

**Rule Summary and Fiscal Analysis (Part A)****Ohio Public Defender Commission**

Agency Name

Division

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**120-1-10**

Rule Number

**NEW**

TYPE of rule filing

Rule Title/Tag Line

**Attorney qualifications and training.****RULE SUMMARY**

1. Is the rule being filed consistent with the requirements of the RC 119.032 review? **No**

2. Are you proposing this rule as a result of recent legislation? **No**

3. Statute prescribing the procedure in accordance with the agency is required to adopt the rule: **111.15**

4. Statute(s) authorizing agency to adopt the rule: **120.03(B), 120.04(B)**

5. Statute(s) the rule, as filed, amplifies or implements: **120.03(B), 120.18(B), 120.28(B), 120.33(A)(4)**

6. State the reason(s) for proposing (i.e., why are you filing,) this rule:

This filing is an update of the rule. The purpose of the update is clarify the rules approved by the Ohio Public Defender Commission in language that is more clear, accessible and hopefully lends itself to less confusion. The rules have not been updated since 2000, and both the Ohio Public Defender and the Ohio Public Defender Commission felt that revisions and updates were necessary both to bring our agency into compliance with the review process and to give better guidance to those who provide for representation of indigent defendants.

7. If the rule is an AMENDMENT, then summarize the changes and the content of the proposed rule; If the rule type is RESCISSION, NEW or NO CHANGE, then summarize the content of the rule:

The rule establishes the training and qualification for a defense attorney to handle different levels of criminal cases from misdemeanor to death penalty cases. The new filing updates the qualification and training requirements for attorneys who wish to represent indigent defendants. There are two very significant changes that have been made. We have separated out the requirements to be appointed to third degree felonies from first and second degree felonies. We have also outlined the qualification to represent juvenile defendants in situations where the juvenile may be bound over or when the juvenile is charged as a serious youth offender.

8. If the rule incorporates a text or other material by reference and the agency claims the incorporation by reference is exempt from compliance with sections 121.71 to 121.74 of the Revised Code because the text or other material is **generally available** to persons who reasonably can be expected to be affected by the rule, provide an explanation of how the text or other material is generally available to those persons:

Two documents are referenced in this filing. The Ohio Public Defender Standards and Guidelines for Reimbursement and the Ohio Supreme Court Rules of Superintendence.

The Ohio Public Defender Standards and Guidelines for Reimbursement are mailed to all county offices which deal with reimbursement. They are readily available in our office for anyone who wishes to review the document. The Ohio Public Defender Standards and Guidelines for Reimbursement can be mailed to anyone desiring to read it upon request, and by September 2009 it should be on line at our website.

The Ohio Supreme Court's Rules of Superintendence For The Courts Of Ohio's. The Rules of Superintendence are readily available and easily accessible to the public in libraries, at the Ohio Supreme Court and at the Supreme Court's website where the rules are currently posted on-line.

9. If the rule incorporates a text or other material by reference, and it was **infeasible** for the agency to file the text or other material electronically, provide an explanation of why filing the text or other material electronically was infeasible:

Not applicable.

10. If the rule is being **rescinded** and incorporates a text or other material by

reference, and it was **infeasible** for the agency to file the text or other material, provide an explanation of why filing the text or other material was infeasible:

*Not Applicable.*

11. If **revising** or **refiling** this rule, identify changes made from the previously filed version of this rule; if none, please state so:

Changing the exemption status from exempt to not exempt from five year review.

12. 119.032 Rule Review Date:

(If the rule is not exempt and you answered NO to question No. 1, provide the scheduled review date. If you answered YES to No. 1, the review date for this rule is the filing date.)

NOTE: If the rule is not exempt at the time of final filing, two dates are required: the current review date plus a date not to exceed 5 years from the effective date for Amended rules or a date not to exceed 5 years from the review date for No Change rules.

### **FISCAL ANALYSIS**

13. Estimate the total amount by which *this proposed rule* would **increase / decrease** either **revenues / expenditures** for the agency during the current biennium (in dollars): Explain the net impact of the proposed changes to the budget of your agency/department.

This will have no impact on revenues or expenditures.

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Not applicable.

14. Identify the appropriation (by line item etc.) that authorizes each expenditure necessitated by the proposed rule:

Not applicable.

15. Provide a summary of the estimated cost of compliance with the rule to all directly affected persons. When appropriate, please include the source for your information/estimated costs, e.g. industry, CFR, internal/agency:

Not applicable.

16. Does this rule have a fiscal effect on school districts, counties, townships, or municipal corporations? **No**

17. Does this rule deal with environmental protection or contain a component dealing with environmental protection as defined in R. C. 121.39? **No**