

T H E S P A N G E N B E R G G R O U P

Rates of Compensation for Court-Appointed Counsel in Non-Capital Felonies at Trial, July 2002¹

State	Hourly Rate		Per Case Maximum	Is Maximum Waivable?	Flat Fee	Authority
	Out of Court	In Court				
Alabama	\$70	\$90 ²	Class A Felony: \$3,500 Class B Felony: \$2,500 Class C Felony: \$1,500	Yes		Code of Alabama §15-12-21 James W. May v. State CR-92-350, AL Court of Criminal Appeals (Oct. 1992-93)
Alaska	\$50	\$60	Felony disposed following a trial: \$4,000 Felony disposed of following a plea of guilty or nolo contendere, or by dismissal - \$2,000	Yes		2 AA.C.60 Alaska Administrative Code
Arizona	Varies	Varies	Varies	Yes	Varies	Az. Rev. Stat. Ann. §13-4013(a) grants authority to local court.
Arkansas	non-capital homicide, A and Y felonies: between \$70-\$90 all other felonies: between \$60-\$80		None			Arkansas Code Annotated §16-87-2121 authorizes the Public Defender Commission to set the rates.
California	Varies. In San Francisco: \$77 for felonies and \$92 for serious or life felonies with no maximum				Varies	California Penal Code §98.7.2

¹This table updates a table originally produced in 1997 and most recently updated in 1999.

²Alabama statutory law sets compensation rates at \$40/hour for in court work and \$60/hour for out of court work. The language in the statute authorizing these rates states, "Counsel shall also be entitled to be reimbursed for any expenses reasonably incurred in such defense to be approved in advance by the trial court." In *James W. May v. State*, the Alabama Court of Criminal Appeals ordered the state to pay an additional amount for overhead as "expenses reasonably incurred." The presumptive hourly overhead is \$30 an hour, bringing the typical hourly compensation to \$70 an hour out of court and \$90 an hour in court.

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Colorado	Type A Felonies: \$51 (violent crimes) Type B Felonies: \$47 ³ (non-violent felonies)		Felony 1 (trial): \$15,000 Felony 2 (no trial): \$7,500 Felony 2 (trial): \$7,500 Felony 2 (no trial): \$3,750 Felony 3 (trial): \$5,000 Felony 3 (no trial): \$2,500	Yes		Rates set by Chief Justice Directive 97-01, per Colorado Revised Statutes §21-2-105 ⁴
Connecticut	\$45	\$65	If a case is not at trial an attorney may bill for 6 hours in court and 6 hours out of court per day.			Appointed Counsel rates are set by the State Public Defender and approved by the Public Defender Commission pursuant to §51-293 C.G.S., established in accordance with C.G.S. §51-291(12).
Delaware	\$50 ⁵		None			Delaware Code Annotated 29 §4605 grants authority to Supreme Court.

³ Travel time is paid at \$30 per hour with an additional \$0.28 paid per mile.

⁴ In January of 1997 the Colorado Alternate Defense Counsel was established. This agency provides legal representation in cases presenting conflicts of interest for the State Public Defender system. Participating attorneys enter contacts with the Alternate Defense Counsel but receive appointments and payment like court-appointed counsel as opposed to contract counsel.

⁵ The majority of the public defender conflict of interest cases are handled by contract counsel. The \$50 hourly rate applies only to attorneys not on contract.

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D.C.	\$50	\$50	\$2,450 ⁶	Yes		D.C. Code Ann. Sec. 11-2604(a)
Florida	Varies		Non-Capital, non-life felonies: \$2,500; Life felonies: \$3,000	Yes		Florida Statutes §925.036 grants authority to set hourly rates to Chief judge or Senior judge of the circuit. ⁷
Georgia	\$45	\$60 ⁸	None			Georgia Code Annotated §17-12-5 grants authority to local court. The supreme court has established guidelines for the operation of local indigent defense systems to be adhered to as a condition for receiving GIDC funding.
Hawaii	\$40	\$60	\$3,000	Yes		H.R.S. § 802-5(b)
Idaho	Varies. Typical: \$50		None			Idaho Code §19-860(b) grants authority to local judge.

⁶In addition to a per-case cap, no attorney may earn more than \$96,000 annually from court appointments in the District of Columbia.

⁷ In 2003 all costs associated with indigent defense will be assumed by the state.

⁸Hourly rates apply to the counties that meet GIDC Standards.

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Illinois	\$30	\$40	\$1,250	Yes		I.L.C.S. 5/113-3(c)
Indiana	\$60 ⁹		None			IND. CODE §33-9-13-3 Establishes the Indiana Public Defender Commission. Rates are set by Indiana Public Defender Commission Standards for Indigent Defense Services in Non-Capital Cases
Iowa	Felony punishable by life w/out parole: \$60 \$60 Felony punishable by 25 years to life: \$55 \$55 Other: \$50 \$50		Felony punishable by life w/out parole: \$15,000 Felony punishable by 25 years to life: \$3,000 Felony punishable by 10 years: \$1,200 Felony punishable by 5 years: \$1,000	Yes		I.G.S. sets the rates. I.G.S. §13.B.4(3) grants the State Public Defender authority to contract with attorneys, and State Public Defender Admin. Rules set out fee limitations.
Kansas	\$50	\$50	\$5,000	Yes		K.S.A. 22-4501 et. seq. grants authority to Kansas State Board of Indigents' Defense Services.

⁹Rate applies to those counties that meet Indiana Public Defender Commission Standards for Indigent Defense Services in Non-Capital Cases.

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Kentucky	Non-violent felonies: \$40 Violent felonies subject to 85% parole eligibility: \$50		Non-violent felonies: \$1,800 Violent felonies subject to 85% parole eligibility: \$3,000	Yes		K.R.S. Ann. 31.170(4)
Louisiana	Varies; \$42 is typical rate.		None			La. Code Crim. Proc. Sec. 15-144 et. seq.
Maine	\$50	\$50	Class A: \$2,500 Class B/C against a person: \$1,875 Class B/C against property: \$1,250	Yes		Maine Revised Statutes Annotated Title 15 §810 grants authority to Superior Court.
Maryland	\$30	\$35	\$1,000	Yes		Annotated Code of Maryland Art.27 §6(d) grants Public Defender authority to promulgate administrative law.
Massachusetts	No distinction between in and out of court rates. \$54: murder cases \$39: superior court felonies and youthful offender cases \$30: all other criminal cases.		None			Massachusetts General Laws Annotated Chapter 211D §11 grants authority to Committee for Public Counsel Services; must get legislative approval of rates.
Michigan	Varies widely		Varies			Michigan Compiled Laws Annotated §775.16 grants authority to presiding judge.

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Minnesota	\$50	\$50 ¹⁰	None			No official authority; Public Defender establishes rates.
Mississippi	Varies from county to county.		\$1,000 plus overhead expenses, which are presumptively set at \$25 per hour.	No		Miss. Code Ann. §99-15-17. <i>Wilson v. State</i> , 574 So.2d 1338 (1990)
Missouri	Rarely Used.		None			Mo. Rev. Stat. Sec. 600.017 grants authority to State Public Defender.
Montana	Varies. Typically \$40-\$60 for both in court and out of court work		None			Montana Code Ann. §46-8-201(1) grants authority to local judge.
Nebraska	Varies. Typical: \$60 \$60 Omaha: \$65 \$80		Typically there is no maximum, but Omaha uses \$12,000	Yes		Nebraska Code 29-1804.12 grants authority to local judge.
Nevada	\$75		\$1,2000 facing life without the possibility of parole \$2,500 if facing less than life without parole	Yes		N.R.S. 7.125

¹⁰ The majority of the public defender conflict of interest cases are handled by contract counsel. Hourly rate applies only to attorneys not on contract.

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New Hampshire	\$60	\$60	\$3,000	Yes		Part 2 Art. 73A of New Hampshire Constitution grants authority to State Supreme Court.
New Jersey	\$25	\$30	None			N.J.S.A. §2A:158A-7 grants authority to the New Jersey Public Defender.
New Mexico	Rarely Used.					New Mexico Statutes Annotated §31-15-7(11) authorizes Chief Public Defender to formulate a fee schedule.
New York ¹¹	\$25	\$40	\$1,200	Yes		Article 18-B of the County Law §722-b
North Carolina	\$65		None			General Statutes of North Carolina §7A-498.5 grants authority to the Office of Indigent Defense Services.
State	Hourly Rate		Per Case Maximum	Is Maximum Waivable?	Flat Fee	Authority
	Out of Court	In Court				

¹¹ Per preliminary injunction, compensation rates for court-appointed attorneys in New York City are \$90/hour for all work in and out of court, with no cap. *New York City Lawyers' Association v. State of New York*, County of New York, Index no. 102987/00- LAS Part 38 (May 3, 2002). A verdict is forthcoming.

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North Dakota	Varies Typical: \$60-\$85		None			North Dakota Supreme Court's Advisory Commission on Indigent Defense
Ohio	Varies. Average rate paid in FY 2000 was \$49 per hour. Public Defender Standards recommend: \$50 \$60		Public Defender Commission recommends: Aggravated Murder: \$8,000 (1 attorney), \$10,000 (2 attorneys); Murder and Felony w/ possibility of life sentence/repeat Violent Offender/Major Drug Offender: \$5,000; Felonies (degrees 1-3): \$3,000; Felonies (degrees 4&5): \$2,500 .	Yes		Ohio Revised Code Annotated §120.33 grants local board of county commissioners authority to set rate after soliciting local bar association for proposed rate schedule. ¹²
Oklahoma	\$40	\$60 ¹³	\$3,500 ¹⁴	Yes		22 O.S. § 1355.8 G2 (OSCN 2001).
Oregon	\$40	\$40	None			O.R.S. §151.430(5) grants authority to State Court Administrator, O.R.S. Ann. 135.055

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¹² Ohio Revised Code Annotated §120.04(7) authorizes State Public Defender to set rates at which Ohio Public Defender Commission will reimburse counties.

¹³In cases not under contract with Oklahoma Indigent Defense System and outside of Tulsa and Oklahoma counties.

¹⁴Ibid.

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Pennsylvania	Varies from \$40-\$75 per hour. Philadelphia County pays on a per diem basis.		Varies		Varies	Pennsylvania Statutes Annotated Article 13A §9960.7 grants authority to local judge.
Rhode Island	If potential sentence is greater than 10 years: \$50 \$50 If potential sentence is less than 10 years: \$35 \$35		If potential sentence is less than 10 years: \$5,000. If potential sentence is less than 10 years: \$2,500	Yes		General Laws of the State of RI §8-15-2 vests authority w/ Chief Justice. Supreme Court Executive Order No. 95-01
South Carolina	\$40	\$60	\$3,500	Yes		Code of Law of S.C. Ann. §17-3-50
South Dakota	\$67	\$67	None			S.D.C.L. §23A-40-8 ¹⁵
Tennessee	\$40	\$50	\$1,000	Up to \$3,000 ¹⁶		Supreme Court Rule 13

State	Hourly Rate		Per Case Maximum	Is Maximum Waivable?	Flat Fee	Authority
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¹⁵ The source of authority for this rate is a supreme court rule. In South Dakota supreme court rules are incorporated into the state code.

¹⁶The \$3,000 maximum may be waived in a homicide case if the Chief Justice finds that extraordinary circumstances exist and the failure to waive the maximum would result in undue hardship.

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Texas	Varies from \$50-\$125 per hour		Varies widely			Texas Statutes Annotated Art. 26.05 grants authority to local judge. ¹⁷
Utah	Varies					Utah Code Annotated §77-32-3(3) grants authority to district court.
Vermont	\$50	\$50	Felony involving life in prison: \$25,000 Major felony: \$5,000 Minor felony: \$2,000	Yes		13 V.S.A. §5205(a) and administrative order of the Vermont Supreme Court.
Virginia	\$90	\$90	\$1,235 to defend charges punishable for more than 20 years; \$445 to defend other felony charges. ¹⁸	No		Code of Virginia §19.2-163(a) establishes maximum per case payments. Pursuant to §2.1-204, the Supreme Court of Virginia establishes hourly rates.
State	Hourly Rate		Per Case Maximum	Is Maximum Waivable?	Flat Fee	Authority
	Out of Court	In Court				

¹⁷The Texas Task Force on Indigent Defense, created in 2001, will establish standards for the operation of local indigent defense systems that counties will be required to follow. Among these standards is expected to be a minimum rate of compensation for court appointed counsel.

¹⁸ Though by statute the per case maximums are set at \$1,235 and \$445, the Virginia Legislature has not appropriated funds sufficient to pay court appointed counsel at this level. Thus the Virginia Courts have scaled down the per case maximum they will pay attorneys proportional to the funding the legislature has appropriated. As a result the per case maximums are, in practice, \$1,096 for felonies punishable by more than 20 years and \$395 for cases punishable by less than 20 years.

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Washington	Varies from \$40-\$80 Pierce County: \$40-\$50 Lincoln County: \$40 Stevens County: \$70		Varies, e.g., Pierce County: \$550-\$1000 for cases that don't go to trial; \$,1500-\$5,000 for trials	Varies	Varies	Revised Code of Washington Annotated §36.26.090 grants authority to court.
West Virginia	\$45	\$65	\$3,000	Yes		West Virginia Code Ann. §29-21-13a
Wisconsin	\$40 plus \$25 per hour for travel	\$40	None			Wisconsin Statutes Annotated §977.08(4m)
Wyoming	\$25-\$50		None			Wyoming Rules of Criminal Procedure Rule 44(e)
U.S. Government	\$90	\$90	\$3,500	Yes		18 U.S.C. §3006 A(d)