

HENDRICKS COUNTY PUBLIC DEFENDER ORDINANCE

ORDINANCE NO. 2016-30

**OF THE BOARD OF COMMISSIONERS OF
HENDRICKS COUNTY, INDIANA**

WHEREAS, I.C. 33-40-7-1 et seq. authorizes the establishment of county public defender boards, and

WHEREAS, the Board of Commissioners deems it advisable that the County of Hendricks establish such a board with all the rights and duties that attend thereto, as per state statute,

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF COMMISSIONERS OF HENDRICKS COUNTY, INDIANA that:

Section 1. Board Established

The Hendricks County Public Defender Board is hereby established for the purpose of providing legal representation to indigent defendants/respondents in criminal, juvenile, probation violation, extradition, child support, civil commitments and other proceedings where the right to counsel has been established by law.

Section 2. Definitions

When used herein the following words and terms shall be defined as follows:

- (1) *Board* means the Hendricks County Public Defender Board created by this ordinance.
- (2) *Indigent defendant/respondent* means a person who requests legal representation and it determined by the court to be entitled to legal representation at public expense.
- (3) *Legal representation* means the services of an attorney provided to a defendant/respondent in a matter originating in a state court in Hendricks County involving:
 - (a) a person charged with a crime as defined in IC 35-31.5-2-75;
 - (b) an act of delinquency as defined in IC 31-37-1-2;
 - (c) a violation of a condition of probation established as part of a sentence in a juvenile or criminal matter;

- (d) detention of a person subject to extradition to another jurisdiction;
- (e) proceedings to collect unpaid child support pursuant to IC 31-16;
- (f) civil commitment and contempt proceedings; or
- (g) other proceedings where the right to counsel at public expense has been established by law.

The term legal representation includes services in connection with all pre-trial, trial and appellate proceedings in which an indigent defendant/respondent has a right to counsel.

Section 3. Board Membership and Appointment

- (a) The Board shall consist of three (3) members: one (1) member appointed by the County Commissioners; and two (2) members from different political parties appointed by majority vote of the Judges who exercise felony or juvenile jurisdiction.
- (b) The initial term of the member appointed by the County Commissioners shall expire on January 1, 2018. The initial term of the one (1) member appointed by the Judges shall expire on January 1, 2019, and the initial other member appointed by the Judges shall expired on January 1, 2020.
- (c) After the initial term of each member, appointment shall be for three (3) year terms. Members of the Board shall serve until their successor is appointed. An appointment to fill a vacancy shall be made by the authority appointing the member vacating the position and shall be for the remainder of the unexpired term.
- (d) The following persons shall be ineligible to serve as members of the board: a city, town, or county attorney, a law enforcement officer, a judge, or a court employee.
- (e) Board members shall serve without pay but may receive reimbursement for expenses incurred in connection with the member's duties if approved by the Board.
- (f) Two members of the Board shall constitute a quorum for the purpose of conducting the business of the Board. Decision of the Board shall be approved by a majority of the members present.
- (g) The Board shall meet at least quarterly or upon call of its chairperson or any two members of the Board.
- (h) The Board shall elect its chairperson by a majority vote of the Board.

Section 4. Powers and Duties of the Board

The Board shall have the following powers and duties:

- (1) Prepare a comprehensive plan for providing legal representation to indigent defendants/respondents in the County in accordance with IC 33-40-7-5. The comprehensive plan shall, at a minimum, provide for:
 - (a) legal representation to an indigent defendant/respondent at the earliest possible point in time;
 - (b) legal representation to an indigent defendant/respondent by the same attorney or attorneys through the pendency of the matter to the greatest extent possible;
 - (c) professional development, continuing legal education, and malpractice coverage for public defenders; and
- (2) Establish policies and procedures for the provision of competent legal representation for indigent defendants/respondents in criminal, juvenile, probation violation, extraditions, child support, criminal contempt, and other matters pursuant to the comprehensive plan.
- (3) Establish guidelines and procedures for the determination of indigency and for the appropriate reimbursement for legal representation provided at public expense in accordance with IC 33-40-3.
- (4) Recommend an annual operating budget for the Agency and monitor the expenditures of the funds.
- (5) Prepare and submit to the County Council and the general public an annual report on the operation of the Agency.

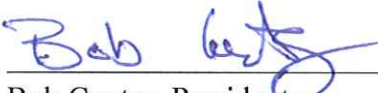
Section 5. Authority of Judges

Nothing contained herein shall be deemed to abridge the authority of any Judge of a State Court of this County from appointing counsel for any person entitled thereto under the Constitution of the United State or the Constitution of Indiana.

Section 6. Effective Date

This Ordinance shall be in full force and effect upon passage, approval, and publication.

BOARD OF COMMISSSIONERS OF
HENDRICKS COUNTY, INDIANA



Bob Gentry, President



Phyllis A. Palmer, Vice President



Matthew D. Whetstone

Attest: Cinda Kattan 9/27/16