

**LEGISLATIVE SERVICES AGENCY
OFFICE OF FISCAL AND MANAGEMENT ANALYSIS
FISCAL IMPACT STATEMENT**

LS 7592

BILL NUMBER: HB 1006

NOTE PREPARED: Feb 19, 2025

BILL AMENDED: Feb 6, 2025

SUBJECT: Prosecutors.

FIRST AUTHOR: Rep. Jeter

FIRST SPONSOR: Sen. Freeman

BILL STATUS: As Passed House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: This bill has the following provisions:

- A. It establishes the Special Prosecutor Unit, the Prosecutor Review Board, and the Public Prosecution Fund.
- B. It establishes guidelines and standards for services under which counties may be eligible for reimbursement for prosecution expenditures.
- C. It also makes conforming changes.

Effective Date: Upon passage; July 1, 2025.

Explanation of State Expenditures: *Summary:* The bill could significantly increase state expenditures from the Public Prosecution Fund and Public Defense Fund. If requests for reimbursement from the dedicated funds are approved, overall state expenditures are estimated to potentially increase between \$19.4 M and \$19.5 M annually, beginning in FY 2026.

Any increase in state expenditures from these dedicated funds would depend upon the counties eligibility, availability of funds, and the administrative agency authorizations. It also creates a Prosecutor Review Board, Special Prosecutor Fund, and Special Prosecutor Unit administered by the Indiana Prosecuting Attorneys Council (IPAC). As a result, the bill will increase agency workloads and administrative responsibilities for the CCAA and the IPAC.

Additional Information -

Reimbursement for Deputy Prosecutors: The bill establishes a nonreverting Public Prosecution Fund to provide county reimbursement of compensation paid to deputy prosecutors and administrative expenses. The fund consists of money appropriated by the General Assembly. If reimbursement is requested and approved,

the bill could potentially increase state expenditures by approximately \$7.3 M annually, beginning in FY 2026. OFMA assumes that eligible counties will request up to \$15,140 in fringe benefits per eligible deputy prosecutor.

This estimate is based on the CY 2023 employee compensation by unit reported to Indiana Gateway. OFMA found 105 deputy prosecuting attorneys whose salaries are at least 55% of the salary paid to the elected full-time prosecuting attorney in the county. In CY 2024, there were approximately 615 full-time deputy prosecutors paid by the counties. In FY 2023, depending on the county, the salary for a full-time prosecuting attorney could range between \$106,607 and \$177,679. Indiana Prosecuting Attorneys Council (IPAC) reports that the average salary to a full-time deputy prosecutor is \$89,514 and the median is \$87,804. Therefore, the average salary of a deputy prosecutor represents about 50% of a full-time prosecuting attorney's salary.

This estimate also includes Title IV-D deputy prosecuting attorneys. However, if these prosecutors are excluded from the bill, the cost for salaries and fringe benefits could decrease. Currently, under the federal Title IV-D program, states receive reimbursement for child support services through incentive payments thereby allowing the states to recoup costs associated with prosecutorial services for child support and paternity cases.

Public Defense Fund: A county auditor may request reimbursement from the Public Defense Fund for an amount equal to 50% of the county's or multi-county public defender's office's expenditures for indigent defense services provided in noncapital cases, and up to 50% reimbursement for misdemeanor cases. If authorized and approved by the CCAA, OFMA estimates the bill could potentially increase state expenditures from the fund by approximately \$11.8 M annually, beginning in FY 2026. This estimate does not include the 10% increase in misdemeanor reimbursement for the pilot project. Any increase in state expenditures from the fund would depend upon the counties selected and authorization by the CCAA.

The CCAA reimburses counties for the following costs of providing indigent defense services: attorney fees, investigations, expert witnesses, paralegal, transcript costs, and costs of direct appeals. Under current statute (IC 33-40-6-6), if the balance in the Public Defense Fund is not adequate to fully reimburse all certified claims in noncapital cases, the CCAA shall prorate reimbursement of certified claims in noncapital cases.

CCAA Misdemeanor Pilot Project: Under current law, beginning July 1, 2025, the CCAA may begin reimbursing selected pilot counties up to 40% of the county's or multi-county public defender's office's expenditures for indigent defense services provided in misdemeanor cases. The bill increases the reimbursable amount by 10% for the pilot project. If additional claims are approved, state expenditures are estimated to increase between \$62,000 and \$80,000 annually, beginning in FY 2026. Any increase in state expenditures from the fund would depend upon the counties selected and authorization by the CCAA. Currently, the CCAA has received 20 applications for participation in the misdemeanor pilot project. Under current law, the CCAA may select up to 12 counties for the pilot project.

Indiana Prosecuting Attorney's Council (IPAC): The bill will increase the workload and administrative expenditures of the IPAC to administer the Public Prosecution Fund, Special Prosecutor Unit Fund, and Special Prosecutor Unit. The IPAC shall adopt guidelines, standards, and requirements for services under which the counties will be eligible for reimbursement under the Public Prosecution Fund. It requires the IPAC to determine whether the county has a noncompliant prosecuting attorney.

Public Prosecution Fund: The bill establishes a nonreverting Public Prosecution Fund to provide county reimbursement of compensation paid to deputy prosecuting attorneys and administrative expenses. The IPAC

shall administer the fund. Money in the fund consists of money appropriated to the fund by the General Assembly.

Special Prosecutor Unit Fund: The bill establishes a nonreverting Special Prosecutor Fund and requires IPAC to administer the fund. The fund may be used to establish and maintain the Special Prosecutor Unit. The IPAC may use the money from the fund to provide supplies, logistics, administration, personnel, training, technical assistance, and other reasonable support to establish and maintain the unit. It also provides that IPAC may supplement the fund with money received under IC 33-39-10-2, if the IPAC makes a claim with an appointing county and the claim is approved by the judge from the appointing judicial circuit.

Special Prosecutor Unit: The bill establishes the Special Prosecutor Unit to increase the number of qualified special prosecuting attorneys available for appointment. The unit reports directly to the executive director of IPAC or the director's designee. The unit consists of a division chief, attorneys serving as prosecuting attorneys, and support staff. The bill provides that individual members of the unit have the same immunity relating to investigations and prosecutions as those carried out by elected prosecutors and deputy prosecutors of any individual judicial circuit. It also provides the salary of the division chief, attorneys, and support staff shall be consistent with pay schedules approved by the executive director of IPAC. These provisions will increase state expenditures and IPAC workload to implement and administer the unit.

Adding prosecuting attorneys to the Prosecuting Attorneys' Retirement Fund (PARF) would increase the unfunded liability in PARF and would require an increase in future state General Fund appropriations for PARF. The annual appropriation amount is set in the biennial budget based on the estimated actuarially determined contribution amount needed to actuarially fund the plan. In the most recent actuarial valuation for PARF as of June 30, 2023, the actuarially determined contribution amount for PARF is 16.93% percent of salary.

Explanation of State Revenues:

Explanation of Local Expenditures: *Summary* - The bill could significantly reduce local expenditures to the extent counties are eligible to recoup costs incurred for prosecutorial services and indigent defense services for noncapital and misdemeanor cases. OFMA estimates local expenditures could potentially be reduced by approximately \$19.4 M and \$19.5 M annually, beginning in FY 2026. However, the actual fiscal impact will depend on the participating counties. If a special prosecutor is appointed, the bill could increase local expenditure for the appointing county. It also establishes a prosecutor review board to investigate allegations of noncompliant prosecuting attorneys and issue a report to the IPAC.

Additional Information - Reimbursement for Deputy Prosecutors: The bill could result in significant cost savings to participating counties eligible for reimbursement from the fund for an amount equal to 50% of the county's expenditures for salary and fringe benefits (up to \$15,140) paid to a deputy prosecuting attorney. OFMA estimates this provision could save local units approximately \$7.3 M annually, beginning in FY 2026. (See *Explanation of State Expenditures*.)

Public Defense Fund: The bill could potentially reduce local expenditures for indigent defense services in noncapital cases. It increases the current reimbursement rate to an amount equal to 50% of the county's or multi-county public defender's office's expenditures for indigent defense services in noncapital cases. As a result, to the extent future request for reimbursement are authorized and approved by the CCAA, OFMA estimates the bill could potentially reduce local expenditures by approximately \$11.8 M annually, beginning in FY 2026. Any decrease in local expenditures would depend upon the counties selected and authorization

by the CCAA. (See *Explanation of State Expenditures* for details.)

CCAA Misdemeanor Pilot Project: The bill increases the reimbursable amount by 10% for the pilot project. If additional claims are approved, OFMA estimates the bill could potentially reduce local expenditures by approximately \$244,339 and \$279,245 annually, beginning in FY 2062. Any decrease in local expenditures for indigent services would depend upon the counties selected and authorized by the CCAA. (See *Explanation of State Expenditures* for details.)

Prosecutor Review Board: The bill establishes the prosecutor review board, comprising of five members who are also members of the board of directors of the IPAC and appointed by the IPAC, to investigate an allegation that a prosecutor is a noncompliant prosecutor. The IPAC membership shall approve the appointment of five members to the review board. A member of the board is not entitled to reimbursement from the state for traveling expenses or other expenses incurred in connection with the member's duties, but may be entitled to reimbursement from an appointing county. The board of directors of the IPAC is the chairperson of the review board. The board shall issue a report to the IPAC and the alleged noncompliant prosecuting attorney. Upon receipt of noncompliance, the IPAC shall instruct the State Comptroller to withhold reimbursement funding from the county. These new requirements for the IPAC should be able to be implemented with existing resources.

Any additional expenditures for the appointing county will depend on the decisions of the prosecutor review board, the appointed judge, and the appointed special prosecutor. Payments to the special prosecutor would come from the county in which the noncompliant prosecutor serves. If good cause is shown, the appointing judge may increase the scope of the special prosecutor's duties, establish a longer term for the special prosecutor, or appoint more special prosecutors to assist the special prosecuting attorney. The judge may require the special prosecuting attorney to submit periodic reports.

Special Prosecuting Unit: A special prosecutor employed by the IPAC special prosecutor unit shall be paid (1) an estimated hourly rate of \$79 (assuming an 8 hour day) or \$635 per day based upon the regular salary of a full-time prosecuting attorney of the appointing circuit adjusted for weekends and holidays; (2) travel expenses and reasonable accommodation expenses actually incurred; and (3) other reasonable expenses actually incurred, including the costs of investigation, trial and discovery preparation, and other trial expenses. The maximum salary for a special prosecuting attorney may not exceed the annual salary of a full-time prosecuting attorney. Each full-time prosecuting attorney receives a salary of \$183,513 in FY 2024 and is adjusted each year based on the salaries of employees in the executive branch who receive a similar salary (IC 33-38-5-8.1). (See *Explanation of State Expenditures* for details.)

County Auditor: The bill requires a county auditor to submit quarterly to the State Comptroller for reimbursement from the Public Prosecution Fund for the county's deputy prosecutors. This provision will have a minor administrative workload impact on eligible county auditors.

Explanation of Local Revenues:

State Agencies Affected: Indiana Commission for Court Appointed Attorneys; Indiana Public Defender Council; Indiana Prosecuting Attorneys Council; Indiana General Assembly.

Local Agencies Affected: All counties; county auditors.

Information Sources: Indiana Commission Court Appointed Attorneys; Indiana Public Defender Council; Indiana Prosecuting Attorneys Council; Indiana Gateway for Government Units, <https://gateway.ifionline.org/default.aspx>.

Fiscal Analyst: Corrin Harvey, 317-234-9438.