

STATUTES

I. APPOINTMENT OF CHIEF DEPUTY, OTHER DEPUTIES AND STAFF

33-39-6-2. Appointment and salary of deputies - Operating expenses

(a) A prosecuting attorney may appoint one (1) chief deputy prosecuting attorney. The maximum annual salary paid by the state of a chief deputy prosecuting attorney appointed under this subsection is as follows:

- (1) If the prosecuting attorney is a full-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.
- (2) If the prosecuting attorney is a full-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney serving the judicial district served by the chief deputy prosecuting attorney.
- (3) If the prosecuting attorney is a part-time prosecuting attorney appointing a full-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a full-time prosecuting attorney.
- (4) If the prosecuting attorney is a part-time prosecuting attorney appointing a part-time chief deputy prosecuting attorney, the annual salary of the chief deputy prosecuting attorney is equal to seventy-five percent (75%) of the salary paid by the state to a part-time prosecuting attorney.

(b) The prosecuting attorney in a county in which is located at least one (1) institution operated by the department of correction that houses at least one thousand five hundred (1,500) offenders may appoint two (2) additional deputy prosecuting attorneys. In a county having two (2) institutions, each of which houses at least one thousand five hundred (1,500) offenders, the prosecuting attorney may appoint a third deputy prosecuting attorney.

(c) The prosecuting attorney in a county in which is located an institution operated by the department of correction that houses at least one hundred (100) but less than one thousand five hundred (1,500) adult offenders may appoint one (1) additional deputy prosecuting attorney.

(d) The prosecuting attorney in a county in which is located a state institution (as defined in IC 12-7-2-184) that has a daily population of at least three hundred fifty (350) patients may appoint one (1) additional deputy prosecuting attorney.

(e) The annual salary of a deputy prosecuting attorney appointed under subsections (b) through (d) may not be less than seventy-five percent (75%) of the annual salary of the appointing prosecuting attorney, as determined under section 5 [IC 33-39-6-5] of this chapter as though the prosecuting attorney had not elected full-time status.

(f) The salaries provided in this section shall be paid by the state once every

two (2) weeks from the state general fund. There is appropriated annually out of the general fund of the state sufficient funds to pay any amount necessary. However, the salaries fixed in this chapter are determined to be maximum salaries to be paid by the state. This chapter does not limit the power of counties comprising the respective judicial circuits to pay additional salaries upon proper action by the appropriate county officials.

(g) The various county councils shall appropriate annually for other deputy prosecuting attorneys, investigators, clerical assistance, witness fees, out-of-state travel, postage, telephone tolls and telegraph, repairs to equipment, office supplies, other operating expenses, and equipment an amount necessary for the proper discharge of the duties imposed by law upon the office of the prosecuting attorney of each judicial circuit.

33-39-4-1. Appointment of investigator - Duties - Bond - Compensation

(a) The prosecuting attorney of any judicial circuit of Indiana may appoint one (1) or more investigators with the approval of the county council or councils. An investigator appointed under this section:

- (1) works under the direction of the prosecuting attorney; and
- (2) may conduct investigations and assist in collecting and assembling evidence that, in the judgment of the prosecuting attorney, may be necessary for the successful prosecution of any of the criminal offenders of the judicial circuit.

(b) An investigator appointed under this section shall give bond in the sum of five thousand dollars (\$5,000) and has the same police powers within the county authorized by law to all police officers.

(c) In each judicial circuit the salary or other compensation to be paid an investigator appointed under this section shall be set by the county council or councils. A county council or councils may not reduce the number of investigators or compensation of any investigator without approval of the prosecuting attorney.

II. OATHS AND BONDS

5-4-1-20. Bond of prosecuting attorney

(a) A person elected to the office of prosecuting attorney shall execute an individual surety bond for the faithful performance of the duties of the office. The amount of the bond must be at least eight thousand five hundred dollars (\$8,500).

(b) A person elected to the office of prosecuting attorney may not take office until that person has filed a bond:

- (1) in the office of the county recorder of the county in which the person resides; and
- (2) within ten (10) days after the bond is issued.

(c) The cost of a bond shall be paid by the county. For multiple county judicial circuits, the cost shall be paid by each county in the judicial circuit in the manner provided by IC 33-38-5-3.

(d) A bond must be:

- (1) executed by the person elected prosecuting attorney and one (1) or more freehold sureties; and
- (2) payable to the state as provided in section 10 [IC 5-4-1-10] of this chapter.

(e) A bond is not void on first recovery, and suits may be brought on the bond until the penalty is exhausted.

(f) If a bond has been legally certified, any of the following have the same effect in evidence as the bond:

- (1) A copy of the bond.
- (2) A record of the bond.
- (3) A copy of a record of the bond.

(g) The county recorder of the county in which the person elected prosecuting attorney resides shall record the bond in an official bond register.

33-39-1-3. Bond

A person elected to the office of prosecuting attorney, before entering upon the duties of the office, shall execute a bond in the manner prescribed by IC 5-4-1.

5-4-1-1. Oaths - officers and deputies - prosecuting attorneys and deputies

Sec. 1. (a) Every officer and every deputy, before entering on the officer's or deputy's official duties, shall take an oath to support the Constitution of the United States and the Constitution of the State of Indiana, and that the officer or deputy will faithfully discharge the duties of such office.

(b) A prosecuting attorney and a deputy prosecuting attorney shall take the oath required under subsection (a) before taking office.

5-4-1-2. Oaths - Endorsement on commission or certificate - Recordation of prosecuting attorney's oath

(a) The oath required by section 1 [IC 5-4-1-1] of this chapter, except in the case of a notary public or in those cases specified in section 3 [IC 5-4-1-3] of this chapter, shall be endorsed on or attached to the:

- (1) commission;
- (2) certificate if a certificate was issued under IC 3-10-7-34, IC 3-12-4, or IC 3-12-5; or
- (3) certificate of appointment pro tempore under IC 3-13-11-11;

signed by the person taking the oath, and certified to by the officer before whom the oath was taken, who shall also deliver to the person taking the oath a copy of the oath.

(b) A copy of the oath of office of a prosecuting attorney shall be:

- (1) recorded on the bond required by section 20 [IC 5-4-1-20] of this chapter; or
- (2) attached to the commission of the prosecuting attorney.

5-4-1-4. Oaths - Copy - Where deposited

(a) As used in this section, "political subdivision" has the meaning set forth in IC 36-1-2-13.

(b) The copy of the oath under section 2 [IC 5-4-1-2] of this chapter shall be deposited by the person as follows:

- (1) Of all officers whose oath is endorsed on or attached to the commission and whose duties are not limited to a particular county or of a justice, judge, or prosecuting attorney, in the office of the secretary of state.
- (2) Of the circuit court clerk, officers of a political subdivision or school corporation, and constables of a small claims court, in the circuit court clerk's office of the county containing the greatest percentage of the population of the political subdivision or school corporation.
- (3) Of a deputy prosecuting attorney, in the office of the clerk of the circuit court of the county in which the deputy prosecuting attorney resides or serves.

III. FULL-TIME VS. PART-TIME STATUS

33-39-6-6. Election to perform duties full-time - Procedure

(a) Except as provided in section 7 [IC 33-39-6-7] of this chapter, a prosecuting attorney may elect to devote the prosecuting attorney's full professional time to the duties of the office of prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state. The election may be made annually during the prosecuting attorney's term. However, the notice of election must be made before June 30 of the applicable year. An election is effective for each successive year of the term unless it is revoked before June 30 of the year during which the prosecuting attorney wants to change the prosecuting attorney's status. However, only one (1) change in status may be made during the term. A revocation is made by the prosecuting attorney by filing a written notice with the circuit court of the prosecuting attorney's judicial circuit and the auditor of state.

- (b) A prosecuting attorney who elects to be a full-time prosecuting attorney:
- (1) shall devote the prosecuting attorney's full professional time to the prosecuting attorney's office; and
 - (2) may not engage in the private practice of law.

(c) If a prosecuting attorney of a judicial circuit of the sixth through ninth class elects to become a full-time prosecuting attorney and the majority of the county council consents to the election, a copy of the consent must be filed with the notice of election to full-time status with the circuit court of the prosecuting attorney's judicial circuit and with the auditor of state.

IV. MILEAGE

33-39-6-8. Compensation is in full for all services required by law - Mileage fees and other expenses

(a) The compensation provided in this chapter for prosecuting attorneys and their deputies is in full for all services required by law. Prosecuting attorneys shall appear in all courts and in all cases where the law provides that they shall appear.

(b) Prosecuting attorneys, deputy prosecuting attorneys, and investigators are entitled to a sum for mileage for the miles necessarily traveled in the discharge of their duties. The sum for mileage provided by this subsection must:

- (1) equal the sum per mile paid to state officers and employees, with the rate changing each time the state government changes its rate per mile;
- (2) be allowed by the board of county commissioners on a claim duly filed monthly by the prosecutor, deputy prosecuting attorneys, and investigators itemizing the specific mileage traveled; and
- (3) be paid by the county in which the duty arose that necessitated the travel.

(c) This chapter does not prohibit the payment of other expenses as may be allowed by law.

(d) If a board of county commissioners does not furnish the prosecuting attorney with office space, the county council shall appropriate a reasonable amount of money per year to the prosecuting attorney for office space.

County	Class	County	Class	County	Class
Adams	7	Harrison	8	Perry	9
Allen	2	Hendricks	3	Pike	9
Bartholomew	3	Henry	5	Porter	2
Benton	9	Howard	3	Posey	6
Blackford	9	Huntington	7	Pulaski	9
Boone	5	Jackson	5	Putnam	7
Brown	9	Jasper	7	Randolph	8
Carroll	9	Jay	8	Ripley	8
Cass	6	Jefferson/Switzerland	X	Rush	9
Clark	3	Jennings	8	St. Joseph	2
Clay	8	Johnson	3	Scott	9
Clinton	7	Knox	6	Shelby	5
Crawford	9	Kosciusko	3	Spencer	8
Daviess	8	LaGrange	7	Starke	9
Dearborn/Ohio	X	Lake	2	Steuben	7
Decatur	8	LaPorte	3	Sullivan	9
DeKalb	5	Lawrence	6	Tippecanoe	2
Delaware	3	Madison	3	Tipton	9
Dubois	5	Marion	1	Union	9
Elkhart	2	Marshall	5	Vanderburgh	2
Fayette	8	Martin	9	Vermillion	9
Floyd	4	Miami	7	Vigo	3
Fountain	9	Monroe	3	Wabash	7
Franklin	9	Montgomery	5	Warren	9
Fulton	9	Morgan	4	Warrick	4
Gibson	7	Newton	9	Washington	8
Grant	4	Noble	5	Wayne	4
Greene	8	Orange	9	Wells	8
Hamilton	2	Owen	9	White	8
Hancock	5	Parke	9	Whitley	8