



**IN THE CIRCUIT COURT OF THE FOURTEENTH JUDICIAL CIRCUIT
OF THE STATE OF FLORIDA**

**INDIGENT SERVICES COMMITTEE GUIDELINES
(approved February 27, 2006, with Effective Date of March 1, 2006)
AMENDED JUNE 29, 2006**

The Following Guidelines are prepared to ensure a consistent application of policy, procedures, and payment for services necessary for the fair application of justice in the Fourteenth Judicial Circuit. All agencies within the six counties of this circuit are strongly encouraged to follow these guidelines and payment schedules.

History of the Indigent Services Committee:

The 2004 Florida Legislature established the Circuit Article V Indigent Services Committee (ISC), its composition, and its responsibilities in section 27.42, Florida Statutes, as part of the legislation to enact Revision 7 to Article V of the Florida Constitution. In this section, the responsibilities of the Circuit Article V Indigent Services Committee were detailed to include the committee's requirement to manage the appointment and compensation of court appointed counsel within a circuit pursuant to subsection 27.40 and 27.5303, Florida Statutes. Also, this committee was empowered to maintain a registry of approved attorneys who were available to the court to appoint as conflict attorneys, and to apply any eligibility and performance standards as set by the Legislature;

This legislation also directed each Circuit Article V Indigent Services Committee to develop a schedule of standard fees and expense allowances for the categories of cases specified in section 27.5303, Florida Statutes, consistent with the overall compensation rates in that section and within the amount of appropriated funds allocated by the Justice Administrative Commission to the circuit for this purpose.

Originally, then Chief Judge Judy Pittman designated Circuit Judge Don T. Sirmons as Chair of the Fourteenth Judicial Circuit's Indigent Services Committee. Committee members also included the Honorable Herman Laramore, Public Defender, Mr. Waylon Graham,

representing the criminal Bar, and Mr. Ross McCloy, representing the civil Bar. Both attorneys agreed to serve two-year terms beginning in July 2004.

During the first eighteen months of the ISC's operation, an application process was put into place, registries were established and continually updated, and rates for all due process services were set and reviewed. Because of the unclear legal status of the ISC, the information related to the actions of the ISC was codified via court administrative orders. However, with additional legal research from the State Courts System, the ISC has been determined to be a Legislative Committee with no rule making authority; therefore, court administrative orders are not the appropriate vehicle for instituting the committee's actions. It also cannot enact administrative rules. With this void of authority other than legislative intent, the Committee will issue "Guidelines" to the Court, the Office of the State Attorney and Public Defender, and the Justice Administrative Commission in an effort to equalize due process rates across the board.

GENERAL POLICY RELATED TO COURT APPOINTED COUNSEL

Counsel shall be appointed to represent any individual in a criminal or civil proceeding entitled to court-appointed counsel under the Federal or State Constitution or as authorized by general law. The court shall appoint a public defender to represent indigent persons as authorized in section 27.51, Florida Statutes. Private counsel shall be appointed to represent indigents in those cases in which provision is made for court-appointed counsel but the public defender is unable to provide representation due to a conflict of interest or is not authorized to provide representation.

No later than October 1, 2004, private counsel appointed by the court to provide representation shall be selected from a registry established by the Circuit Article V Indigent Services Committee or procured through a competitive bidding process, as provided by law.

Attorneys shall be listed on registries in the order their applications are received by the ISC, and registries shall be organized by county and case category. The Court appointed attorneys shall serve in the county(ies) and provide the services for the categories of cases for which the attorney has been approved and placed on the applicable registry.

The Justice Administrative Commission (JAC) shall approve uniform contract forms for use in procuring the services of private court appointed counsel, as provided by law.

After court appointment, the court appointed counsel must immediately file a notice of appearance with the court indicating acceptance of the appointment to represent the defendant. A court appointed attorney is entitled to payment pursuant to section 27.5304, Florida Statutes, and following general law and the procedures set forth by the Florida Legislature and the JAC.

Attorneys who withdraw from a case or who are otherwise removed from representation must follow all procedures for processing payment as required by the JAC.

Procedures in the Use and Maintenance of Circuit-wide Registries

1. The Circuit Article V Indigent Services Committee (herein after the “ISC”) shall compile and maintain a list of qualified attorneys in private practice, by county and by category of cases, to be used by judges in the appointment of court appointed counsel. An attorney’s name shall be listed on an appropriate registry in the order his or her application was received by the ISC.
2. To be considered for inclusion on a registry, interested attorneys must certify the following:
 - A. That they meet any minimum requirements established in general law for court appointment, or by the ISC;
 - B. Are available to represent indigent defendants in cases requiring court appointment of private counsel; and
 - C. Are willing to abide by the terms of the contract for services as specified by the Justice Administrative Commission.
3. The court shall appoint attorneys in rotating order in the order in which names appear on the applicable registry, unless the court makes a finding of good cause for appointing an attorney out of order. An attorney not appointed in the order in which his or her name appears on the list shall remain next in order.
4. Quarterly, beginning no later than October 1, 2004, the ISC shall provide the Chief Justice of the Supreme Court; the chief judge, state attorney and public defender in each judicial circuit, the presiding judges in the circuit, and the clerks of court in each county with a current copy of each registry.

Qualifications for Attorneys Seeking Appointment to Circuit-wide Registries

5. All private attorneys interested in seeking appointment to a circuit-wide registry MUST be a member in good standing of The Florida Bar in addition to qualifications specified by general law or specific qualifications identified by the ISC.

Qualifications for Attorneys Interested in Appointment to Criminal & Post-Conviction Cases

- A. Attorneys must be in compliance with The Florida Bar approved continuing legal education requirements, with a minimum of ten hours within a reporting cycle devoted to criminal law.
- B. Attorneys must have met the following experience requirements:
 - 1.) In *misdemeanor cases*, the attorney shall have been a member of The Florida Bar for at least one year and an experienced and active trial practitioner with no fewer than three state or federal jury or non-jury trials.
 - 2.) In *juvenile cases*, the attorney shall have been a member of The Florida Bar for a least one year and an experienced and active trial practitioner with no fewer than three delinquency dispositions or three state or federal jury or non-jury trials.
 - 3.) In *second and third degree felony cases*, the attorney shall have been a member of The Florida Bar for at least two years and an experienced and active trial practitioner with no fewer than three state or federal jury or non-jury trials.
 - 4.) In *first degree, life felony, capital, capital sexual battery, and Jimmy Ryce cases*, the attorney shall have been a member of The Florida Bar for at least five years and an experienced and active trial practitioner with no fewer than five state or federal jury trials.
 - 5.) In *capital death penalty cases*, the ISC recommends the adoption of rule 3.112 (f – g), Rules of Criminal Procedure, which outlines qualifications for attorneys in such cases.

Qualifications for Attorneys Interested in Appointment to Appellate Cases

- A. Attorneys must be in compliance with The Florida Bar approved continuing legal education requirements with a minimum of ten hours within a reporting cycle devoted to appellate law.
- B. Attorneys must have met the following experience requirements:
 - 1.) In *misdemeanor, felony second and felony third degree, and juvenile delinquency appeals*, the attorney shall have been a member of The Florida Bar for at least two years, an experienced and active trial or

appellate practitioner in the field of criminal law or have prior experience in the appeal of at least three criminal cases.

- 2.) In *first degree, life felony, capital, capital sexual battery, and Jimmy Ryce appeals*, the attorney shall have been a member of The Florida Bar for at least three years, an experienced and active practitioner in the field of appellate criminal law or have experience in the appeal of at least five criminal cases.
- 3.) In *capital death penalty cases*, the ISC recommends the adoption of Rule 3.112 (h), Rules of Criminal Procedure, which outlines qualifications for attorneys in such cases.

Qualifications for Attorneys Interested in Appointment to Dependency Cases

- A. Attorneys must have met the following training and experience requirements:
 - 1.) In *dependency and appeals of dependency cases*, the attorney shall have observed a shelter hearing, a dependency hearing, and a termination of parental rights hearing, and have completed at least six hours of approved continuing legal education, within The Florida Bar reporting cycle, in the area of dependency law.
 - 2.) In *termination of parental rights and appeals of termination of parental rights cases*, the attorney shall have at least five adjudicatory hearings on petitions of dependency and one year of dependency experience.

Qualifications for Attorneys Interested in Appointment to Guardianship Cases

- A. Attorneys must have met the following training and experience requirements:
 - 1.) In *standard guardianship and appeals to standard guardianship cases*, the attorney shall be familiar with the practice and procedures of guardianship proceedings; have experience in the use of expert witnesses and evidence, including but not limited to psychiatric and forensic evidence; be an experienced practitioner who has represented clients in no fewer than two guardianship proceedings; and have completed at least six hours of approved continuing legal education, within The Florida Bar reporting cycle, in the area of guardianship law.

- 2.) In *emergency guardianship cases, including Baker and Marchman Act, and others*, certify familiarity with the following proceedings:
- a. Chapter 415, Florida Statutes, Adult Protective Services;
 - b. The Baker Act;
 - c. Chapter 392, Florida Statutes, Victims of Tuberculosis;
 - d. Chapter 744 and 765 & rule 5.900, Florida Rules of Probate, Health Care Directives;
 - e. Chapter 384, Florida Statutes, Victims of Sexually Transmitted Diseases.

Procedures for Applying for the Circuit-wide Registries

6. Interested attorneys who would like to be considered for inclusion in the circuit's registries should submit a **Fourteenth Judicial Circuit Court Appointed/Conflict Attorney Application** (see Attachment A). Applications are available from the Fourteenth Judicial Circuit's website (www.jud14.flcourts.org) or by contacting Court Administration at (850) 747-5327. Completed applications should be submitted to:

Fourteenth Judicial Circuit Article V Indigent Services Committee
c/o Court Administration
301 McKenzie Avenue
Panama City, Florida 32401

7. The ISC may request a resume or letters of recommendation from an applying attorney if the Committee feels it is necessary to assist in making a decision about that attorney's qualification.
8. The ISC will periodically review applications and determine those applicants who meet the qualifications requirements. The ISC will notify each applicant via email whether his or her application is approved. Updated registries will be posted on the Circuit website.
9. Upon request by an excluded attorney, the ISC will provide the reason(s) for exclusion from one or more registry and the method by which the attorney may seek review of the decision or re-apply for approval on the registry(ies).

Appeal of an ISC Decision

10. Any applicant may appeal the disposition of the application by mailing a letter of appeal to the ISC to the address listed above (c/o Court Administration) within 30 days of the

notice of the ISC's decision. The attorney shall state what approvals have been denied and why the attorney believes the decision is improper. The ISC will conduct an initial review of the application, any additional information provided, and determine whether the initial decision was proper. The applicant will be notified in writing of the ISC's final decision.

Annual Review of Approved Attorneys on Registries

11. So that the various registries maintain qualified attorneys available to the court for appointment, each attorney approved and placed on a circuit-wide registry must submit proof of compliance with the continuing education requirements for the particular registry or registries for which he or she has been approved. Such proof should be submitted by the last day of the fourth quarter that the attorney has been placed on a registry(ies) to:

Fourteenth Judicial Circuit Article V Indigent Services Committee
c/o Court Administration
301 McKenzie Avenue
Panama City, Florida 32401

12. Additionally, each attorney will be subject to a periodic review of his or her professional performance, which will be conducted by the ISC. The standard for this review is whether the attorney has provided high quality representation and continues to meet the minimum requirements for certification.

Exclusion from Circuit-wide Registries

13. An attorney shall be excluded from a circuit-wide registry if either of the following occurs:
 - A. The attorney is disbarred, suspended, or surrenders a license to practice law in this state; or
 - B. The attorney fails to meet the experience or training requirements established by the ISC.
14. Any attorney who is disbarred, suspended, surrenders his license or otherwise is the subject or discipline by The Florida Bar, must promptly notify the ISC in writing of the action taken against him or her by the Bar. Upon review of the situation, the ISC may immediately remove the attorney from rotation pending a final determination.

15. An attorney who is under criminal investigation or has pending criminal charges must immediately notify the ISC. Upon review of the situation, the ISC may immediately remove the attorney from rotation pending a final determination.
16. The circumstances listed in item #13 and #14 above may warrant permanent exclusion from any and all circuit-wide registries. However, an excluded attorney, if otherwise qualified, may be re-approved to a registry(ies), upon written application to the ISC and a sufficient demonstration the basis for the exclusion no longer applies.

Compensation Rates for Court Appointed Counsel – General

17. Court appointed attorneys shall be compensated at an hourly rate of \$100 for in and out of court legal services for those cases that they are under appointment up to the statutory caps set by section 27.5304, Florida Statutes. This rate is *inclusive* of normal business expenses such as photocopies, postage, and such other expenses as may be reasonably considered as an office expense.
18. Travel time at the hourly rate is allowed within the geographic boundaries of the circuit. Such time is not allowed outside the circuit unless stipulated specifically by court order. Travel reimbursement pursuant to section 112.061, Florida Statutes, is not allowed.

Compensation Rates for Death Certified – Lead Counsel

19. Court appointed attorneys who are selected as **lead counsel** shall be compensated at an hourly rate of \$125 for in and out of court legal services for those cases that they are under appointment up to the statutory caps set by section 27.5304, Florida Statutes. This rate is *inclusive* of normal business expenses such as photocopies, postage, and such other expenses as may be reasonably considered as an office expense.

Compensation Rates for Court Appointed Counsel – Flat Rate

20. Court appointed attorneys shall be compensated at a flat rate of \$550/case for each Guardianship, Baker, or Marchman case. If the case meets the legal definition of extraordinary and unusual, the court appointed attorney can request an order from the judge to be paid at the standard hourly rate of \$100 for in and out of court legal services for the case in question. This rate is *inclusive* of normal business expenses such as photocopies, postage, and such other expenses as may be reasonably considered as an office expense.

Compensation Rates for Acts of No Merit or Payment Delays

21. The ISC adopts the following provision as additions to the fee schedule for court appointed attorneys appointed to cases for the fiscal year 2005-2006 and the following fiscal years:

In any case where the Justice Administrative Committee has issued an audit deficiency letter and/or an objection letter which is determined by the Court to have no merit, the attorney may file with the Court a verified motion setting forth the time spent by the attorney and/or his/her staff in attempting to respond to the position held by the JAC and the Court, after a hearing at which a representative from the JAC shall have the right to be present, may order the attorney to be compensated at the rate of \$100/per hour for such time the Court deems reasonable. This procedure shall not apply to objection letters issued by the JAC based upon an attorney seeking fees in excess of any statutory cap.

In any case where in the JAC has received a court order approving payment of an attorney's fee, and that order has not been paid within 20 days of receipt of the order by the JAC, an attorney may file with the Court a verified motion seeking enforcement of the order and the Court, after hearing at which the JAC shall have the right to be present, shall determine if the attorney is entitled to compensation and may award an appropriate fee based on an hourly rate of \$100/per hour.

The above provisions shall be effective in all cases in which a conflict attorney is appointed on or after June 29, 2006, or where a voucher for services has been filed and is currently being processed by the JAC.

Compensation Rates for Examining Committee Members

22. Examining Committee Members who are appointed to examine an incapacitated person who is indigent shall be compensated at the following rates:
- ▶ The Examining Committee Member who is the Medical Doctor or Psychologist shall be compensated at a rate \$250; and
 - ▶ The remaining two Examining Committee Members shall be compensated at a rate of \$100.

Submission of Payments for Completed Professional Services to the JAC

23. Court appointed attorneys shall submit their request for payment as prescribed by the JAC.

Other Related Due Process Expenses

24. Court Reporting Services

All court reporting services for “in court” proceedings to be covered at public expense pursuant to rule 2.070 (g) (1), Rules of Judicial Administration, shall be coordinated through the Manager of Court Reporter Services, Bay County Courthouse, for all counties within the Fourteenth Judicial Circuit. The Fourteenth Judicial Circuit operates under an employee model for court reporting services and provides such services for all in court proceedings required to be covered at public expense. However, the Fourteenth Judicial Circuit’s court reporting services does NOT provide any deposition service. Such service must be arranged by the party seeking the deposition.

A.. Because the Fourteenth Judicial Circuit operates under an employee model for court reporter services, the payment for court reporting services for in court proceedings related to court appointed counsel is provided as part of the employee model formula. As such, the JAC shall forward payment to the Office of the State Courts Administrator on a quarterly basis for payment of court reporting services provided to court appointed counsel.

B When contract court reporters must be retained to cover deposition services for the Offices of the Public Defender, State Attorney, or court appointed counsel, or when contract court reporters are needed to supplement the employee model for in court proceedings, the following rates of reimbursement, based on the Statewide Article V Indigent Services Advisory Board’s recommendations, will be used as compensation for those proceedings required to be covered at public expense:

Appearance Rates

1.	Appearance Fee (1 st Hour)	\$36
2.	Appearance Fee (Each Hour after)	\$25
3.	Appearance Fee (Overtime*/Weekend/Holiday-First Hour)	\$58
4.	Appearance Fee (Overtime*/Weekend/Holiday-Each Hr after)	\$38

Transcript Rates

5.	Regular Transcript Delivery (includes original + 1 copy)	\$5/page
6.	Expedited Transcripts (Delivery within 72-hours) <i>(Includes original + 1 copy)</i>	\$8/page
7.	Copies (for opposing party)	\$1/page

* *Overtime constitutes the time accumulated after 8 hours of completed work.*

Media Formats

8.	Audio Tape	\$5/tape
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- 9. Video Tape: \$15/tape
- 10. CD or Diskette: \$15/CD or diskette

C. Any contract court reporter who must travel to a county other than his or her home county may charge a one time flat rate travel fee of **\$30** and submit a State of Florida Travel Reimbursement Voucher (see Attachment B).

25. Court Interpreter Services

Individuals involved in court proceedings to be covered at public expense have a due process right to understand the judicial proceeding in which they are involved. The Florida Legislature has provided funding to cover the cost of language and hearing impaired interpreters as it pertains to due process rights to the Florida State Courts System. Therefore, court appointed counsel shall complete the following procedures to ensure court interpreter services are available for any client in need of such interpretive services for court proceedings:

- A. Submit a *Request for Court Interpreter Services* form (see Attachment C) by mail, facsimile, or electronic mail to court administration no later than five working days prior to the scheduled proceeding. All parts of the form must be completed in order to successfully schedule an appropriate court interpreter for the individual or for the court event.
- B. If the requesting party has less than five days advance notice of the need for a court interpreter due to a substantiated emergency, then the party should contact court administration immediately by facsimile or electronic mail by way of the *Request for Court Interpreter Services* form along with a written statement of the emergency need.

An emergency is defined as a situation whereby the inability of an individual to effectively communicate with the court, legal counsel, or other critical personnel was NOT known in advance of a court proceeding.

- C. If the court appointed counsel needs a court interpreter for counsel/client interviews, other “pre-court” proceedings, or to act as an interpreter specifically to sit at the counsel’s table during a court proceeding, court administration may assist the court appointed counsel in locating a qualified court interpreter but will not process the invoice for such interpreter.
- D. Any invoices for court interpreters which are for counsel/client interviews, other “pre-court proceedings, or to act as an interpreter specifically to sit at the

counsel's table during a court proceeding, should be submitted directly for payment to the JAC, by the court appointed counsel following the invoice procedures published by the JAC.

- E. The following rates for language court interpreters for the Fourteenth Judicial Circuit shall be at the following hourly rates, as recommended by the Article V Indigent Services Advisory Board in their Final Report issued January 6, 2004:

Spanish/Creole

1. Spanish Language/Haitian Creole \$30/hour
(For Interpreters who have NOT completed the Court Interpreter Orientation Course or exam)
2. Spanish Language/Haitian Creole \$40/hour
(For Interpreters who HAVE successfully completed the Court Interpreter Orientation Course)
3. Spanish Language/Haitian Creole \$50/hour
(For Interpreters who HAVE successfully completed the Court Interpreter Orientation and Exam Course)

All Other Languages

4. All Other Languages* \$35/hour
(For Interpreters who have NOT completed the Court Interpreter Orientation Course or exam)
5. All Other Languages* \$50/hour
(For Interpreters who HAVE successfully completed the Court Interpreter Orientation Course)
6. All Other Languages* \$65/hour
(For Interpreters who HAVE successfully completed the Court Interpreter Orientation and Exam Course)

* Portugese, Italian, French, German, Yiddish, Other Indo European Languages, Polish, Hebrew, Arabic, Chinese, Japanese, Russian, Other Eastern Europeon Languages, Hindi, Urdu, Pakistani, Farsi, South Pacific Island Languages, etc.

Unusual or Extraordinary Circumstances

7. Use of language line or interpretive services for exotic or language unavailable in the area will be contracted on an as needed basis at a pre-negotiated rate.

Hearing Impaired

- 8.. Hearing Impaired Interpreter \$25 – 40/hour
(Non-certified)
9. Hearing Impaired Interpreter \$40 – 60/hour
(Certified)

Overtime/Weekend Interpreting Services

10. For any language, overtime* or weekend/holiday service will be 1 ½ times the approved rate for the specified language.

* Overtime constitutes the time accumulated after 8 hours of completed work.

F. Any interpreter who must travel to a county other than their home county may charge a one time flat rate travel fee of **\$30** and submit a State of Florida Travel Reimbursement Voucher (see Attachment B).

26. Expert Witnesses Rates

A. The Expert Witness will provide the professional services for the Circuit at a rate of **\$150/hour** not to exceed **\$1,500/case** as follows:

1. Psychology examination/evaluation of criminal defendant requested by the Circuit to determine competency to stand trial (Note: The Court will not cover the cost of the confidential evaluation conducted by either party. This evaluation is paid for by the JAC);

-- And/Or --

2. Disability examination/evaluation of criminal defendant requested by the Circuit to determine mental capabilities as it relates to the competency to stand trial; and

3. Testimony of the psychology and/or disability examination/evaluation of criminal defendant if required at the time of the trial.

B. As a measure to contain costs, any expert witness fees which exceeds \$150/hour or that could exceed a total fee of \$1,500 must be specifically pre-approved by the presiding judge. In obtaining this pre-approval, court appointed counsel employing or subpoenaing the individual must show to the presiding judge the necessity for a higher hourly rate for the witness or individual and/or the anticipated number of hours that his/her services will be needed and billed. This pre-approval procedure does not relieve counsel or the individual from complying with the other requirements set out in statutes or prescribed by the JAC.

C. If travel is completed as part of the professional service, a Reimbursement for Travel Voucher (See Attachment B) should be submitted following Section 112.061, Florida Statutes. Travel will only be reimbursed when the Expert is traveling outside his/her county of residence. The time spent traveling to and from the county outside his/her residence to perform the service can be charged at a one-time flat rate of **\$150**.

- D. When selecting any travel by common carrier, the state contract should be used or procedures followed if no state contract is available or if a lower rate is determined to be available. No incidental travel expenses or rental car charges shall be allowed unless pre-approved by the Court, and if so approved, state contract for rental car arrangements shall be used whenever possible.
- E. Should any witness or individual performing services under a court order be required to stay overnight in a commercial establishment within the Fourteenth Judicial Circuit while under subpoena, or while on a criminal case assignment, that witness or individual shall be required to stay at a commercial establishment which offers a state rate. If a problem exists for the witness or individual in securing a state rate, the court counsel should contact court administration for assistance.

27. Examining Committee Member Rates

- A. The Examining Committee Member (ECM) will provide the professional services for the Circuit as follows:
 - ▶ A determination of the alleged incapacitated person's ability to exercise those rights specified in Section 744.3215, Florida Statutes, following the procedures as outlined in Section 744.331, Florida Statutes.
- B. The Circuit will pay the ECM the following rates as specified per the rates established by the Fourteenth Judicial Circuit's Indigent Services Committee. The rates refer to the qualifications as to the member's professional credentials and are as follows:
 1. The Medical Doctor or Psychologist shall be compensated at a **flat rate of \$250**; and
 2. The remaining two ECMs shall be compensated at a **flat rate of \$100**.
 3. If travel was completed as part of the professional service, a Reimbursement for Travel Voucher (see Attachment B) should be submitted following Section 112.061, Florida Statutes. Travel will only be reimbursed when the ECM is traveling outside his/her county of residence. The time spent traveling to and from the county outside his/her residence to perform the professional service can be charged at a one-time flat rate as follows:
 - ▶ **\$150** for the medical doctor or psychologist member;
 - ▶ **\$75** for the remaining two members of the committee.