

	INDIANA DEPARTMENT OF CHILD SERVICES TITLE IV-D POLICY MANUAL	
	Chapter 7: Multi-County Case Processing	Effective Date: 10/05/2020
	Section 2: Special Prosecutor	Version: 1.1 Revision Date: 09/23/2020

BACKGROUND

A special prosecutor is used in situations where there is a conflict of interest that cannot be otherwise avoided by reassignment within the office between the Title IV-D Prosecutor, or other member of the Title IV-D Prosecutor’s Office, and one of the participants in the case.

A senior prosecutor is a special prosecutor who has the following qualifications:

1. The person was employed for eight (8) years as a:
 - a. Prosecuting attorney;¹
 - b. Chief deputy prosecuting attorney;²
 - c. Deputy prosecuting attorney that was appointed under Ind. Code 33-39-6-2;³ or
 - d. Deputy prosecuting attorney employed full or part time to perform activities outlined in Ind. Code 31-25-4-13.1(b);⁴ and
2. Files an affidavit requesting designation as a senior prosecuting attorney in the Circuit and each Superior Court in the county in which the person is willing to serve as a senior prosecuting attorney.⁵

A senior prosecutor is a subset of a special prosecutor. Unless specifically designated, any reference in this Section to a special prosecutor also applies to a senior prosecutor.

A senior prosecutor hub is used when a senior prosecutor has been appointed, but the senior prosecutor does not currently work in a prosecutor’s office. The senior prosecutor hub is a county prosecutor’s office who has assigned Title IV-D staff to assist the senior prosecutor in managing the case. Senior prosecutor hubs are located in Gibson, Johnson, and Kosciusko Counties.

DEFINITIONS

1. **“Appointing County”** is the county where a conflict exists and a special prosecutor is needed.

POLICY

¹ IC 33-39-10-1(a)(1)(A)

² IC 33-39-10-1(a)(1)(B)

³ IC 33-39-10-1(a)(1)(C)

⁴ IC 33-39-10-1(a)(1)(D)

⁵ IC 33-39-10-1(a)(2)

When a special prosecutor is needed, it is strongly encouraged that a Title IV-D Prosecutor be appointed to the case.

A special prosecutor shall be appointed by the Court if any party files a verified petition for an appointment of a special prosecutor and the current Title IV-D Prosecutor agrees a special prosecutor is needed.⁶

A special prosecutor may be appointed by the Court if:

1. A person files a petition for an appointment and the Court finds clear and convincing evidence that appointment of a special prosecutor is necessary to avoid a conflict of interest;⁷ or
2. The Title IV-D Prosecutor files a petition for an appointment of a special prosecutor and the Court finds that appointment is necessary to avoid the appearance of impropriety.⁸

Full-time prosecuting attorneys or deputy prosecuting attorneys serving as special prosecutors shall be paid:

1. By the Appointing County transferring unappropriated funds to the county treasurer where the special prosecutor regularly serves;⁹ and
2. A per diem equal to the regular salary, travel expenses, and reasonable accommodation expenses incurred must be included.¹⁰

Prosecuting attorneys that are not full-time prosecuting attorneys, including senior prosecutors, serving as special prosecutors shall be paid by application to the county auditor from the unappropriated funds from the Appointing County as costs are incurred.¹¹ These costs may not exceed:

1. The hourly rate of the regular salary of a full-time prosecuting attorney;¹²
2. Travel expenses and reasonable accommodation expenses actually incurred;¹³ and
3. Other reasonable expenses including costs of the investigation, trial and preparation, and other trial expenses.¹⁴

REFERENCES

- [IC 33-39-10-1](#): Senior prosecuting attorney; appointment
- [IC 33-39-10-2](#): Special Prosecutor; appointment
- [CSB-AT-410](#): Special Prosecutor Cases - Clarification of the intercounty case processing policy exception

PROCEDURE

⁶ IC 33-39-10-2(b)(1)

⁷ IC 33-39-10-2(b)(2)

⁸ IC 33-39-10-2(b)(3)

⁹ IC 33-39-10-2(h)(1)

¹⁰ IC 33-39-10-2(h)(2)

¹¹ IC 33-39-10-2(g)(1)

¹² IC 33-39-10-2(g)(2)(A)

¹³ IC 33-39-10-2(g)(2)(B)

¹⁴ IC 33-39-10-2(g)(2)(C)

The Title IV-D Prosecutor's Office is strongly encouraged to have procedures in place for when a special prosecutor is needed on a case. Counties may have agreements in place with surrounding counties to supply special prosecutor services to ensure appropriate customer service and maintenance of the case records in the statewide child support system or the Title IV-D Prosecutor's Office may choose to request a senior prosecutor.

Once a Court has appointed a special prosecutor, relevant documentation from the original Title IV-D Prosecutor's Office case file is sent to the special prosecutor or senior prosecutor hub. If the file is electronic required documentation from the case file may be:

1. Printed and then sent to the special prosecutor;
2. Sent via Electronic Document Exchange (EDE); or
3. Sent in an electronic (PDF or TIFF) format.

A special prosecutor assigns a specific caseworker to this case and requests pass through access in the statewide child support system for this worker by filling out the System Passthrough Form for Special Prosecutor Cases and submitting it to the ISETS Help Desk.¹⁵

The county requesting a special prosecutor, the Appointing County, shall not take any enforcement actions, judicial or administrative, on the case.¹⁶ When any documents are automatically generated by the statewide child support system in the Appointing County, the Appointing County is to promptly send these documents to the special prosecutor. Documents that are automatically generated by the statewide child support system will continue to have the Appointing County's contact information listed. The Appointing County is strongly encouraged to have procedures in place to address communications received about the case. The conflicted county must refrain from communications with any of the parties or other individuals associated with the case (relatives, employers, financial institutions, etc.), except to the extent necessary to refer such parties or individuals to the special prosecutor.

Cases with a special prosecutor are submitted to the automated driver's license suspension application. The case is viewable in the Appointing County; however, only the county in which the special prosecutor is located (or the senior prosecutor hub) may take action on the case in the automated driver's license suspension application. The special prosecutor may also use the manual license suspension process.

Every six (6) months the special prosecutor shall file a progress report with the appointing Court informing the Court of the status of the investigation and the estimated time of completion of the required duties.¹⁷

The Indiana Prosecuting Attorney's Council (IPAC) shall maintain and publish a current listing of all eligible senior prosecutors.¹⁸

FORMS AND TOOLS

1. [Procedure For Hub Senior Prosecutor Case Referral](#)
2. [System Passthrough Form for Special Prosecutor Cases](#)

¹⁵ CSB-AT-410

¹⁶ *Id.*

¹⁷ IC 33-39-10-2(e)

¹⁸ IC 33-39-10-1(c)

FREQUENTLY ASKED QUESTIONS

N/A

RELATED INFORMATION

N/A

REVISION HISTORY

Version	Date	Description of Revision
Version 1	08/27/2018	Final approved version
Version 1.1	09/23/2020	Updated for consistent formatting and language