



COMMISSIONERS

Brad King, Chair
 State Attorney
 5th Judicial Circuit

Diamond R. Litty
 Public Defender
 19th Judicial Circuit

Kathleen A. Smith
 Public Defender
 20th Judicial Circuit

Brian Haas
 State Attorney
 10th Judicial Circuit

Alton L. "Rip" Colvin, Jr.
 Executive Director

Inside this issue:	
A Word from JAC's Executive Director	1
JAC Funding Issues	1-2
Changes to Fiscal Year 2018-2019 Contracts	2-5
New Requirements for Attorney Hourly Billings	5
Online Submission of Due Process Billings	6
Changes to Investigator Billing	6
Ordinary Witness Payments	6
Requirements for Due Process and IFC Orders	7
Case Law Update	7
Incorrectly Styling Motions as IFC Motions	8
Confidential Records	8
Administrative/Non-billable Activities	9
Pro Bono Matters Bill	10
JAC in Brief	10

POINTS OF INTEREST

JAC'S NEWSLETTER FOR COURT-APPOINTED AND INDIGENT FOR COSTS ATTORNEYS AND DUE PROCESS VENDORS

A Word From JAC's Executive Director

Greetings from the Justice Administrative Commission (JAC)! I hope you find this latest edition of Points of Interest (JAC's Newsletter for Court-Appointed and Indigent for Costs Attorneys and Due Process Vendors) helpful and informative. Included is information regarding anticipated JAC funding issues, the changes to the Fiscal Year 2018-2019 Contracts, and other pertinent information. **The Fiscal Year 2018-2019 Contracts will be available for execution through My JAC some time after mid-June 2018.** JAC will send an email notification and post notices on JAC's websites and on Facebook when the new contracts are available.



Rip Colvin
 JAC Executive Director

I am also pleased to announce that JAC will be participating in the Annual Meeting of the Florida Association of Criminal Defense Lawyers (FACDL) with a presentation entitled **Representing Indigent Defendants and the JAC Process.**

If you are interested in providing feedback, there is a link to a short survey on the last page. As always, please let us know how we can serve you better.

JAC Funding Issues

Pursuant to s. 29.007, F.S., the Legislature appropriates funds for JAC to pay attorney fees, due process costs, and related expenses. JAC staff makes extensive efforts to accurately forecast the amounts needed to cover the anticipated fees, costs, and related expenses for each state fiscal year (which runs from July 1st through June 30th). Nonetheless, JAC can only expend the amounts authorized pursuant to the General Appropriations Act and other provisions of Florida law. Based on the current rate of expenditures, JAC anticipates that the allocated funds for attorney fees, costs, and related expenses will be exhausted in early June 2018. When the funds are exhausted, a notice will be posted on JAC's website.

JAC staff will continue to process billings even after the funds are exhausted. When the new fiscal year commences in early July 2018, JAC will immediately transmit all pending bills approved for payment to the Department of Financial Services.

Although the disruption in payment this year will be relatively short, JAC anticipates a more significant shortfall next year based on current projections. JAC staff will be making substantial efforts to resolve this matter without disruption of payment for attorney fees, due process costs, or related expenses.

Please be aware that the funds for attorney fees, due process costs, and related expenses all come from the same sources. Attorneys should only seek those due process costs and related expenses necessary for the defense of the case. Please know that JAC is not suggesting that attorneys should not seek those costs and expenses necessary for the

JAC Funding Issues (Continued from Page 1)

attorney to defend a case properly. JAC is simply requesting that attorneys give careful consideration when requesting those costs.

In a similar vein, attorneys should carefully review the billings of their due process providers to ensure the billings accurately reflect the services that the attorney requested the due process provider to perform. An attorney's review and certification of due process provider billings is a **critical** step in the billing process.

Additionally, privately retained attorneys who represent indigent for costs criminal defendants should submit an accounting of due process costs paid or to be paid upon conviction as required by s. 27.52(5)(i), F.S.

JAC staff is working diligently to resolve the anticipated funding issues. Although JAC provides legislative staff with projections of the anticipated needs for each fiscal year, JAC has no control over the amount actually funded. The General Appropriations Act (GAA), which is enacted through the legislative process, establishes the amounts allocated for attorney fees, due process costs, and related expenses each fiscal year.

Changes to Fiscal Year 2018-2019 Contracts

For the upcoming fiscal year, JAC is making several changes to the contracts for payment of services provided in court-appointed and indigent for costs cases. The contracts being amended are as follows:

- A. **Registry Contract** (Contract for Payments Related to Attorney Services Related to Indigent Defendants);
- B. **Capital Collateral Contract** (Contract for Payments Related to Attorney Services Provided to Capital Collateral Defendants);
- C. **IFC Contract** (Attorney Contract for Payments Related to Due Process Services Provided to Persons Who Are Indigent for Costs in Criminal Cases and Civil Cases Where There Is a Statutory or Constitutional Right to Appointed Counsel or Due Process Costs); and
- D. **Due Process Contracts** (Contract for Payments Related to Due Process Services Provided to Indigent Defendants (Other than Attorney Fees))
 1. **Type 1**- Due Process Costs Limited to Established Rates (Court Reporters, Investigators, Mitigation Specialists); and
 2. **Type 2**- For Providers Providing Extraordinary Services (Experts).

JAC is phasing out the case specific Non-Standard Due Process Contract. This contract was executed by out-of-state due process providers and by due process providers providing services in a single case. Instead of executing the case specific contract, due process providers will now execute either a Type 1 or Type 2 Due Process Contract. This will allow for electronic submission of these contracts in the same fashion as other due process providers. Because of unique or limited specialties, the use of certain out-of-state experts occurs with some regularity particularly in capital and other complex cases. Although JAC will now enter into Type 1 and Type 2 contracts with these due process providers, the JAC's searchable database on its website will only include in-state due process providers.

A summary of the substantive changes to the JAC contracts are as follows:

1. Language allowing for collection of IP addresses and browser information. Due to ongoing security concerns, authorization to collect IP addresses and browser information is being added to the contract. JAC will only collect this information to improve the security of MY JAC.

(See, Registry Contract & Capital Collateral Contract, II(7); IFC Contract, II(10); Due Process Contracts, II(19)).

Changes to Fiscal Year 2017-2018 Contracts (Continued from Page 2)

2. Requirement that attorneys track the amounts incurred by due process providers. Because of concerns regarding due process providers exceeding the court-authorized cap authorized for their services (including investigators, interpreters, mitigation specialists, and experts), the new language makes attorneys responsible for keeping track of the amounts incurred by these providers. The language also makes due process providers responsible for informing attorneys about the amounts already expended. A frequent problem with due process billings occurs when a due process provider exceeds the amount authorized by the Court. This provision places the responsibility on the attorneys and due process providers to keep track of these amounts in order to avoid such deficiencies.

(See, Registry Contract & Capital Collateral Contract, IV(9); IFC Contract, III(9); Due Process Contracts, III(6)).

3. Barring an investigator from serving as an expert or mitigation specialist on the same case. Because of the difficulty in distinguishing the services of an investigator from those of an expert, this limitation bars a person providing services as an investigator from also providing expert services on the same case. In limited instances, an investigator may also qualify as an expert in crime scene reconstruction, ballistics, or as a mitigation specialist. Because these types of expertise often overlap with investigative services, JAC audit staff has difficulty distinguishing which services qualify as expert services (compensated at a substantially higher rate) and which services qualify as only investigative. Because of this difficulty, a person serving as an expert or mitigation specialist on a case will be prohibited from also functioning as the defense investigator. The role of an expert (and the services provided) is more limited than the role of a private investigator.

(See, Registry Contract & Capital Collateral Contract, IV(11); IFC Contract, III(11); Due Process Contracts, II(12)).

4. Limitation on hours billed on a single date or week without explanation. In some instances, attorneys or due process providers work multiple court-appointed or indigent for costs cases on the same date. The new language requires attorneys and due process providers to track the number of hours they bill each day and to provide JAC an explanation in situations where an attorney or a due process provider is working more than 10 hours a day or 50 hours a calendar week on several court-appointed cases. This will allow for JAC audit staff to process such billings without delay while allowing for a potential billing review down the road.

(See, Registry Contract, XI(3); Capital Collateral Contract, XII(6); Due Process Contracts, VII(9)).

5. Minimum requirements for motion for extraordinary attorney fees. This language creates minimum requirements for a motion for compensation in excess of the flat fee. The new language requires attorneys to provide the Court with the billing information (invoice) submitted to JAC as well as provide information about the complexity of the case as required by s. 27.5304(12), F.S. Attorneys would be required to specify the factual and legal issues that warrant a finding that the case involved unusual and extraordinary effort justifying compensation in excess of the flat fee.

(See, Registry Contract, XI(8)).

6. Minimal requirements for billing in-court time for routine hearings. This language provides that an attorney should only bill for time representing a client in-court plus up to 30 minutes (0.5 hours) for wait-time. If the attorney believes a hearing will involve a substantial amount of wait time (such as a calendar call), the attorney is responsible for bringing work on the case (or another case) so that the time can be spent in a productive manner. Effective for hearings held on or after July 1, 2018, the attorney is required to provide a detailed explanation for any request in excess of one hour for a routine hearing expected to last less than an hour. If the attorney fails to provide an explanation, the attorney waives the right to seek more than an hour for that hearing. This language does not bar compensation in excess of one hour for routine hearings. Instead, it requires attorneys to justify billing more than an hour for routine hearings including calendar calls, status conferences, pretrial conferences, or judicial reviews in dependency cases.

(See, Registry Contract, XI(9)).

Changes to Fiscal Year 2018-2019 Contracts (Continued from Page 3)

7. Contemporaneous records. This language brings consistency to the JAC contracts by using essentially the same language for billing records in both the attorney and due process contracts. The contracts will now require all attorneys and due process providers to maintain detailed contemporaneous records to support any JAC billing. This language also grants JAC broad authority to request billing-related records either through a notice of inspection or through a physical inspection at the person's place of business. The provision has also been extended to cover inspections by other state entities with the authority to review the records. The failure to allow inspection of the records is deemed a material breach of the contract.

(See, Registry Contract, XII; Capital Collateral Contract, XIII; IFC Contract, VIII; Due Process Contracts, VIII).

8. Suspension language. Language has been added to the contracts specifying that JAC can suspend a contract pending a decision to terminate the contract.

(See, Registry Contract, XIV; IFC Contract, X; Due Process Contracts, IX).

9. Prepayment of travel expenses. This language simply incorporates current practice into the JAC contracts. In limited circumstances, JAC can prepay for airline tickets and hotel rooms for ordinary witnesses summoned to testify at trial. This provision specifically limits prepayment to ordinary witnesses. Also, it delineates the core requirements for an attorney to request prepayment of travel expenses. Next, it provides that any refund or credit arising from a travel prepayment be directed to JAC. Lastly, it provides that the attorney is responsible for ensuring that any refund or credit is directed to JAC.

(See, Registry Contract, XVIII(20); Capital Collateral Contract, XIX(10); IFC Contract, XIV(7)).

10. Due Process Providers with Contracts. This language relates to the searchable database posted on JAC's public website. It reiterates that these providers are not vetted by JAC and that JAC does not endorse or approve these providers. As to the Due Process Contracts, the language also indicates that only in-state due process providers will be included in the searchable database on JAC's website. If a due process provider elects to use a Florida address to allow for inclusion in JAC's searchable database, the provider waives any right for travel expenses to travel to Florida.

(See, Registry Contract, XVIII(21); Capital Collateral Contract, XIX(11); IFC Contract, XIV(8); Due Process Contracts, XIII(7)).

11. Changes to IFC Contract to facilitate access to due process costs for Pro Bono Attorneys in Dependent Children with Special Needs cases. This language is necessary to allow pro bono attorneys in Dependent Children with Special Needs cases access to due process costs. During the 2018 Regular Legislative Session, the Legislature enacted the Pro Bono Matters Act which allows pro bono attorneys representing dependent children with special needs access to due process costs. Ch. 2018-14, L.O.F. Because of the unique nature of these cases, provisions have been added to JAC's IFC Contract setting out the process for obtaining due process costs in these types of cases.

(See, IFC Contract, II(7 & 9)).

12. Requirement that court reporters provide an electronic copy of any transcript. This provision simply requires that, if a court reporter is providing a physical transcript to an attorney, the court reporter must also provide an electronic copy without additional charges. This requirement is consistent with the established rates and the existing rules of court procedure. See, Fla. R. Jud. Admin. 2.535(f).

(See, Due Process Contracts, II(8)).

13. Limitation on travel time and expenses for out-of-state due process providers. Per s. 27.5305, F.S., Florida law prohibits the appointment of out-of-state due process providers. This provision bars payment of travel

(Continued on page 5)

Changes to Fiscal Year 2018-2019 Contracts (Continued from Page 4)

expense for such providers absent a specific finding that there are no due process providers with the appropriate skill or expertise in Florida. Also, if a due process provider lists a Florida address as their place of business, the provider waives any right to travel expenses to travel to Florida absent extraordinary circumstances.

(See, Due Process Contracts, III(12) & XIII(8)).

14. Investigator licensure. This provision states that investigators need to have proper licensure in order to contract with JAC. To contract, the investigator will need to provide JAC the firm license (A license) and the private investigator's license (C license). If the firm has more than one investigator, the primary investigator's license will be provided (the person executing the Due Process Contract). The provision further requires that the primary investigator provide JAC with the licenses of all the investigators that will be providing services for that firm under the JAC contract. Updates to MY JAC will allow investigative firms to add and remove investigators licenses as needed.

(See, Due Process Contracts, IV(2)).

15. Advertising restrictions. This provision prohibits due process providers from stating or implying that they are a "JAC approved provider" in their commercial communications. It restricts due process providers to indicating that they have a JAC contract authorizing direct payment for due process services. This restriction is intended to prohibit due process providers from suggesting that their execution of a JAC contract somehow indicates that JAC approves or endorses their services.

(See, Due Process Contracts, V(2)).

16. Eliminating requirement of direct-deposit in limited circumstance. If a due process provider is executing a Due Process Contract to provide services in a single case, enrollment in direct deposit would be waived. This language had been added to facilitate the elimination of JAC's Non-Standard Due Process Contract.

(See, Due Process Contracts, XIII(4)).

New Requirements for Attorney Hourly Billings

Under the 2018-2019 Registry Contract, there are new requirements for hourly billing. If an attorney provides more than 10 hours of services on a single date or more than 50 hours of services in a week on court-appointed cases, this information needs to be disclosed in the billing. It is the responsibility of the attorney to keep track of the number of hours being worked across all JAC cases.

If the hours are being billed on a single case, then a brief explanation (such as "in trial") will be sufficient. However, if the hours are being billed across multiple cases, the explanation should also provide the case information for the other cases involved.

Another change relates to in-court time. When billing for in-court time, attorneys will be limited to billing for time providing services related to the merits of the case, such as time spent in hearing before the Court, reviewing case-related documents, or client or witness interviews. Attorneys will also be authorized to bill a limited amount for wait time generally not to exceed 30 minutes (0.5 hours). If an attorney anticipates that the hearing will potentially involve a substantial amount of wait time exceeding 30 minutes (0.5 hours), the attorney is responsible for bringing work on the case or another case so that the time can be used in a productive manner.

Additionally, for services rendered on or after July 1, 2018, attorneys will need to provide more detail in the billing when seeking compensation in excess of one hour for routine hearings such as calendar calls, status conferences, pretrial conferences, and judicial reviews in Ch. 39, F.S., cases. If an attorney fails to provide a detailed explanation, the attorney will waive the right to seek any compensation in excess of one hour for that hearing.

Online Submission of Due Process Provider Billings

Effective July 1, 2018, all due process provider billings must be submitted using the Online JAC Invoice/Voucher Cover (Option 1 for due process provider billings in JAC's Online Billing Submission System (JACOBS)) with two limited exceptions. The due process provider will need to provide the billing information through the online submission system and attach the necessary supporting documentation. The retaining attorney will then review the due process provider billing submission and either approve or reject it. When a billing is approved by the attorney, the billing will be deemed submitted to JAC.

The use of scanned JAC Invoice/Voucher Covers (Option 2 for due process provider billings in JACOBS) will be limited to two situations. First, appellate transcripts in which the clerk of court has executed the JAC Invoice/Voucher Cover. Second, services involving self-represented (pro se) defendants. In other instances, the billing must be submitted using the Online JAC Invoice/Voucher Cover through Option 1 for due process provider billings.

Changes to Investigator Billing

JAC is making significant changes to investigator billing. As provided in the Fiscal Year 2018-2019 Due Process Contracts, investigative firms will need to provide JAC with the licenses of all investigators performing work under a JAC Due Process Contract. During the contracting process, the party executing the JAC Due Process Contract will need to provide the investigative firm's A license number and the lead investigator's C license number. Thereafter, the contracting party will need to provide through My JAC the names and license numbers of any additional investigator(s) who will be performing services under the contract.

During the billing process, the services of each investigator providing services on a case will be entered separately as part of a single billing. In completing the online JAC Invoice/Voucher Cover, the services for each investigator will be entered separately by license number. The person submitting the billing will include the hours performed by each investigator who worked on the case as separate entries in the billing. This will permit JAC staff to track the number of hours worked by each investigator across their JAC cases.

As required by the new contract, if an individual investigator provides more than 10 hours of services on a single date or more than 50 hours of services in a week, this information needs to be disclosed in the billing. It is the responsibility of the contracting party to keep track of the number of hours being worked by each investigator across all JAC cases.

If the hours are being billed on a single case, then a brief explanation (such as final investigation before trial) will be sufficient. However, if the hours are being billed across multiple cases, the explanation should also provide the case information for the other cases involved.

Ordinary Witness Payments

Under certain circumstances, witnesses summoned to appear are entitled to witness fees as directed by ss. 92.141 and 92.142, F.S. These billings have been submitted using the Ordinary and Official Witnesses Invoice/Voucher Cover. Because of new requirements, this form has been recently amended to require the social security number of the witness. JAC will not make direct payment to a witness without this number (which will remain confidential).

Due to concerns regarding collecting social security numbers, JAC will only make direct payment to a witness when the amount sought is at least \$50. For matters involving ordinary or official witness fees of less than \$50, payment will be through reimbursement to the attorney only. The amounts reimbursed will be limited to the amount authorized under s. 92.141, F.S., (official witnesses) and s. 92.142, F.S. (ordinary witnesses).

Requirements for Due Process and IFC Orders

JAC staff has noticed a trend in due process and indigent for costs (IFC) orders that result in payment issues. In some instances, JAC receives orders authorizing an amount for due process costs which is followed by a long list of potential costs. For example, an order might state the following:

The defense is authorized to incur up to \$10,000 for court reporter fees, transcripts, investigative costs, and experts.

Because JAC requires specificity in any authorization for due process costs, such language is insufficient for payment purposes. In order to be effective, the order needs to delineate with specificity the costs authorized.

First, when a lawyer is appointed to a case (or when a privately retained lawyer has a client declared indigent for costs), this authorizes the lawyer to incur court reporter appearance fees without the need for further court order. Accordingly, there is no need for a cap for court reporter appearance fees.

Second, orders authorizing transcripts require specific information identifying the proceeding to be transcribed such as the deponent and date of deposition or the hearing type and date of hearing. A specific dollar amount is not required for orders authorizing transcripts since they are compensated at a per page rate in most instances.

Third, orders authorizing services of investigators, mitigation specialists, interpreters, and experts require a monetary cap. In addition, if the hourly rate for the due process provider is not established by law or prior court order, then the order will also need to include the hourly rate. For experts, if the court authorizes rate(s) in excess of the established rates, the order authorizing expert services needs to include those rates(s) in addition to the monetary cap. Charts listing the established rates are available at:

https://www.justiceadmin.org/court_app_counsel/formsandrates.aspx.

Please be aware that an order can specify more than one type of due process costs. For example, the following would be appropriate and sufficient for payment purposes:

- The defense is authorized to incur the following costs:
- a. \$2,500 for a defense investigator;
 - b. \$2,500 at a rate of \$150 per hour for defense mental health expert Dr. John Smith; and
 - c. \$2,500 at a rate of \$200 per hour for DNA expert Dr. Jane Doe.

If the name of an expert is known, it is preferable to include the name of the expert in the proposed order. In order to assist attorneys in preparing orders with sufficient findings for payment purposes, JAC has posted model motions and orders on its website at:

https://www.justiceadmin.org/court_app_counsel/motionorder.aspx.

Case Law Update

Udreka Andrews v. State of Florida, Case No. SC16-1034 (Fla. May 17, 2018):

The Florida Supreme Court addressed whether a pro bono attorney could seek the appointment of due process providers in an ex parte fashion outside the presence of the prosecution. The Florida Supreme Court held as follows:

We hold that indigent defendants represented by private counsel pro bono are entitled to file motions pertaining to the appointment and costs of experts, mitigation specialists, and investigators ex parte and under seal, with service to the Justice Administrative Commission and notice to the State Attorney's Office, and to have any hearing on such motion ex parte, with only the defendant and the Commission present.

Although the opinion relates to pro bono counsel, JAC anticipates that the same principles will apply to private court-appointed and indigent for costs counsel.

Incorrectly Styling Motions as IFC Motions

A frequent problem occurs when attorneys style a motion (and the proposed order) as a motion to declare a defendant indigent for costs (IFC). This error can cause delays in payment when an order authorizing due process costs is construed as a duplicate of a prior order declaring a defendant indigent for costs.

A motion to declare a defendant indigent for costs refers to a specific scenario. In most instances, it applies when a privately retained or pro bono attorney is seeking an initial finding that a client qualifies for state-funded payment of due process costs as authorized by s. 27.52(5), F.S. It also applies when a self-represented (pro se) defendant is seeking that initial determination by a court.

JAC occasionally receives motions to declare a defendant indigent for costs in court-appointed cases. Such motions are unnecessary when a private lawyer is appointed by the court. Instead, the lawyer should file a motion to incur specific due process costs such as a motion to incur costs for a private investigator. The motion should be styled with the specific due process costs sought.

Similarly, once the court enters an order declaring a defendant indigent for costs, the privately retained or pro bono attorney should style future motions as motions to incur specific due costs. With limited exceptions, once a defendant is declared indigent for costs for a proceeding, it is unnecessary to seek further declarations of indigency for costs. The two most common exceptions are when (1) a new lawyer takes over the case for additional fees, and (2) when a new proceeding (such as a violation of probation or an appeal) is commenced.

It is important that orders subsequent to the original IFC order be styled as order authorizing costs. If a subsequent order is styled as an IFC order, it may be construed as duplicative of the original IFC order and thereby be disregarded. For example, if a court entered an IFC order on August 1, 2017, authorizing \$1,500 for a defense investigator and then entered another IFC order on September 1, 2017, also authorizing \$1,500 for a defense investigator, the second order would likely be construed as a duplicate of the first order. On the other hand, if the second order was styled as an order authorizing the defense to incur additional private investigator costs, this issue would be avoided.

Confidential Records that JAC Does Not Need to Receive

When submitting a billing or motion to JAC, JAC may require supporting documentation; however, documents of a confidential nature are not required. JAC never requires psychological or medical evaluations or similar reports. If a document contains confidential information, please redact such information prior to sending it to JAC. Examples of documents/information that should not be sent to JAC include the following:

- Chapter 39 case-related records relating to dependency and termination of parental rights such as abuse reports, reports of the case worker or guardian ad litem, and other reports related to judicial reviews.
- Unredacted social security, bank account, charge, debit, and credit card numbers.
- Information that can be used to identify a minor petitioning for a waiver of parental notice when seeking to terminate pregnancy.
- Confidential information such as names of victims of sexual assault, fingerprints, and addresses of juveniles.
- Guardianship reports, orders appointing court monitors, and orders relating to findings of no probable cause in guardianship cases.
- Medical and mental health records including psychological evaluations in criminal cases.
- Substitute Form W-9 or Direct Deposit (EFT) Authorization Form (these forms need to be directed to the Florida Department of Financial Services).

Also, when using electronic service through the statewide E-portal, please make sure to uncheck JAC when serving documents unrelated to a request for fees, costs, or related expenses.

Administrative/Non-billable Activities in Attorney Hourly Billings

Reprint of Article from Summer 2017 Newsletter

Pursuant to an attorney's contract with JAC, when seeking compensation on an hourly basis, administrative activities as defined by the contract do not constitute services for which the attorney may seek compensation. Even if these activities require some attorney time, they are not considered billable time under the terms of the JAC contract.

Per the terms of the JAC contract and JAC Policies and Procedures, time spent on administrative activities include, but are not limited to, the following:

- Services performed by support staff, paralegals, law clerks, and secretaries.
- Time related to or in furtherance of billing, or time related to defending a disputed bill.
- Reviewing invoices of due process providers.
- Identifying and procuring services of a due process vendor, including reviewing qualifications of vendors.
- Preparing and reviewing subpoenas.
- Reviewing returns of service.
- Leaving messages for return calls.
- Photocopying/printing legal research and/or other documents.
- Preparing/reviewing routine emails of an administrative nature.
- Obtaining, preparing, and purchasing clothing for the client.
- Copying/delivering documents or procuring materials either for the attorney or client.
- Preparing motions for attorney's fees and costs, due process costs, and/or related expenses, including time spent in hearings on said motions.
- Activities not reasonably related to the merits of the underlying case including preparing routine documents such as notices of unavailability, calendaring hearings, setting depositions, and providing instructions to staff.
- Preparing notices of hearings or notices of depositions.
- Reviewing notices of hearings or notices of depositions.
- Waiting/obtaining documents from the clerk of court.
- Interoffice communication, such as communication with paralegals.
- Office or administrative functions, including secretarial and administrative work performed by any person, including the attorney.
- Defending against a bar complaint, 3.850 motion, or other grievance filed by the client.
- Any other activity not reasonably related to the defense of the case.
- Correspondence with JAC and conversations with JAC personnel.

Another area of concern is time spent traveling. Generally, ordinary travel time associated with a case is not reimbursable even when a case is billed on an hourly basis. For example, time spent commuting to the courthouse is not reimbursable travel time. Extraordinary travel time may be reimbursable such as out-of-circuit and out-of-state travel to take depositions or interview witnesses. In those instances, if the travel time is during normal business hours such that it reduces the attorney's ability to work on other cases, travel time may be reimbursable upon court approval.



Post Office Box 1654 (32302)
227 North Bronough Street,
Suite 2100
Tallahassee, Florida 32301

Phone: (850) 488-2415

Toll Free: (866) 355-7902

Help Desk: (844) JAC-LINE
(Toll Free) (522-5463)

**Please Take a Short
Survey
To Provide Feedback**
[https://
www.surveymonkey.com/
r/5XF8G6S](https://www.surveymonkey.com/r/5XF8G6S)

For comments, suggestions,
and/or submissions for the
next bi-annual newsletter,
please contact:

Ana Cristina Martinez
General Counsel

or

Christian Lake
Assistant General Counsel

Justice Administrative
Commission

Phone:
(850) 488-2415

Email:
christian.lake@justiceadmin.org

Pro Bono Matters Bill and Implementation at JAC

On March 19, 2018, Governor Scott signed into law the Pro Bono Matters Act of 2018 (effective immediately), which amends s. 39.01305(5), F.S., to allow court-appointed attorneys and pro bono attorneys access to due process costs when representing dependent children with certain special needs (DCSN). The process for pro bono attorneys representing dependent children with special needs (DCSN) requesting state-funded due process costs will be as follows:

Pro bono attorneys must complete the following steps:

1. Pro Bono Attorneys **MUST** sign the JAC IFC contract;
2. Pro Bono Attorneys **MUST** file a Motion to Declare the Child Partially Indigent for Due Process costs with the court and serve JAC with the motion five (5) days before a hearing in any specific case. The Motion needs to indicate the attorney is providing services on a pro bono basis and the specific special need category under s. 39.01305(3), F.S.; and
3. Pro Bono Attorneys **MUST** submit the Order Finding a Child with Special Needs Pursuant to Section 39.01305(5), Florida Statutes, Partially Indigent for Due Process Costs to JAC.

A model motion and model order will be posted on JAC's website.

JAC in Brief

JAC administratively serves 20 Offices of State Attorney, 20 Offices of Public Defender, 5 Offices of Criminal Conflict and Civil Regional Counsel, 3 Offices of Capital Collateral Regional Counsel, and the Statewide Guardian ad Litem Program. Services provided are primarily in the areas of accounting, budget, financial services, and human resources. While JAC administratively serves these JROs, JAC does not supervise, direct, or control the JROs it serves.

JAC also provides compliance and financial review of billings for services provided by private court-appointed attorneys representing indigent citizens and associated due process vendors.

The Commission is comprised of two State Attorneys, appointed by the President of the Florida Prosecuting Attorneys Association, and two Public Defenders, appointed by the President of the Florida Public Defender Association. The Commission appoints an Executive Director, who is charged with oversight of necessary staff to efficiently and effectively carry out JAC's duties.

JAC's Vision: To be the model of exemplary state government.

JAC's Mission: To support the entities we serve and Florida's judicial system with fiscal controls, best practices, and exemplary service.

JAC's Core Values: We take great pride in exemplary service, adaptability, honesty, integrity, and diversity, as well as respectful and ethical conduct.

JAC's Core Competencies:

1. Administrative Service
2. Communication and Collaboration
3. Prompt-Payment
4. Fiscal Accountability
5. Continuous Improvement and Innovation