub. Def. (July 5, 2022).

428. See KAN. STAT. ANN. §§ 22-4501 to 22-4529 (2007); KAN. ADMIN. REGS. §§ 105-1-1 to 105-31-6 (2022).

429. KAN. BD. OF INDIGENTS' DEF. SERVS., A REPORT ON THE STATUS OF PUBLIC DEFENSE IN KANSAS 10 (2020).

430. See KAN. STATE BD. OF INDIGENTS' DEF. SERVS., *supra* note 429, at 1.

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Kansas [cont.]		through flat-fee contracts or assigned-counsel systems. ⁴³¹	
Kentucky ⁴³²	Mixed (Predominantly state-provided with the exception of Louisville, which has its own delivery system.) ⁴³³	The Kentucky Department of Public Advocacy (DPA) is a statewide public defender agency that handles indigent defense representation throughout the state, with the exception of Louisville, where the Louisville Metro Public Defender Office has a separate contract to provide indigent defense services. Both DPA and the Louisville Metro Defenders contract with private counsel for conflict representation.	According to a 2021 report, DPA handled 96% of the cases (131,365 out of 136,820) throughout the state. ⁴³⁴
Louisiana ⁴³⁵	Local	In Louisiana, most indigent defense representation is provided through flat-fee contracts. ⁴³⁶ In 2016, forty of the forty-two districts reported	Contract attorneys handle a majority of the cases.

431. See, e.g., Memorandum from Katie Jackson, City Att’y, to the City Comm’n, Amendment to Agreement for Public Defender Services (May 7, 2018), [https://www.cityof-mhk.com/DocumentCenter/View/50312/Item-4M-Amend-Public-Defender-Contract?bidId=\[perma.cc/RMD6-W82D\]](https://www.cityof-mhk.com/DocumentCenter/View/50312/Item-4M-Amend-Public-Defender-Contract?bidId=[perma.cc/RMD6-W82D]).

432. See KY. REV. STAT. ANN. §§ 31.010 to 31.241 (LexisNexis 2013).

433. *Id.* at 4. Starting in July of 2024, Kentucky will be an entirely state-run system because the Kentucky Department of Public Advocacy is going to absorb the Louisville Metro Public Defender’s Office. John Charlton, *Kentucky Public Advocate Facing Big Challenges with Takeover of Louisville’s Public Defender Office*, WHAS11 ABC (May 8, 2023, 6:43 PM), <https://www.whas11.com/article/news/investigations/focus/kentucky-public-defenders-challenges-overworked-underpaid/417-fb47ef7a-d05b-4ece-85d2-dc5f9ded9444> [perma.cc/36KC-U6SV].

434. See KY. DEP’T OF PUB. ADVOC., 2021 ANNUAL REPORT 12, 20 (2021).

435. LA. STAT. ANN. §§ 15:141 to 15:176 (2015).

436. LA. PUB. DEF. BD., 2016 ANNUAL BOARD REPORT 25 (2017), <http://lpdb.la.gov/Serving%20The%20Public/Reports/txtfiles/pdf/2016%20LPDB%20Annual%20Report.pdf> [perma.cc/284H-NSHS].

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Louisiana [cont.]		that they relied, at least in part, on part-time contract attorneys to provide for indigent defense. ⁴³⁷ And the majority of attorneys doing public defender work in the state are part-time contract attorneys who also maintain private practices on the side. ⁴³⁸	
Maine ⁴³⁹	State	Maine has a statewide assigned-counsel program. Assigned counsel handled 28,571 cases in 2021. ⁴⁴⁰	Almost 100% are assigned counsel or contract.
Maryland ⁴⁴¹	State	Maryland has a statewide public defender office and assigns conflict-of-interest cases to private attorneys who work as assigned counsel. ⁴⁴² The statewide system experimented with flat-fee contracting to reduce caseloads. In 2018, it piloted a work reduc-	In 2021, the public defenders handled 92% of the caseload (119,356 out of 129,175 cases). ⁴⁴³

437. *Id.*

438. See LA. PUB. DEF. BD., THE LPDB FISCAL LANDSCAPE 5 (2018) (noting that, as of June 30, 2018, there were 192 full-time attorneys, 91 public defense attorneys who worked 30+ hours per week, 311 part-time attorneys who work 10–29 hours per week, and 58 attorneys who worked sporadically on indigent defense matters). See generally LA. PUB. DEF. BD., LPDB 2021 ANNUAL BOARD REPORT (2022).

439. See ME. REV. STAT. ANN. tit. 4, §§ 1801–06 (2015 & Supp. 2023); ME. REV. STAT. ANN. tit. 15, § 810 (2009).

440. ME. COMM'N ON INDIGENT LEGAL SERVS., ANNUAL REPORT 2 (2022), <https://legislature.maine.gov/doc/7944> [perma.cc/X3WV-968H].

441. See MD. CODE ANN., CRIM. PROC. §§ 16-101 to 16-403 (West 2016).

442. *Id.* § 16-208.

443. MD. OFF. OF THE PUBLIC DEF., 2021 ANNUAL REPORT 9, <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/025200/025297/20220074e.pdf> [perma.cc/5EX3-2LYW].

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Maryland [cont.]		tion program under which it assigned district court dockets at a set rate per docket to private counsel for a period of six months to reduce district court attorneys' caseloads. The state public defender assigned over 9,500 cases to private contract counsel during that six-month pilot. ⁴⁴⁴	
Massachusetts ⁴⁴⁵	State	Massachusetts has a statewide system that relies predominantly on a managed assigned-counsel system with full-time public defenders handling a minority of the cases statewide. ⁴⁴⁶	Public defenders handle 20% of cases and assigned counsel handle 80%. ⁴⁴⁷
Michigan ⁴⁴⁸	Local	Only thirty-two of Michigan's eighty-three counties have public defender offices and some of them do not handle a majority of the docket. ⁴⁴⁹ There are over forty managed	The majority are assigned counsel or contract. ⁴⁵⁰ The Research Director at the Michigan Indigent Defense Commission estimates that

444. MD. OFF. OF THE PUB. DEF., 2019 ANNUAL REPORT 10 (2020), <https://msa.maryland.gov/megafile/msa/speccol/sc5300/sc5339/000113/024200/024245/20200040e.pdf> [perma.cc/5MCG-M9YT].

445. See MASS. GEN. LAWS ch. 211D, §§ 1–16 (2022).

446. See *id.*

447. See Emily Cutts, *A Voice for the Indigent: Bar Advocates Play Crucial Role*, DAILY HAMPSHIRE GAZETTE (Apr. 27, 2018, 9:22 PM), <https://www.gazettenet.com/Private-attorneys-fill-gap-in-public-counsel-as-bar-advocates-16745428> [perma.cc/ENV6-N7E9]; *Private Counsel Division*, COMM. FOR PUB. COUNS. SERVS., <https://www.publiccounsel.net/pc/> [perma.cc/BP6R-GNW2].

448. MICH. COMP. LAWS SERV. §§ 780.981 to 780.1003 (LexisNexis 2019 & Supp. 2023).

449. WAYNE CNTY. INDIGENT DEF. SERVS., <https://www.waynecounty.com/departments/ids/home.aspx> [perma.cc/UG8U-TS4B].

450. SIEGEL, *supra* note 368, at 9–10.

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Michigan [cont.]		assigned-counsel systems in Michigan. And a number of counties still rely on contracts. ⁴⁵¹	public defender offices handle about 27% of indigent defense cases with the remaining 73% handled by assigned or contract counsel. ⁴⁵² Full-time public defenders in Wayne County—which includes the city of Detroit—handle only 35% of the county’s indigent defense caseload with the remaining cases going to assigned counsel. ⁴⁵³
Minnesota ⁴⁵⁴	State	Minnesota uses a combination of full-time public defenders and part-time defenders that operate like contract attorneys with private practices on the side. According to a 2010 report, about half of the state’s public defenders worked part-time and had separate private practices. ⁴⁵⁵	
Mississippi ⁴⁵⁶	Local	According to a 2018 report, seven counties in Mississippi have full-time public defender offices, twelve counties pay private counsel an	The majority are assigned counsel or flat-fee contracts.

451. MICH. INDIGENT DEF. COMM’N, 2019 IMPACT REPORT 26–34 (2020).

452. Email from Jonah Siegel to Eve Primus, *supra* note 369.

453. WAYNE CNTY. INDIGENT DEF. SERVS., *supra* note 449.

454. See MINN. STAT. §§ 611.14 to 611.273, 611.35 (2022).

455. OFF. OF THE LEGIS. AUDITOR FOR THE STATE OF MINN., EVALUATION REPORT: PUBLIC DEFENDER SYSTEM, at x, 11–12 (2010), <https://www.auditor.leg.state.mn.us/ped/pedrep/pub-def.pdf> [perma.cc/E3J2-LR25].

456. See MISS. CODE ANN. §§ 25-32-1 to 25-32-21, 99-15-15 to 99-15-21, 99-18-1 to 99-18-9 (2022).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Mississippi [cont.]		hourly rate to handle indigent defense cases, and the remaining sixty-three counties have flat-fee contracts with private counsel. ⁴⁵⁷ A 2016 report from the Mississippi Office of the Public Defender indicated that full-time public defenders were the primary delivery system in only 9% of the state. ⁴⁵⁸	Even the seven counties with public defenders resort to assigned-counsel or contract systems for conflict cases. ⁴⁵⁹ A 2016 report indicated that public defenders in Harrison County only handled 67% of the cases and public defenders in Washington County only handled 69%. ⁴⁶⁰
Missouri ⁴⁶¹	Mixed (The state provides representation, but localities handle defense representation for municipal ordinance violations.) ⁴⁶²	Missouri has a statewide public defender system but uses contract counsel for conflicts. ⁴⁶³	In Fiscal Year 2021, contract attorneys handled approximately 19% of the caseload (12,094 out of 63,094 cases). ⁴⁶⁴
Montana ⁴⁶⁵	State ⁴⁶⁶	The majority of counties in Montana provide indigent de-	In Fiscal Year 2021, contract counsel handled 23% of the felony and misdemeanor

457. MISSISSIPPI REPORT, *supra* note 63, at iv.

458. MISS. OFF. OF STATE PUB. DEF., ASSESSMENT OF CASELOADS IN STATE AND LOCAL INDIGENT DEFENSE SYSTEMS IN MISSISSIPPI 9 (2016), <https://www.ospd.ms.gov/Task%20Force/ASSESSMENT%20OF%20CASELOADS%20IN%20STATE%20AND%20LOCAL%20INDIGENT%20DEFENSE%20SYSTEMS%20IN%20MISSISSIPPI%20-%20Dec%202016.pdf> [perma.cc/8SE7-MQJU].

459. *See id.* at 20–23.

460. *See id.*

461. MO. REV. STAT. §§ 600.011 to 600.096, 600.042.4(6) (2023).

462. *Id.* § 600.042.4(6).

463. *Id.* § 600.042.1(10).

464. STATE OF MO. PUB. DEF. COMM'N, THE RIGHT TO COUNSEL AND THE STATE PUBLIC DEFENDER SYSTEM IN MISSOURI: FISCAL YEAR 2021 ANNUAL REPORT 8, 27 (2021).

465. *See* MONT. CODE ANN. §§ 47-1-101 to 47-1-216, 47-1-401(1)–(2) (2021).

466. *Id.* § 47-1-401(1)–(2).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Montana [cont.]		fense through contracts, although some larger counties have public defender offices. ⁴⁶⁷	cases statewide (6,168 out of 26,355 cases). ⁴⁶⁸
Nebraska ⁴⁶⁹	Local ⁴⁷⁰	<p>A 2006 report indicated that elected public defender systems existed in twenty-four counties (26%), contract defenders in eighteen counties (19%), and assigned-counsel systems in fifty-one counties (55%).⁴⁷¹ Not all elected defenders work full-time and many have private practices on the side.⁴⁷²</p> <p>At least one public defender office in the state (in Sarpy County, which accounts for 10% of the state population)⁴⁷³ does not handle misdemeanor cases anymore, relying on private attorneys to</p>	In 2020, the Lancaster Public Defender Office assigned 34% of its felony cases (637 out of 1,881 cases) and 16% of its misdemeanor cases (395 out of 2,535 cases) to private assigned counsel due to conflicts of interest. ⁴⁷⁴

467. *Montana*, SIXTH AMEND. CTR., <https://sixthamendment.org/know-your-state/montana/> [perma.cc/5Q95-92DM].

468. See MONT. OFF. OF THE STATE PUB. DEF., LEGISLATIVE FINANCE COMMITTEE REPORT 4 (2021), <https://publicdefender.mt.gov/Resources/FY21-LFC-Reporting---OPD1.pdf> [perma.cc/H9H5-NWZ7]; data provided by the Off. of the State Pub. Def. (on file with author).

469. See NEB. REV. STAT. §§ 23-3401 to 23-3408, 29-3901 to 29-3908, 29-3909 to 29-3918, 29-3919 to 29-3930 (2023).

470. *Id.* § 23-3405.

471. NEB. MINORITY JUST. COMM., REPORT TO THE NEBRASKA SUPREME COURT ON INDIGENT DEFENSE SYSTEMS AND FEE STRUCTURES 5 tbl.2 (2006), <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1032&context=publicpolicypublications> [perma.cc/Z4E9-BBK3].

472. See *id.* at 25 tbls. 23 & 24.

473. Am. Counts Staff, *Nebraska Population Neared 2 Million in 2020*, U.S. CENSUS BUREAU (Aug. 25, 2021), <https://www.census.gov/library/stories/state-by-state/nebraska-population-change-between-census-decade.html> [perma.cc/LV9K-TXNV].

474. *Id.*

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Nebraska [cont.]		handle those cases. ⁴⁷⁵ Conflict cases, which can be large parts of the docket in some parts of Nebraska, are transferred to private assigned counsel. ⁴⁷⁶	
Nevada ⁴⁷⁷	Mixed (The state handles delivery in a small number of counties and localities choose in the others.)	The majority of counties in Nevada rely on contract attorneys, but there are public defenders in the big cities, so more of the cases statewide are handled by public defenders. ⁴⁷⁸	
New Hampshire ⁴⁷⁹	State	New Hampshire has a statewide public defender office, but relies on assigned counsel and contract defenders for conflict and overflow cases. ⁴⁸⁰	Public defenders handle 85–88% of cases and assigned counsel and contract defenders take the remaining 12–15%. ⁴⁸¹

475. Scott Stewart, *Sarpy Co. Not Assigning Public Defenders to Misdemeanors*, DAILY REC. (Nov. 25, 2019, 1:00 AM), <https://omahadailyrecord.com/content/sarpy-co-not-assigning-public-defenders-misdemeanors> [perma.cc/Y6GP-AP6K].

476. See LANCASTER CNTY. PUB. DEF.'S OFF., 2020 ANNUAL REPORT 2, <https://www.lancaster.ne.gov/ArchiveCenter/ViewFile/Item/823> [perma.cc/88FD-T973].

477. See NEV. REV. STAT. §§ 180.010 to 180.110, 260.010 to 260.080 (2021).

478. See *Indigent Defense Information by County*, NEV. DEP'T OF INDIGENT DEF. SERVS., https://dids.nv.gov/Resources/Selection_and_Billing/Information_by_County [perma.cc/3NBL-QPNK]; NEVADA REPORT, *supra* note 227, at 5, 26–39.

479. See N.H. REV. STAT. ANN. §§ 604-A:1 to 604-A:10, 604-B:1 to 604-B:8 (2021).

480. See *id.* § 604-B:3 (addressing conflicts of interest); *id.* § 604-B:6 (addressing overflow cases).

481. Cassidy Jensen, "At Some Point the Dam Is Going To Break:" NH Faces Shortage of Public Defenders, CONCORD MONITOR (Oct. 31, 2021, 8:13 PM), <https://www.concordmonitor.com/task-force-issues-recommendations-criminal-defense-attorneys-43247967> [perma.cc/GW83-NEN7]; Jackie Harris, Mary McIntyre & Rick Ganley, *Why New Hampshire's Public Defender Shortage Is Getting Worse*, N.H. PUB. RADIO (Oct. 6, 2021, 3:02 PM), <https://www.nhpr.org/nh-news/2021-10-06/new-hampshire-public-defenders> [perma.cc/DJ7A-YE8K]; Proposal from Randy Hawkes, Exec. Dir., N.H. Pub. Def., to Gov. Christopher T. Sununu and the Exec. Council 8 (Apr. 1, 2021), <https://sos.nh.gov/media/jh2d4a0f/099-gc-agenda-063021.pdf> [perma.cc/5QDP-3L22].

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
New Jersey ⁴⁸²	Mixed (The state provides for felony representation, but localities provide representation for misdemeanors.)	New Jersey has a statewide indigent defense program for felonies, but misdemeanors are handled by each county. ⁴⁸³ There are also assigned-counsel panels for conflict cases.	
New Mexico ⁴⁸⁴	Mixed (The state provides representation, but localities handle defense representation for municipal ordinance violations.) ⁴⁸⁵	New Mexico has a statewide public defender system that serves the more urban areas and the agency relies on flat-fee contracts with private attorneys in rural areas. ⁴⁸⁶	In 2021, contract attorneys handled about 39% of adult criminal cases (14,798 out of 37,901 cases). ⁴⁸⁷
New York ⁴⁸⁸	Mixed (The state handles delivery in five counties and localities)	Counties use a mix of public defender offices and assigned-counsel systems. ⁴⁸⁹	Roughly 33% of indigent defense cases in the state (excluding five counties that report separately due to

482. See N.J. STAT. ANN. §§ 2A:158A-1 to 2A:158A-24 (West 2011 & Supp. 2023), §§ 2B:24-1 to 2B:24-17 (West 2023).

483. *Id.*; Marissa Klass, *The Injustice in New Jersey's Public Defense System*, EDSPACE (March 8, 2021), <https://edspace.american.edu/mk7220a/2021/03/08/the-injustice-in-new-jerseys-public-defense-system/> [perma.cc/3EKK-CPWN].

484. See N.M. STAT. ANN. §§ 31-15-1 to 31-15-12 (2023).

485. *New Mexico*, SIXTH AMEND. CTR., <https://sixthamendment.org/know-your-state/new-mexico/> [perma.cc/6CYY-E3XV].

486. Gabrielle Caron, *New Mexico's Independent State Commission Is a "Complete Game Changer,"* SIXTH AMEND. CTR.: PLEADING THE SIXTH (Dec. 14, 2022), <https://sixthamendment.org/new-mexicos-independent-state-commission-is-a-complete-game-changer> [perma.cc/Y7DE-JD5G].

487. See AM. BAR ASS'N. STANDING COMM. ON LEGAL AID & INDIGENT DEFENDANTS & MOSS ADAMS, *THE NEW MEXICO PROJECT: AN ANALYSIS OF THE NEW MEXICO PUBLIC DEFENSE SYSTEM AND ATTORNEY WORKLOAD STANDARDS* 62–63 (2022).

488. See N.Y. COUNTY LAW §§ 716 to 721 (McKinney 2017); N.Y. EXEC. LAW §§ 832 to 833 (McKinney 2020).

489. N.Y. COUNTY LAW § 718 (McKinney 2017).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
New York [cont.]	choose in others.) ⁴⁹⁰		litigation) are handled by assigned-counsel systems rather than public defenders. ⁴⁹¹ In Onondaga County, 94% of all criminal cases are handled by assigned counsel. ⁴⁹²
North Carolina ⁴⁹³	Local	Contract and assigned-counsel models predominate. Eighty-two of the 100 counties use assigned-counsel systems (fifty-two use it as primary model; thirty use it as back up to a public defender system). Thirteen counties use contract models as their primary method and another five use contracts as a backup to a public defender system. ⁴⁹⁴ In 2011, the state legislature pushed counties to move away from assigned-counsel systems to contract systems to	During 2019–2020, public defender offices handled approximately 33% of the indigent caseload while private counsel handled approximately 64%. ⁴⁹⁵

490. *Joint Legislative Hearing on the FY 2023–24 Public Protection Budget Before the Sen. Fin. Comm. & The Assembly Comm. on Ways & Means* (N.Y. Feb. 7, 2023) (testimony of Patricia Warth, Dir., New York Office of Indigent Legal Services), https://www.nysenate.gov/sites/default/files/indigent_legal_services_testimony.pdf [perma.cc/M4WJ-Q9MB].

491. See N.Y. STATE OFF. OF INDIGENT LEGAL SERVS., DEFENSE SYSTEM CASELOADS IN 52 UPSTATE COUNTIES AND NEW YORK CITY, 2020, at 11 (Oct. 29, 2021).

492. Kathleen M. Dougherty, Opinion, *NY Lawmakers: No Raises for Public Defenders a “Slap in the Face,”* SYRACUSE.COM, <https://www.syracuse.com/opinion/2022/04/ny-lawmakers-no-raises-for-public-defenders-a-slap-in-the-face-guest-opinion-by-kathleen-dougherty.html> [perma.cc/Z7PL-MZME] (last updated Apr. 16, 2022, 9:00 AM).

493. N.C. GEN. STAT. §§ 7A-498.1 to 7A-499 (2021 & Supp. 2023).

494. Lee, *supra* note 106, at 7–8.

495. OFF. OF INDIGENT DEF. SERVS., ANNUAL REPORT OF THE COMMISSION ON INDIGENT DEFENSE SERVICES 9 (2020).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
North Carolina [cont.]		save money. ⁴⁹⁶ As of 2014, eighteen counties used contracts. ⁴⁹⁷	
North Dakota ⁴⁹⁸	Mixed (The state provides representation, but localities handle defense representation for municipal ordinance violations.)	North Dakota has seven full-time defender offices, but it relies on private assigned counsel for conflicts and to handle services in areas not covered by defender offices. ⁴⁹⁹ For example, as of 2019, the Minot Public Defender Office had five full-time public defenders and three private contract attorneys. ⁵⁰⁰	
Ohio ⁵⁰¹	Mixed (Localities choose how to deliver services but ten of the state's eighty-eight counties have contracted with	Ten of the state's eighty-eight counties contract with the statewide public defender office to provide trial-level services. Six of those counties are serviced by private attorneys with whom the state contracts	As of 2019, in Lucas County, roughly 66% of indigent defendants were assigned to private counsel and roughly 33% were handled by the public defender's office. ⁵⁰²

496. N.C. COMM'N ON THE ADMIN. OF L. & JUST., NCCALJ COMMITTEE ON CRIMINAL INVESTIGATION & ADJUDICATION REPORT 23 (2016); OFF. OF IND. DEF. SERVS., ANNUAL REPORT OF THE COMMISSION ON INDIGENT DEFENSE SERVICES: JULY 1, 2019–JUNE 30, 2020, at 5 (2021).

497. OFF. OF IND. DEF. SERVS., *supra* note 496, at 4.

498. See N.D. CENT. CODE §§ 54-61-01 to 54-61-05 (2021); see also GUIDELINES TO DETERMINE ELIGIBILITY FOR INDIGENT DEFENSE SERVICES 3 (2021), <https://www.indigents.nd.gov/sites/www/files/documents/Guidelines%20version%202021.pdf> [perma.cc/34W3-F8RG].

499. See *Attorney Services*, N.D. COMM'N ON LEGAL COUNS. FOR INDIGENTS, <https://www.indigents.nd.gov/attorney-services> [perma.cc/GB8L-4GNU].

500. Jill Schramm, *Indigent Defense Offices Work Hard to Recruit Attorneys*, MINOT DAILY NEWS (Mar. 30, 2019), <https://www.minotdailynews.com/news/local-news/2019/03/indigent-defense-offices-work-hard-to-recruit-attorneys/> [perma.cc/39JR-DQZX].

501. See OHIO REV. CODE §§ 120.01 to 120.39 (2023).

502. Brian Dugger, *11 Investigates: Justice at Any Cost? Only if You Can Pay for It*, WTOL11, <https://www.wtol.com/article/news/investigations/11-investigates/court-appointed-counsel/512-f2d807c4-a308-4084-91eb-ebf0d8dffa68> [perma.cc/Z7MR-GXVM] (last updated Dec. 20, 2019).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Ohio [cont.]	the state for the state to provide services.)	and four have public defender offices. The other seventy-seven counties rely on a mix of contract, assigned-counsel, and public defender models. ⁵⁰³	
Oklahoma ⁵⁰⁴	Mixed (State-run for seventy-five of the seventy-seven counties, but two of the most populous counties have their own systems.) ⁵⁰⁵	The state relies on a combination of flat-rate contracts, public defender offices with salaried attorneys, and assigned-counsel systems. Tulsa and Oklahoma City are the most populous counties and have full-time public defenders but rely on assigned counsel for conflict representation.	In the state-run offices that cover seventy-five of Oklahoma's seventy-seven counties, only 17.5% of cases (9,775 out of 55,973) were handled by full-time public defenders. ⁵⁰⁶
Oregon ⁵⁰⁷	Mixed (The state provides representation, but localities handle defense representation for municipal ordinance violations.)	Oregon is the only statewide contract system. The state contracts with a mix of nonprofit public defense offices, sole practitioners, private firms, and consortia of private attorneys. The contract system does not cover misdemeanor offenses in municipal courts. Those are handled through flat-fee contracts with private	A 2019 report from the Sixth Amendment Center suggests that a significant percentage of indigent defense cases are handled through flat-fee contracts or assigned-counsel systems. In 2018–2019, the state contracted with sixty-three contractors and only ten of them were public defense providers. Those ten public defender offices employed only one third of the total lawyers covered by the

503. See *Trial Services Division*, OFF. OF THE OHIO PUB. DEF., <https://opd.ohio.gov/about-opd/divisions/trial/trial-services-division> [perma.cc/FEV6-K6F9].

504. See OKLA. STAT. tit. 19, §§ 138.1a to 138.10; tit. 22, §§ 1355 to 1370.1 (2022).

505. *Agency Overview*, OKLA. INDIGENT DEF. SYS., <https://oklahoma.gov/oids/about/agency-overview.html> [perma.cc/LW9U-6L3P] (last updated Aug. 28, 2023) (click “Trial Program” tab).

506. See OKLA. INDIGENT DEF. SYS., 2021 ANNUAL REPORT 1 (2021), <https://oklahoma.gov/content/dam/ok/en/oids/documents/annual-reports/2021%20Annual%20Report.pdf> [perma.cc/XW9H-DY4V].

507. See OR. REV. STAT. §§ 135.055, 151.010 to 151.505 (2021).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Oregon [cont.]		counsel. The Eugene Municipal Court had 3,731 filings in 2019. ⁵⁰⁸	statewide contracts those years (211 out of 639 attorneys). ⁵⁰⁹
Pennsylvania ⁵¹⁰	Local	Most counties have public defender offices that have a mix of full and part-time attorneys. And most public defender offices do not handle all indigent defense cases in their counties. In all counties, private attorneys handle conflicts on an hourly or contract basis. ⁵¹¹	The Defender Association of Philadelphia represents almost 70% of adult and juvenile defendants, leaving 30% to assigned/contract counsel. ⁵¹² In Delaware County, which is the state's fifth most populous county, the public defender represents 70% of indigent people charged with crimes, leaving 30% to assigned/contract counsel. ⁵¹³
Rhode Island ⁵¹⁴	Mixed (The state provides representation, but localities handle defense represen-	Rhode Island has a statewide public defender office with conflict cases handled by private attorneys. ⁵¹⁵	

508. BEEMAN ET AL., *supra* note 88, at 13.

509. See OREGON REPORT, *supra* note 86, at 32.

510. See 16 PA. STAT. AND CONS. STAT. ANN. §§ 9960.1 to 9960.13 (West 2021).

511. David Carroll, *Pennsylvania Supreme Court Recognizes Indigent Defendants' Right to Sue Before Receiving Ineffective Representation*, SIXTH AMEND. CTR.: PLEADING THE SIXTH (Sept. 29, 2016), <https://sixthamendment.org/pennsylvania-supreme-court-recognizes-indigents-right-to-sue-before-receiving-ineffective-representation> [perma.cc/AH8W-3RC3].

512. See DEF. ASS'N OF PHILA., FISCAL YEAR 2020 BUDGET REQUEST SUMMARY 1, <http://phlcouncil.com/wp-content/uploads/2019/04/FY2020-Budget-Request-In-Brief-Defender-Association.pdf> [perma.cc/9XEE-TA5N].

513. See Alex Rose, *New Delco Public Defender Shaking Things Up*, DAILY TIMES, <https://www.delcotimes.com/2020/12/13/new-delco-public-defender-shaking-things-up> [perma.cc/3RDW-L63H] (last updated Aug. 19, 2021, 12:55 PM).

514. See 15 R.I. GEN. LAWS §§ 12-15-1 to 12-15-11 (2002 & Supp. 2022).

515. *Rhode Island*, SIXTH AMEND. CTR. (2023), <https://sixthamendment.org/know-your-state/rhode-island> [perma.cc/728Y-VMLL].

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Rhode Island [cont.]	tation for municipal ordinance violations.) ⁵¹⁶		
South Carolina ⁵¹⁷	Local	<p>There are sixteen circuit public defenders who are in charge of public defender offices in different judicial circuits. Each county uses assigned counsel for conflict representation.⁵¹⁸</p> <p>There are over 200 municipal courts that are not a part of the public defense system.⁵¹⁹</p>	
South Dakota ⁵²⁰	Local	<p>South Dakota seems to rely primarily on private attorneys for indigent defense. Only three of the state's sixty-six counties have public defender offices—Lawrence County, Minnehaha County, and Pennington County.</p> <p>The public defender offices use assigned-counsel</p>	<p>In sixty-three counties, 100% of the caseload is handled by private counsel.</p> <p>In Minnehaha County (which is South Dakota's most populous county), private counsel handled almost 9% (983 out of 11,243) of the cases in 2020.⁵²¹</p>

516. Telephone Interview with Matthew Toro, Deputy Pub. Def., R.I. Pub. Def. (Feb. 3, 2023, 5:30 PM).

517. See S.C. CODE ANN. §§ 17-3-5 to 17-3-600 (2014).

518. *South Carolina*, SIXTH AMEND. CTR. (2023), <https://sixthamendment.org/know-your-state/south-carolina> [perma.cc/BHB6-9JQJ].

519. Matt Perez, *Low Pay a Deterrent to Would-Be Public Defenders*, LAW360 (Oct. 17, 2021, 8:02 PM), <https://www.law360.com/articles/1430492/low-pay-a-deterrent-to-would-be-public-defenders> [perma.cc/V55Z-QJZS].

520. See S.D. CODIFIED LAWS §§ 23A-40-6 to 23A-40-21 (2016 & Supp. 2022).

521. MINNEHAHA CNTY PUB. DEF., ANNUAL REPORT 2020, at 8 (2021).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
South Dakota [cont.]		systems for at least some conflict cases. ⁵²²	
Tennessee ⁵²³	Local	Each district in Tennessee has a public defender and relies on assigned counsel for conflicts or overflow.	Only 17.22% of juvenile delinquency cases statewide are handled by public defenders. ⁵²⁴
Texas ⁵²⁵	Local	The majority of the 254 counties in Texas rely on assigned-counsel systems with private attorneys being paid hourly or at a set rate per case. ⁵²⁶	In 2021, public defenders handled less than 16% of felony and misdemeanor cases statewide (51,189 out of 322,719). ⁵²⁷
Utah ⁵²⁸	Local	Utah has three public defense nonprofits that contract with three counties to provide indigent defense. Everywhere else relies on contract or assigned-counsel, which often means flat-fee contract systems. ⁵²⁹	In District and Justice Courts in Utah, almost 45% of cases are assigned to contract attorneys or assigned counsel. (That percentage does not include cases that the public defender offices send to private

522. John Hult, *South Dakota Set to Scrutinize Its Approach to Court-Appointed Attorneys*, S.D. SEARCHLIGHT (Jan. 31, 2023, 6:19 PM), <https://southdakotasearchlight.com/2023/01/31/south-dakota-set-to-scrutinize-its-approach-to-court-appointed-attorneys> [perma.cc/5K2L-F25U].

523. See TENN. CODE ANN. §§ 8-14-101 to 8-14-401 (2023); TENN. SUP. CT. R. 13.

524. David Carroll, *DOJ Recommendations for Shelby County, TN Place Financial Burden on the County; Task Force Would Place Responsibility on the State*, SIXTH AMEND. CTR.: PLEADING THE SIXTH (Apr. 10, 2017), <https://sixthamendment.org/doj-recommendations-for-shelby-county-tn-place-the-financial-burden-on-the-county-task-force-would-place-responsibility-on-the-state> [perma.cc/NWR6-ZA99].

525. See 1 TEX. ADMIN. CODE §§ 173.101 to 173.402 (2017), 174.1 to 174.28; TEX. CODE CRIM. PROC. ANN. arts. 1.05 to 1.051 (West 2005 & Supp. 2022), 26.04-26.06 (West 2009 & Supp. 2022); TEX. GOV'T CODE ANN. 79.001 to 79.042 (West 2023).

526. See Burkhart, *supra* note 24, at 4.

527. TEX. INDIGENT DEF. COMM'N, COMBINED STATEWIDE INDIGENT DEFENSE EXPENDITURE REPORT (2021), <http://tidc.tamu.edu/public.net/Reports/StateFinancialReport.aspx?fy=2021> [perma.cc/FCT4-FCLB].

528. See UTAH CODE ANN. §§ 78b-22-101 to 78b-22-1002 (2022 & Supp. 2023); UTAH R. CRIM. P. 8.

529. UTAH REPORT, *supra* note 63, at xi-xii (2021).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Utah [cont.]			counsel due to conflicts of interest). ⁵³⁰
Vermont ⁵³¹	State	Vermont has seven full-time public defense offices with the remaining offices staffed by private firms or attorneys under contract. ⁵³²	According to 2021 data, contract/private counsel handled 40% of the misdemeanor and felony cases in the state (2,707 out of 6,759). ⁵³³
Virginia ⁵³⁴	State	Virginia has a statewide commission that provides for indigent defense through twenty-eight public defender offices and a statewide roster of private attorneys for conflicts, overflow, and places that don't have public defenders.	It seems that private attorneys are handling 31% of the offenses charged. ⁵³⁵
Washington (state) ⁵³⁶	Local	According to a 2019 report, twelve counties have public defender agencies and most of them take the majority of cases with conflict or	It appears that private attorneys handle at least 33% of the felony and misdemeanor

530. Data provided by Leslie Howitt, Rsch. & Data Analyst, Utah Indigent Def. Comm'n, Covering Appointments from Jan. 2019–Aug. 2022 (on file with author).

531. See VT. STAT. ANN. tit. 13, §§ 5201 to 5277 (2018 & Supp. 2023).

532. See *About the Office of the Defender General*, OFF. OF THE DEF. GEN. (2023), <https://defgen.vermont.gov/about-us> [perma.cc/TQ93-M7MW].

533. OFF. OF THE DEF. GEN., FISCAL YEAR 2023 BUDGET (2022), <https://vodgsearch.org/FY23%20Caseload%20Performance%20Cost.pdf> [perma.cc/EW3U-6KC9].

534. See VA. CODE ANN. §§ 19.2-157 to 19.2-163 (2022 & Supp. 2023).

535. According to the Commission's 2021 report, the public defender offices handled 70,863 cases that year that included 135,067 charges. VA. INDIGENT DEF. COMM'N, 2021 ANNUAL REPORT, app. A. A 2021 report from the executive secretary of the Virginia Supreme Court indicates that court-appointed counsel handled a total of 196,877 charges that year. SUP. CT. OF VA., QUARTERLY REPORT PURSUANT TO VA. CODE § 19.2-163 (2021), <https://rga.lis.virginia.gov/Published/2021/RD288/PDF> [perma.cc/3NU7-SMRQ]. If the public defender handled 135,067 charges, that left 61,810 charges for appointed counsel, which is almost a third of the total number of charges.

536. See WASH. REV. CODE §§ 2.70.005 to 2.70.900, 10.101.005 to 10.101.900 (2022); WASH. BAR ASS'N, STANDARDS FOR INDIGENT DEF. (2021).

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
Washington (state) [cont.]		<p>overflow cases going to assigned counsel; four counties contract with nonprofit public defense corporations to do defender work and use private counsel for conflicts or overflow; the remaining twenty-three counties use contract or assigned-counsel systems.⁵³⁷</p> <p>As for misdemeanors in municipal courts, those are predominantly handled by private attorneys through contracts. Spokane is the only county with a municipal public defender.⁵³⁸</p>	cases in the state (including municipal offenses). ⁵³⁹
Washington, D.C. ⁵⁴⁰	Run at the district level (comparable to the state choosing the delivery system)	Most cases are handled by assigned counsel, although the Public Defender Service handles a majority of the more serious cases. ⁵⁴¹	The Public Defender Service represents about 15% of the indigent defense cases in the district and the assigned-counsel system handles the other 85%. ⁵⁴²

537. WASH. STATE OFF. OF PUB. DEF., 2019 STATUS REPORT ON PUBLIC DEFENSE IN WASHINGTON STATE 21–22 (2020).

538. *See id.* The 2019 Status Report includes the caseloads for each county, so this data counts as private-attorney cases only those from counties that do have institutional public defender offices. Counted that way, private attorneys handled 23% (19,661 of the 85,216 cases) of the felony and misdemeanor cases and they handled the majority (57%) of the municipal cases (17,978 out of 31,533 cases). Combined, this means that private attorneys handled 32% of the total cases (37,639 of the 116,749 cases). And that number must understate private attorneys' total caseloads since it does not account for jurisdictions with public defender offices that send conflict cases out to the private bar.

539. *See id.* at 64–96.

540. *See* D.C. CODE §§ 2-1601 to 2-1608, 11-2601 to 11-2609 (2023).

541. *FTC v. Superior Ct. Trial Laws. Ass'n*, 493 U.S. 411, 414 (1990).

542. *Id.* at 414–15.

STATE	WHO CHOOSES DELIVERY METHOD (STATE, LOCALITIES, OR A MIX)?	DESCRIPTION OF DELIVERY SYSTEM (PUBLIC DEFENDER, ASSIGNED-COUNSEL, OR FLAT-FEE CONTRACT MODEL)	DATA RELATING TO THE PERCENTAGE OF CASES HANDLED BY PUBLIC DEFENDERS VERSUS ASSIGNED-COUNSEL/FLAT-FEE CONTRACT SYSTEMS
West Virginia ⁵⁴³	State	West Virginia operates with a mix of public defender and assigned-counsel systems.	Private attorneys seem to handle about 33% of the misdemeanor cases. ⁵⁴⁴
Wisconsin ⁵⁴⁵	State	Wisconsin has a statewide public defender office and also relies on private assigned counsel through hourly rates and contracts. ⁵⁴⁶	Private attorneys handled approximately 40% of the indigent defense caseload in 2018 (55,804 out of 140,440 cases). ⁵⁴⁷
Wyoming ⁵⁴⁸	State	Wyoming has a statewide public defense system and only uses private counsel for conflict cases. ⁵⁴⁹	Private counsel handled 14% of the indigent defense docket in 2014. ⁵⁵⁰

543. W. VA. CODE ANN. §§ 29-21-1 to 29-21-21 (LexisNexis 2018 & Supp. 2022).

544. Unfortunately, the West Virginia Public Defender Reports don't compare assigned-counsel cases to public defender cases. Instead, they track the number of claims filed by assigned counsel and the number of cases handled by public defenders. For felony cases, it is highly possible that assigned counsel will file multiple claims per case. That is less likely in misdemeanor cases. According to 2019 data, appointed counsel filed 9,361 claims in misdemeanor cases statewide as compared to the 18,530 misdemeanor cases that public defender offices handled. PUB. DEF. SERVS., 2019 ANNUAL REPORT 42, 86, <https://pds.wv.gov/about/Reports/Documents/FY2019%20-%20Annual%20Report.pdf> [perma.cc/N75T-8FH2]. Although not a perfect comparison, assuming that assigned counsel typically files one claim for a misdemeanor case, assigned counsel handle about a third of the misdemeanor caseload.

545. See WIS. STAT. §§ 977.01 to 977.09 (2023); WIS. ADMIN. CODE PD §§ 1.01 to 8.03 (2023); WIS. SUP. CT. R. 81.01 to 81.02.

546. WIS. STAT. § 977.08 (2023); WIS. SUP. CT. R. 81.02.

547. See STATE OF WIS. PUB. DEF. BD., AGENCY BUDGET REQUEST 2019–2021 BIENNium 39 (2018) (noting that public defender staff attorneys were assigned to 84,636 of the 140,440 total cases with 55,804 cases being handled by the private bar).

548. See WYO. STAT. ANN. §§ 7-6-101 to 7-6-114 (2023).

549. See *id.* § 7-6-109 (discussing the appointment of outside counsel); David Carroll, *Wyoming Public Defender Budget Woes Intensifying with Increase in Capital Cases*, SIXTH AMEND. CTR. (Mar. 26, 2014), <https://sixthamendment.org/wyoming-public-defender-budget-woes-intensifying-with-increase-in-capital-cases> [perma.cc/6X5K-GQRL].

550. See *What We Do*, WYO. PUB. DEF. (2018), <https://wyodefender.wyo.gov/what-we-do> [perma.cc/LKB4-FY8R].

APPENDIX B: HOURLY RATES, FLAT RATES, AND FEE CAPS^{*} FOR ASSIGNED-COUNSEL SYSTEMS BY STATE (FOR ADULT FELONY AND MISDEMEANOR CASES)

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Alabama ⁵⁵¹	\$70 per hour	Class A Felony: \$4,000 Class B Felony: \$3,000 Class C Felony: \$2,000 Misdemeanors: \$1,500
Alaska ⁵⁵²	Rates assigned by Office of Public Advocacy (typically \$65–100 per hour) ⁵⁵³	Class A Felony: \$9,000 Class B Felony: \$4,875 Class C Felony: \$4,000 Misdemeanors: \$1,625
Arizona ⁵⁵⁴	(Varies by county) <i>Maricopa County</i> ⁵⁵⁵ : <ul style="list-style-type: none"> • \$77 per hour for major felonies (such as murder or manslaughter) • Uses a flat fee for other charges (Class 1, 2, 3 felony: \$1,375; Class 4, 5, 6 felony: \$1,000; Misdemeanor: \$450) <i>Cochise County</i> ⁵⁵⁶ : <ul style="list-style-type: none"> • First Degree Murder: \$75 per hour • Felony: The greater of \$1,000 per case or \$100 per hour after ten hours • Misdemeanor: \$200 per case 	None

^{*} These maximum fees may not represent hard caps in every jurisdiction. Attorneys may sometimes petition to obtain money above these maximums in extraordinary cases, but figures in this column represent a judgment by the jurisdiction about the upper limit for a typical case.

551. See ALA. CODE § 15-12-21(d) (2018).

552. ALASKA ADMIN. CODE tit. 2, § 60.010 (2023).

553. David Carroll, *Calm Down; the New Mexico Supreme Court Did Not Say Flat-Fee Contracts Are Always Constitutional*, SIXTH AMEND. CTR.: PLEADING THE SIXTH (June 12, 2016), <https://sixthamendment.org/calm-down-the-nm-supreme-court-did-not-say-flat-fee-contracts-are-always-constitutional> [perma.cc/D4P3-5ZQS].

554. GIDEON AT 50, *supra* note 50, at 20.

555. OFF. OF PROCUREMENT SERVS., MARICOPA CNTY., SERIAL 09020-ROQ: CONTRACT INDIGENT REPRESENTATION (ADULT CRIMINAL) ATTORNEY SERVICES—OPDS (2023), <https://www.maricopa.gov/DocumentCenter/View/29608/Adult-Criminal-Attorney-Services-09020-ROQ> [perma.cc/PM9Y-4YFG].

556. COCHISE CNTY., COMPENSATION SCHEDULE AS OF OCTOBER 25, 2022, <https://www.cochise.az.gov/DocumentCenter/View/9871/Current-and-Prior-Compensation-Fee-Schedule-Fiscal-Year-2023-PDF> [perma.cc/ACY3-66ZJ].

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Arkansas ⁵⁵⁷	Hourly: <ul style="list-style-type: none"> • Class A or Y Felony: \$70–90 • Other Felony: \$60–80 • Misdemeanor: \$50–80 	None
California ⁵⁵⁸	(Varies by county) <p><i>San Francisco Superior Court Indigent Defense Administration</i> (hourly)⁵⁵⁹:</p> <ul style="list-style-type: none"> • Serious felonies: \$106 • Felonies: \$89 • Misdemeanors: \$66 <p><i>Los Angeles County Independent Defender Program</i> (hourly)⁵⁶⁰:</p> <ul style="list-style-type: none"> • Misdemeanors: \$83 • Grade 1 Felony: \$89 • Grade 2 Felony: \$95 • Grade 3 Felony: \$103 • Grade 4 Felony: \$117 • Grade 5 Felony: Assigned instead through the Capital Case Panel rotation; rate unknown • Sexually Violent Predator: \$128 • Early Disposition: \$256 <p>Duty Day Per-Diem Rates:</p> <ul style="list-style-type: none"> • Misdemeanor (full day): \$418 • Misdemeanor (half day): \$219 • Felony (full day): \$418 	None ⁵⁶¹

557. GIDEON AT 50, *supra* note 50, at 20.

558. *Id.* at 21.

559. INDIGENT DEF. ADMIN., S.F. SUPERIOR CT., POLICIES AND PROCEDURES MANUAL: COURT-APPOINTED ATTORNEYS, INVESTIGATORS, AND EXPERTS 83 (2010), https://www.sfbar.org/wp-content/uploads/2019/09/Revised-IDA-billing_and_practice_materials.pdf [perma.cc/73F5-PE3V].

560. *Independent Defender Program Application*, L.A. CNTY. BAR ASS'N, <https://sf.lacba.org/resources/independent-defender-program/apply-to-join-idp> [perma.cc/F77D-RZ42].

561. See CAL. PENAL CODE § 987.2(a) (West 2021).

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
California [cont.]	<ul style="list-style-type: none"> Felony (half day): \$219 	
Colorado ⁵⁶²	Hourly: <ul style="list-style-type: none"> Type A Felony: \$105 Type B Felony: \$100 Misdemeanor: \$95 	<ul style="list-style-type: none"> Class 1 Felonies with trial/without trial: \$37,760/\$18,880 Class 2 Felonies with trial/without trial: \$16,520/\$8,260 Class 3–6 Felonies with trial/without trial: \$10,620/\$5,310 Misdemeanors with trial/without trial: \$4,720/\$2,360
Connecticut ⁵⁶³	Most cases are handled through flat-rate contracts: <ul style="list-style-type: none"> Class A & B Felonies: \$1,000 per case Class C Felonies & Misdemeanors: \$350 per case However, when handled hourly: <ul style="list-style-type: none"> Felony: \$75 Misdemeanor: \$50 	
Delaware ⁵⁶⁴	\$60 per hour	Felonies: \$2,000 Misdemeanors: \$1,000
Florida	Flat rate that varies depending on charge ⁵⁶⁵ : <ul style="list-style-type: none"> Life felony: \$2,500 Felony: \$750 to \$1,500 Misdemeanor: \$400 	Life felony: \$9,000 Nonlife Felony: \$6,000 Misdemeanors: \$1,000 ⁵⁶⁶
Georgia ⁵⁶⁷	(Varies by county)	

562. OFF. OF THE CHIEF JUST., SUP. CT. OF COLO., CHIEF JUSTICE DIRECTIVE 04-04, ALTERNATE DEFENSE COUNSEL MAXIMUM HOURLY RATES attach. D (2023), https://www.courts.state.co.us/Courts/Supreme_Court/Directives/04-04_Amended%20effective%20July%201%202023%20Attach%20B%20Amended%204.%202023%20Attach%20D%20Amended%20Eff%207.1.2023%20WEB.pdf [perma.cc/7Y5B-ZS39].

563. *Assigned Counsel Agreements*, CONN. STATE DIV. OF PUB. DEF. SERVS., https://portal.ct.gov/OCPD/Assigned-Counsel/xAssigned_Counsel_Annual_Agreements [perma.cc/A2AX-R58L].

564. DEL. SUPER. CT. CRIM. R. 44(e)(2).

565. GIDEON AT 50, *supra* note 50, at 22.

566. FLA. STAT. § 27.5304 (2022).

567. Andria Simmons & Bill Rankin, *Gwinnett Cuts Pay Rate for Defending Indigent*, ATLANTA J.-CONST. (Feb. 1, 2010), <https://www.ajc.com/news/local/gwinnett-cuts-pay-rate-for-defending-indigent/AP6m4YS6tsYhWLNZwNn9JL> [perma.cc/P7RL-H6YK]; Romero, *supra* note 13, at 1108 (City of Winder).

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Georgia [cont.]	<p><i>Gwinnett County:</i></p> <ul style="list-style-type: none"> • Serious felonies: \$65 per hour • Other cases: \$55 per hour in court and \$45 per hour out of court <p><i>Cobb County:</i></p> <ul style="list-style-type: none"> • Felonies: \$60 per hour in court and \$50 per hour out of court • Misdemeanors: \$60 per hour in court and \$45 per hour out of court <p><i>Forsyth County:</i></p> <ul style="list-style-type: none"> • \$75 per hour in court and \$65 per hour out of court <p><i>Cherokee County:</i></p> <ul style="list-style-type: none"> • Ranges from \$65–85 <p><i>City of Winder:</i></p> <ul style="list-style-type: none"> • \$60 per hour in court and \$45 per hour out of court 	
Hawaii ⁵⁶⁸	\$90 per hour	Felony: \$6,000 Misdemeanor Jury Trial: \$3,000 Misdemeanor: \$1,500 Petty Misdemeanor: \$900
Illinois ⁵⁶⁹	<p><i>Cook County</i>⁵⁷⁰:</p> <ul style="list-style-type: none"> • \$40 per hour in court • \$30 per hour out of court <p>All other counties establish “reasonable” hourly rates of their own:</p> <ul style="list-style-type: none"> • <i>Hardin County</i>: \$70⁵⁷¹ 	<p><i>Cook County:</i></p> <ul style="list-style-type: none"> • Felony: \$1,250 • Misdemeanor: \$150 <p>For other parts of Illinois⁵⁷²:</p> <ul style="list-style-type: none"> • Misdemeanor: \$750 • Felony: \$5,000

568. HAW. REV. STAT. ANN. § 802-5 (LexisNexis 2016).

569. 725 ILL. COMP. STAT. ANN. 5 / 113-3(c) (West 1993).

570. ILLINOIS REPORT, *supra* note 63, at 31.

571. *Id.* at 73.

572. ILL. SUP. CT. R. 299(c).

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Illinois [cont.]	<ul style="list-style-type: none"> • Gallatin County: \$75⁵⁷³ • Schuyler County: \$60–65⁵⁷⁴ • Mercer County: \$65⁵⁷⁵ 	
Indiana ⁵⁷⁶	<p>Indiana requires counties to pay “reasonable fees.”</p> <p>Indiana Public Defender Commission Standards for Indigent Defense Services in Non-Capital Cases recommends not less than \$90 per hour and notes in the commentary that “[t]he hourly rates currently paid to assigned counsel in Indiana range from \$30–60 per hour, with the majority of counties using a rate of \$40 per hour for out-of-court time and \$50 per hour for in-court time.”⁵⁷⁷</p>	
Iowa ⁵⁷⁸	<p>Hourly:</p> <ul style="list-style-type: none"> • Class A Felony: \$73 • Class B Felony: \$68 • All other charges: \$63 	<p>The State Public Defender is required to establish fee limitations. They do this by limiting the number of hours an attorney can spend as follows:</p> <ul style="list-style-type: none"> • Class A Felony: 258 hours (\$18,834) • Class B Felony: 56 hours (\$3,808) • Class C Felony: 30 hours (\$1,890) • Class D Felony: 20 hours (\$1,260) • Aggravated Misdemeanor: 20 hours (\$1,260)

573. *Id.* at 74–75.

574. *Id.* at 75–76.

575. *Id.* at 77.

576. IND. CODE ANN. § 33-40-8-2 (West 2018); *see also* Order Approving Minimum Fees for Legal Services of the State Public Defender and Appointed Public Defenders, *In re* Minimum Fees for Legal Servs. of the State Pub. Def. & Appointed Pub. Defenders, No. 22S-MS-261 (Ind. July 29, 2022).

577. IND. PUB. DEF. COMM’N, STANDARDS FOR INDIGENT DEFENSE SERVICES IN NON-CAPITAL CASES 13 (1995).

578. IOWA CODE § 13B.4 (2023); IOWA CODE § 815.7 (2023); JEFF WRIGHT, OFF. OF THE STATE PUB. DEF., REPORT OF IOWA’S INDIGENT DEFENSE SYSTEM 5–6 (2020).

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Iowa [cont.]		<ul style="list-style-type: none"> • Serious Misdemeanor: 10 hours (\$630) • Simple Misdemeanor: 5 hours (\$315)
Kansas ⁵⁷⁹	\$80 per hour but the chief judge of any judicial district, or the Kansas Board of Indigent Defense Services, can lower the hourly rate.	<ul style="list-style-type: none"> • Nondrug felony cases of severity levels 1–5 and felony drug offenses with six or more hours in court that don't go to trial: \$1,600 • Nondrug felony cases of severity levels 6–10 and felony drug offenses with fewer than six hours in court that don't go to trial: \$1,200 • Nondrug felonies at severity level 5–10 that go to trial: \$2,560 • Nondrug felonies at severity level 4 and drug felonies at severity levels 2–5 that go to trial: \$3,200 • Nondrug felonies at severity levels 1–3 and drug felonies at level 1 that go to trial: \$8,000
Louisiana ⁵⁸⁰	Uses flat fee contracts and some hourly payments (The statewide hourly median is \$43.88 per hour.) ⁵⁸¹	None
Maine ⁵⁸²	\$150 per hour	<ul style="list-style-type: none"> • Class A Offense: \$9,400 • Class B & C Offense (against person): \$7,500 • Class B & C Offense (against property): \$4,700 • Class D & E Offense (punishable by under a year): \$4,700

579. KAN. STAT. ANN. § 22-4507 (2022); KAN. ADMIN. REGS. §§ 105-5-6 to 105-5-7 (2022).

580. See LA. STAT. ANN. § 15:147 (2015); GIDEON AT 50, *supra* note 45, at 9, 24.

581. See LA. PUB. DEF. BD., LPBD 2021 ANNUAL BOARD REPORT 25 (2022).

582. ME. STAT. tit. 4, § 1804 (2015 & Supp. 2023); 94-649-301 ME. CODE R. §§ 2-4 (2023).

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Maryland ⁵⁸³	<p>Maryland provides panel attorneys the same hourly rate as their federal counterparts, “[a]s the annual budget permits.”</p> <p>But the Maryland Office of the Public Defender currently pays \$60 per hour for all cases except those involving a life sentence, where the rate is \$75 per hour.⁵⁸⁴</p>	<p>Maryland provides for the same maximums as federal panel attorneys for comparable cases where district court cases are treated similarly to federal misdemeanors and circuit court cases are treated similarly to federal felonies. The Maryland Office of the Public Defender has a \$3,000 soft cap in all cases.⁵⁸⁵</p>
Massachusetts ⁵⁸⁶	<p>Hourly:</p> <ul style="list-style-type: none"> • Homicide Cases: \$110 • Non-homicide superior court cases: \$75 • District court cases: \$60 	<p>Annual billable cap of 1,650 hours total per attorney.</p>
Michigan ⁵⁸⁷	<p>Varies—some are paid hourly, per case, per case event, or through contracts.</p> <p>Hourly rates range from \$33 per hour to over \$100 per hour.</p> <p><i>Oakland County</i>⁵⁸⁸:</p> <ul style="list-style-type: none"> • Arraignment (half-day): \$260 • Arraignment (full-day): \$520 • Misdemeanor Trial (half-day): \$275 • Misdemeanor Trial (full-day): \$525 <p>Beginning in 2024, most courts in Michigan will move to hourly pay rates of \$118.21 per hour for misdemeanors,</p>	<p>The 43rd District Court in Hazel Park caps its hourly arraignment rate of \$100 per hour at a maximum of four hours.⁵⁸⁹</p>

583. See MD. CODE ANN., CRIM. PROC. § 16-207 (LexisNexis 2022); MD. CODE REGS. § 14.06.02.06 (2023).

584. *Become a Panel Attorney*, MD. OFF. OF THE PUB. DEF., <https://www.opd.state.md.us/panel-attorneys> [perma.cc/DUW3-VME2].

585. Telephone Interview with Scott Reid, Dir. of Assigned Couns. Program, Md. Off. of the Pub. Def. (Apr. 26, 2022).

586. MASS. GEN. LAWS ch. 221D, §§ 11(a)–(b) (2022).

587. SIEGEL, *supra* note 368, at 11.

588. SIXTH AMEND. CTR., THE RIGHT TO COUNSEL IN OAKLAND COUNTY, MICHIGAN: EVALUATION OF TRIAL-LEVEL INDIGENT DEFENSE SERVICES IN ADULT CRIMINAL CASES 76, 78 (2022) [hereinafter OAKLAND COUNTY REPORT], https://sixthamendment.org/6AC/6AC_MI_OaklandCountyReport_10272022.pdf [perma.cc/3GPP-UWG7].

589. OAKLAND COUNTY REPORT, *supra* note 588, at 76 n.230.

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Michigan [cont.]	\$130.03 per hour for felonies, and \$141.82 per hour for life offenses. ⁵⁹⁰	
Mississippi ⁵⁹¹	Judge approves amount of compensation.	\$1,000 for circuit court cases \$200 for cases that do not get appealed and do not originate in a court of record
Missouri ⁵⁹²	Flat fees: <ul style="list-style-type: none"> • \$375 for a misdemeanor case • \$750 for a CDE Felony • \$6,000 for a homicide (not first degree) • \$10,000 for a first degree murder • Additional payments if a case goes to trial 	
Montana ⁵⁹³	\$45 per hour for travel \$56 per hour for professional time	
Nebraska ⁵⁹⁴	(Varies by county) <ul style="list-style-type: none"> • In Nebraska District Courts, the range is \$70–125; \$95 is the most common rate • In Nebraska County Courts, the range is \$50–125; \$95 is the most common rate 	

590. Marla McCowan, *Michigan Indigent Defense Commission – June 2023 Update*, MI. STATE APP. DEF. OFF. & CRIM. DEF. RES. CTR. (2023), <https://sado.org/Articles/Article/1049> [perma.cc/3FYK-MKFD].

591. MISS. CODE ANN. § 99-15-17 (2022).

592. See STATE OF MO. PUB. DEF. COMM'N, *supra* note 464, at 28.

593. MONTANA AUDIT, *supra* note 123, at 29. *But see* NBC Montana Staff, *Office of State Public Defender to Address Pay Disparity*, NBC MONT. (Apr. 21, 2022, 5:01 PM), <https://nbcmontana.com/news/local/office-of-state-public-defender-to-address-pay-disparity> [perma.cc/9DDE-3DKR] (reporting that the Office of the State Public Defender is raising contract attorney rates from \$56 to \$71 per hour).

594. See NEB. MINORITY JUST. COMM., REPORT TO THE NEBRASKA SUPREME COURT ON INDIGENT DEFENSE SYSTEMS AND FEE STRUCTURES 17–20 (2006), <https://digitalcommons.unl.edu/cgi/viewcontent.cgi?article=1032&context=publicpolicypublications> [perma.cc/V8KG-BX2T]; NEB. STATE BAR ASS'N, NEBRASKA COURT APPOINTED COUNSEL RATES BY COUNTY 2 (2022), <https://store.lmknowledgehub.com/storage/nsba/xasrAd5i1V3-vwWv0bRLIAu837ES1zQz92HAQzLWB.pdf> [perma.cc/MF6L-24M3].

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Nevada ⁵⁹⁵	\$100 per hour, but the government can contract for less. Different counties also make extensive use of fixed-fee contracts. ⁵⁹⁶	<ul style="list-style-type: none"> • Felony Punishable by Life: \$20,000 • Other Felony or Gross Misdemeanor: \$2,500 • Misdemeanor: \$750
New Hampshire ⁵⁹⁷	<ul style="list-style-type: none"> • \$125 per hour for major crimes (homicide, felony sexual assault, first-degree assault) • \$90 per hour for other crimes 	<ul style="list-style-type: none"> • Misdemeanors: \$2,000 • Homicide: \$20,000 • Felony Sexual Assault & First Degree Assault: \$12,500 • Other felonies: \$5,500
New Jersey ⁵⁹⁸	\$60 per hour in court \$50 per hour out of court \$252 per full day	
New Mexico ⁵⁹⁹	Flat fees: <ul style="list-style-type: none"> • Misdemeanor: \$180 • Fourth degree felony: \$540 • Third degree felony: \$595 • Second degree felony: \$650 • First degree felony: \$700 	
New York ⁶⁰⁰	\$158 per hour	\$10,000
North Carolina ⁶⁰¹	Hourly rates: <ul style="list-style-type: none"> • Capital and life-without-parole cases: \$100 • Class B1-D felonies: \$85 • Low-level felonies (Class E-I): \$65 • DWI & Class A1 misdemeanors: \$65 	None

595. See NEV. REV. STAT. § 7.125 (2023); GIDEON AT 50, *supra* note 50, at 26.

596. NEVADA REPORT, *supra* note 227, at 48, 63, 66, 69, 72, 76, 80, 84, 85, 93, 101, https://sixthamendment.org/6AC/6AC_NV_report_2018.pdf [perma.cc/XDK9-P8F6].

597. N.H. SUP. CT. R. 47, <https://www.courts.nh.gov/rules-supreme-court-state-new-hampshire> [perma.cc/7FWE-V8M3].

598. See STATE OF N.J. OFF. OF THE PUB. DEF., POOL ATTORNEY APPLICATION PROCESS (2012), <https://www.nj.gov/defender/documents/Pool%20Attorney%20Guidelines%20-June%202016.pdf> [perma.cc/U3AV-YFA3].

599. Carroll, *supra* note 553.

600. S.B. 4006-C, 2023-2024 Leg. Sess. § GG (N.Y. 2023), <https://legislation.nysenate.gov/pdf/bills/2023/S4006C> [perma.cc/4EFS-4BHT].

601. *Current Hourly Assigned Counsel Rates*, OFF. OF INDIGENT DEF. SERVS. (Jan. 1, 2022), <https://www.ncids.org/wp-content/uploads/2022/01/PAC-Rate-Chart-2022.01.01-10.pdf> [perma.cc/PL2T-8VSV].

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
North Carolina [cont.]	2017 pilot flat-fee contract rates ⁶⁰² : <ul style="list-style-type: none"> • Class A–D felonies: \$425 • Other felonies: \$230 • DWI: \$300 • Class A1 misdemeanors: \$200 • Class 1–3 Misdemeanors & Traffic: \$185 	
North Dakota ⁶⁰³	\$75 per hour	Misdemeanor: \$300 Felony: \$575
Ohio ⁶⁰⁴	Varies by county and ranges from \$30 per hour to \$80 per hour	Ranges from \$1,000 to \$25,000 depending on county and charge
Oklahoma ⁶⁰⁵	Flat fee contracts in many places; otherwise: <ul style="list-style-type: none"> • \$80 per hour for in-court services • \$60 per hour for out-of-court services 	Misdemeanor: \$800 Felony: \$3,500
Oregon ⁶⁰⁶	\$75 per hour <i>Flat rates in Eugene Municipal Court</i> ⁶⁰⁷ : <ul style="list-style-type: none"> • Traditional (“non-specialty”) court case: \$290 • DUI Diversion: \$290 • Mental Health Court: \$290 • Problem Solving Docket: \$325 • Withdrawal: \$145 	

602. Lee, *supra* note 106, at 53.

603. CARROLL, *supra* note 135, at 119; see N.D. COMM’N ON LEGAL COUNS. FOR INDIGENTS, PRESUMED RATE FOR ATTORNEY FEE REIMBURSEMENT, <https://www.indigents.nd.gov/sites/www/files/documents/standards-and-policies/Presumed%20Rate.pdf> [perma.cc/HS2V-93K3].

604. See *County Rate and Maximum Fee Information*, OFF. OF THE OHIO PUB. DEF. (Aug. 8, 2020), https://analytics.das.ohio.gov/t/PUBPUB/views/OhioFeeSchedulesStory3/Story1?iframeSizedToWindow=true&:embed=y&:showAppBanner=false&:display_count=no&:showVizHome=no&:render=true [perma.cc/MGV5-P5F7].

605. See OKLA. INDIGENT DEF. SYS., 2021 ANNUAL REPORT 7 (2021); OKLA. STAT. tit. 22, § 1355.8(F)(1) to (2) (2001).

606. See Lane Borg, Remarks at the Public Defender Services Commission Meeting 23 (June 25, 2020), <https://www.oregon.gov/opds/commission/Lists/Meetings%20Schedule/Attachments/155/PDSC%20Agenda%20&%20Meeting%20Materials%2006%2025%202020.pdf> [perma.cc/J4A6-REW2].

607. BEEMAN ET AL., *supra* note 88, at 14.

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Oregon [cont.]	<ul style="list-style-type: none"> Community Court, all services: flat annual rate of \$118,320 	
Pennsylvania	<p><i>Philadelphia</i>⁶⁰⁸:</p> <ul style="list-style-type: none"> First Degree Crimes: \$1,200 flat fee for trial preparation. If case goes to trial, attorney gets \$225 for three hours or less of court time in a day and \$450 per day for more than three hours court time in a given day. Lesser Felonies: \$750 flat fee for trial preparation. If case goes to trial, attorney gets \$225 for three hours or less of court time in a day and \$450 per day for more than three hours court time in a given day. Misdemeanors: \$450 flat fee Noncapital Homicide Cases: flat fee of \$3,500 for preparation. During trial, attorneys are paid \$300 for three hours or less of court time and \$600 per day for more than three hours in a given day. <p><i>Allegheny County (including Pittsburgh) (flat fees)</i>⁶⁰⁹:</p> <ul style="list-style-type: none"> Preparation for serious felonies (rape, robbery, child abuse): \$1,500 All other cases: flat fee of \$500 Preliminary hearings: flat fee of \$250 Trial (half day): flat fee of \$250 Trial (full day): flat fee of \$500 	
Rhode Island ⁶¹⁰	<p>Superior Court (hourly):</p> <ul style="list-style-type: none"> Murder: \$100 Class 1 Felony: \$90 Class 2 Felony: \$60 Misdemeanor: \$50 	<p>Superior Court:</p> <ul style="list-style-type: none"> Murder: \$30,000 Class 1 Felony: \$10,000 Class 2 Felony: \$5,000 Misdemeanor: \$1,500

608. See 47 Pa. Bull. 3806 (July 15, 2017).

609. GIDEON AT 50, *supra* note 50, at 29.

610. Exec. Order No. 2019-06, *In re* Indigent Def. Servs. Payment Rates (R.I. Sup. Ct. June 28, 2019).

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Rhode Island [cont.]	District Court (hourly): <ul style="list-style-type: none"> • Class 1 Felony: \$90 • Class 2 Felony: \$60 • DUI: \$50 • Misdemeanor: \$60 	District Court: <ul style="list-style-type: none"> • Class 1 Felony: \$10,000 • Class 2 Felony: \$5,000 • DUI: \$2,500 • Misdemeanor: \$1,800
South Carolina ⁶¹¹	\$40 per hour out of court \$60 per hour in court	Felonies: \$3,500 Misdemeanors: \$1,000
South Dakota ⁶¹²	\$107 per hour	
Tennessee ⁶¹³	Not to exceed \$50 per hour	<ul style="list-style-type: none"> • Misdemeanors: \$1,000 (\$2,000 with petition that the case was extraordinary) • Class A or B Felony and first Degree Murder: \$3,000 (\$6,000 with petition that the case was extraordinary, first degree murder may qualify for more) • Other felonies: \$2,000 (\$4,000 with petition that the case was extraordinary)
Texas	(Varies from flat fee to hourly by county) <i>Armstrong, Potter, and Randall Counties</i> ⁶¹⁴ : <ul style="list-style-type: none"> • OPTION ONE: <ul style="list-style-type: none"> - \$500 flat rate for misdemeanor/state jail felony plea - \$700 flat rate for third degree felony plea - \$1,000 flat rate for second degree felony plea 	<p><i>For nontrial, in-court work in Harris County</i>⁶¹⁵:</p> <ul style="list-style-type: none"> • First Degree: \$1,275 • Second Degree: \$820 • Third Degree: \$465 <p><i>For nontrial, out-of-court work in Harris County:</i></p> <ul style="list-style-type: none"> • First Degree: \$2,400 • Second Degree: \$1,140 • Third Degree: \$750

611. S.C. CODE ANN. § 17-3-50 (2014).

612. *Court Appointed Attorney Guidelines*, S.D. UNIFIED JUD. SYS., <https://uj.s.sd.gov/uploads/docs/CourtAppointedAttorneyGuidelines.pdf> [perma.cc/M98N-EES3] (last updated Nov. 4, 2022).

613. TENN. SUP. CT. R. 13.

614. TEXAS REPORT, *supra* note 85, at 149.

615. HARRIS COUNTY DISTRICT COURTS TRYING CRIMINAL CASES: FAIR DEFENSE ACT ALTERNATIVE PLAN FOR APPOINTMENT OF COUNSEL TO INDIGENT DEFENDANTS: FEE SCHEDULE 3 (2019).

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Texas [cont.]	<ul style="list-style-type: none"> - \$1,500 flat rate for first degree felony plea - PLUS: <ul style="list-style-type: none"> o \$1,200 per full-day for contested trial o \$600 per half-day for contested trial • OR OPTION TWO (hourly): <ul style="list-style-type: none"> - \$150 for first/second degree list - \$100 for state jail/third degree list - \$75 for misdemeanor list <p><i>Duval, Jim Hogg, & Starr Counties</i>⁶¹⁶:</p> <ul style="list-style-type: none"> • Guilty Plea: \$200–300 flat rate • Dismissal by State: \$100–200 flat rate • Nonjury trial/contested hearings: \$60–80 per hour in court/\$30–60 per hour out of court • Jury trial: \$500–750 per full day in court; \$30–50 per hour out of court 	
Utah ⁶¹⁷	Uses many flat-fee contracts as well as hourly compensation	Until 2019 ⁶¹⁸ : <ul style="list-style-type: none"> • Misdemeanor: \$1,000 • Noncapital felony: \$3,500
Vermont ⁶¹⁹	\$100 per hour	Misdemeanor: \$1,000 Life Felonies/Capital Cases: \$25,000 Other Major Felony: \$5,000 Minor Felonies: \$2,000
Virginia ⁶²⁰	\$90 per hour	District Court (except Class 1 felony preliminary hearings): \$120 (may waive and add an additional \$120 when necessary)

616. DUVAL, JIM HOGG, AND STARR DISTRICT COURT AND COUNTY COURT PLAN FEE SCHEDULE, *supra* note 14.

617. SIXTH AMENDMENT CENTER UTAH REPORT, *supra* note 59, at vi, 45.

618. *See id.* (noting that these caps were repealed in 2019 and not replaced with a new statute).

619. VT. SUP. CT. ADMIN. ORD. No. 4 § 6 (2023).

620. VA. CODE ANN. § 19.2-163 (2022 & Supp. 2023); DEP'T OF FISCAL SERVS., SUP. CT. OF VA., CHART OF ALLOWANCES 1 (2022), https://www.vacourts.gov/courtadmin/aoc/fiscal/chart2022_0101.pdf [perma.cc/N7Z3-D6BV].

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Virginia [cont.]		Circuit court: <ul style="list-style-type: none"> • Felony punishable by more than twenty years (except Class 1 felony): \$1,235 (may waive and add an additional \$850 when necessary) • Other, lower felonies: \$445 (may waive and add an additional \$155 when necessary) • Circuit Court Misdemeanors: \$158
Washington (state)	(Varies by jurisdiction) <i>Seattle</i> (hourly) ⁶²¹ : <ul style="list-style-type: none"> • Aggravated Murder: \$97 • Class A Felony: \$81 • Class B Life: \$81 • Class B Felony: \$70 • Class C Felony: \$65 • Misdemeanor: \$59 <i>Pierce County</i> (hourly) ⁶²² : <ul style="list-style-type: none"> • Class A+ Felony: \$125 • Class A Felony: \$80 • Class B or C Felony: \$65 • Misdemeanor: \$55 	<i>Pierce County</i> : <ul style="list-style-type: none"> • Class A Felony: \$2,000 for nontrial; \$7,500 for trial • Class B or C Felony: \$1,200 for nontrial; \$3,000 for trial • Misdemeanor: \$900 for nontrial; \$1,750 for trial
Washington, D.C. ⁶²³	\$100 per hour	Misdemeanors: \$2,000 Felonies: \$7,000
West Virginia ⁶²⁴	\$60 per hour out of court \$80 per hour in court	<ul style="list-style-type: none"> • No cap on felony offenses where life in prison is possible • All other cases: \$3,000

621. KING CNTY. DEP'T OF PUB. DEF., POLICIES AND PROCEDURES: ASSIGNED COUNSEL POLICY 25 (2021), https://kingcounty.gov/~media/depts/public-defense/assigned-counsel/Assigned_Counsel_Policy_21,-d,-01,-d,-28.ashx?la=en [perma.cc/BV84-X9BY].

622. PIERCE COUNTY DEPARTMENT OF ASSIGNED COUNSEL PANEL APPLICATION PAYMENT POLICIES AND PROCEDURES (2019), https://www.piercecountywa.gov/DocumentCenter/View/95176/PANEL-APP-2019_eff_060119?bidId= [perma.cc/4NQY-NJVF].

623. FY 2023 BUDGET JUSTIFICATION, D.C. CTS. 300, https://www.dccourts.gov/sites/default/files/matters-docs/DC_Courts_FY_2023_Budget_Justification.pdf [perma.cc/P883-FHJQ].

624. W. VA. CODE ANN. § 29-21-13a (LexisNexis 2018).

STATE	HOURLY RATE OR FLAT RATE	MAXIMUM FEE
Wisconsin ⁶²⁵	\$70 per hour	
Wyoming ⁶²⁶	\$100 per hour in court \$35–60 per hour out of court	
Federal Criminal Justice Act panel attorneys ⁶²⁷	\$164 per hour	Misdemeanors: \$3,600 Felonies: \$12,800

625. WIS. STAT. § 977.08(4m)(d) (2023).

626. WYO. R. CRIM. P. 44(e).

627. Guidelines for Administering the CJA and Related Statute, *supra* note 155, ch. 2, § 230.