

**MISSOURI STATE PUBLIC DEFENDER SYSTEM
PANEL ATTORNEY CONTRACT**

This contract is entered into on the _____ day of _____, 20____, by and between the Missouri State Public Defender (hereinafter referred to as MSPD) and _____, Bar # _____, a duly licensed Missouri lawyer in good standing (hereinafter referred to as Panel Attorney):

I. ACKNOWLEDGEMENT

a) The State of Missouri has a constitutionally mandated responsibility to provide public defender services to indigent individuals accused of crimes where jail time or imprisonment is a possibility.

b) A portion of that caseload cannot be handled in-house by public defender offices due to conflicts of interest and/or case overload, and must be contracted out to private attorneys, hereinafter referred to as Panel Attorneys.

c) The Panel Attorney agrees to provide, and MSPD agrees to pay for, subject to Section IV below, competent and zealous representation to those to be serviced by this contract as required by all controlling Rules of Professional Conduct.

d) MSPD and the Panel Attorney agree that any and all funds paid pursuant to the contract are provided for the sole purpose of provision of legal services to eligible clients through final disposition of the case.

e) The Panel Attorney shall provide all necessary information for payment by the State of Missouri, including where required by law an agreement by the Panel Attorney to participate in, or an affirmation that he/she or the firm already participates in, a federal work authorization program such as EVerify.

f) The Panel Attorney agrees that he/she shall maintain ethical caseloads as required by the Rules of Professional Conduct.

II. DEFINITIONS

a) A "client" is a person whom MSPD or the court of appropriate jurisdiction has determined to be eligible for and entitled to court appointed counsel as provided under the requirements of Chapter 600 RSMo or 18 CSR 10-2.010 and 18 CSR 10-3.010. Upon assignment of the case to the Panel Attorney, the Panel Attorney shall enter his/her appearance with the court within five working days of assignment.

b) A "case" is any action relative to a criminal charge, prosecution, or appeal in which MSPD is obligated to provide defense services.

c) "Disposition" in criminal cases shall mean: 1) the dismissal of charges, 2) the entering of an order of deferred prosecution, 3) an acquittal, 4) suspended imposition of sentence, suspended execution of sentence, or execution of sentence, 5) final sentencing and the filing of the Notice of Appeal when appeal is warranted or desired by the client, 6) a mandate issued by an appellate court, or 7) a continuation or revocation of probation.

d) "Panel Attorney" means a private attorney licensed in good standing to practice law in Missouri and who has been approved for private contract cases by MSPD.

e) "Panel Attorney Rotation List" is a list of Panel Attorneys approved by MSPD to be assigned cases within a specific judicial circuit or county in Missouri.

III. WORK TO BE PERFORMED BY PANEL ATTORNEY

a) The services described above shall be provided in the judicial circuits, or individual counties as allowed by MSPD, most recently provided by the panel attorney either on the panel attorney application, on an information update form, or otherwise communicated to MSPD Case Contracting, and approved by MSPD. The panel attorney should contact the MSPD Case Contracting office to discuss adding and/or removing judicial circuits or individual counties if and when changes are desired.

b) The Panel Attorney agrees to be placed on a designated Panel Attorney Rotation List and to accept all appointments to cases assigned to him/her from that rotation list unless relieved of that rotational assignment by MSPD. The Panel Attorney may apply for more than one judicial circuit, or individual counties as allowed by MSPD, and if accepted will be assigned cases from all such circuits or counties as the rotation demands for case types approved by MSPD. The Panel Attorney agrees to immediately notify MSPD if he/she is considering stopping his/her practice of law or is pursuing or being considered for any employment, appointment, or elected position, or is planning a relocation, that would interfere with his/her ability to complete representation of any assigned case through disposition.

c) As to any case assigned, the Panel Attorney agrees to provide representation through disposition, including dismissal and refile, new trial or evidentiary hearing ordered or other proceeding for which a case is remanded, and shall not move to withdraw without prior consent of MSPD. Where withdrawal is permitted by MSPD and/or allowed by the Court, then upon reassignment or reappointment the Panel Attorney agrees to resume representation under the terms of the original assignment and fee. If the Panel Attorney is unable to provide representation through final disposition, then, as determined by MSPD, MSPD will require counsel to either accept reduced-fee assignments, return the full fee to the State of Missouri, or, if approved by MSPD, subcontract the case to another Panel Attorney or other licensed member of the Missouri Bar. MSPD may also recoup such fee through non-payment of additional compensation, trial compensation, mileage reimbursement, or other money otherwise owed the Panel Attorney.

d) The Panel Attorney agrees to adhere to the terms set forth in this contract, in any Notification of Case Assignment, or as otherwise set forth by MSPD through its policies and procedures.

e) The Panel Attorney agrees he/she is responsible for file retention and providing the file or documents from the file to the client in accordance with the Rules of Professional Conduct.

f) The Panel Attorney agrees to submit all billing invoices for case assignments and litigation expenses as approved by MSPD in compliance with MSPD policies and procedures.

g) If a particular case to which the Panel Attorney is required to provide representation appears to demand an extraordinary amount of time and preparation, the Panel Attorney may apply to MSPD for extraordinary compensation in advance of performing the extraordinary work. It is agreed that the Panel Attorney will maintain ethical caseloads as required by the Rules of Professional Conduct, including contracts with MSPD.

h) MSPD's *Guidelines for Representation*, effective November 1, 1992, and any amendments thereto, as well as any successor performance standards promulgated by MSPD, are hereby incorporated into this contract and substantial compliance and adherence to those *Guidelines* are to be performed by the Panel Attorney. The Panel Attorney shall document compliance with those *Guidelines* and shall make available for inspection by MSPD or the State Auditor records necessary to conduct performance audits at times agreed upon by the parties. Failure to maintain such records or to make such records available for inspection is a material breach of this contract.

i) The Panel Attorney shall not provide representation in a private capacity to individuals in cases initially referred for assignment as public defender clients without filing a written request for an exception to this provision with MSPD and receiving prior approval by MSPD.

j) The Panel Attorney shall not subcontract or delegate any of the services required under this contract without obtaining prior written consent from MSPD, except that the Panel Attorney may have other licensed attorneys from his/her law firm appear for him/her for minor court appearances such as announcements and for purposes of scheduling.

k) Within seven days of disposition, the Panel Attorney must give notice to MSPD Case Contracting in all cases in which representation was provided stating the resolution of the case, the terms of disposition and, if required of the Panel Attorney by MSPD, assess a client fee for the representation, and submit all invoices as directed by MSPD.

IV. CONTRACT PRICE & PAYMENT INFORMATION

a) The Panel Attorney shall be paid by MSPD according to the fee schedule adopted by MSPD and incorporated herein or as amended by MSPD. Fees will be paid in the amount reflected for the case type so identified in the fee schedule attached and identified as Appendix A or as amended by MSPD. Additional reporting information may be required by MSPD prior to payment.

b) The Panel Attorney requests to be paid as indicated below. The Panel Attorney understands that payments are processed through the State of Missouri Office of Administration, Division of Accounting, and that in order to receive payment the Panel Attorney or his/her law firm must be established as a vendor through the Office of Administration. The Panel Attorney further understands that a State of Missouri Vendor record is created and/or updated with the Office of Administration Vendor Input Form found at: http://oa.mo.gov/sites/default/files/vendor_input_ach_eftd.pdf. Failure to provide needed updates immediately may result in nonpayment by the Office of Administration.

The Panel Attorney requests his/her MSPD payments for legal services rendered be directed to:

COMPLETE ONE LINE ONLY

Individual (provide name and SS#)

OR

Firm (provide name and Federal Employer Identification Number (FEIN))

c) Panel Attorneys who direct MSPD payments to a firm understand the following:

- 1) The Panel Attorney must immediately give advance notice to MSPD of any intention to leave the firm and the Panel Attorney will be required to complete a new Panel Attorney Contract at that time.
- 2) In the event the Panel Attorney leaves the firm and has open MSPD cases at that time, the Panel Attorney is expected to represent MSPD clients to the completion of all previously assigned cases.
- 3) If the Panel Attorney is unable to continue representation of MSPD clients, the firm shall be required, as determined by MSPD, to continue representation through disposition or return funds paid unless otherwise approved by MSPD.
- 4) The Panel Attorney's firm must complete a Vendor Application Form prior to payment being made to the firm.

V. ATTORNEYS & STAFF

a) The Panel Attorney shall employ all lawyers, investigators, legal interns and secretaries necessary to provide effective representation and shall pay all routine expenses involved in providing such representation. Where non-routine litigation or other extraordinary expenses are necessary to provide effective assistance of counsel, the Panel Attorney may submit, in advance of incurring such expenses, a request for litigation or extraordinary expenditure approval to MSPD. MSPD will pay such expenses only as pre-approved by MSPD.

VI. APPOINTMENT INDEMNIFICATION

a) In providing representation to public defender clients under this contract, the Panel Attorney is appointed as a special public defender.

b) The Panel Attorney is responsible for providing for his/her own malpractice insurance and is not covered under the State Legal Expense Fund, Section 105.711 RSMo except as provided by 105.711.2(5) RSMo for representation provided without compensation.

c) The Panel Attorney shall defend, indemnify and hold harmless MSPD and the State of Missouri from any and all claims, lawsuits or other allegations of liability resulting from the performance of the Panel Attorney of the work described herein which is not covered under the State Legal Expense Fund, Section 105.711 RSMo.

VII. RELATIONSHIP BETWEEN PANEL ATTORNEYS AND MSPD

a) The Panel Attorney is, for all purposes arising out of this contract, an independent contractor and the Panel Attorney, its agents and employees, shall not be deemed or considered employees of MSPD or the State of Missouri. The Panel Attorney shall complete the requirements of this contract according to the Panel Attorney’s own means and methods of work, which shall be in the exclusive charge and control of the Panel Attorney except as specified herein.

b) MSPD reserves the right in its discretion to deny a panel attorney application, to deviate from the panel attorney case assignment rotation, to reassign a case, to reduce the seriousness of the types of cases assigned to a panel attorney, to temporarily or permanently remove an attorney from the panel, or to terminate this contract. Monies paid the Panel Attorney shall be recovered, as determined by MSPD, either by return of the fee to the State of Missouri, future reduced-fee assignments, or if approved by MSPD, subcontracting of the case by the Panel Attorney to another licensed member of the Missouri Bar. MSPD may also recover such monies through non-payment of additional compensation, trial compensation, mileage reimbursement, or other money otherwise owed the Panel Attorney.

c) MSPD provides equal opportunities to all panel attorneys and applicants without regard to race, color, national origin, citizenship or immigration status, sex, pregnancy, gender, gender identity, disability, genetic information, marital status, age, religion, sexual orientation, or status as a covered veteran in accordance with applicable federal, state and local laws.

VIII. NON-DISCRIMINATION

a) The Panel Attorney shall not discriminate against any client because of race, color, creed, national origin, citizenship, sex, age, religious affiliation, ancestry, sexual orientation, veteran or handicap status.

IX. ASSIGNABILITY

a) This contract is for professional services and as such may not be assigned or delegated in total or in part without the written consent of MSPD.

Panel Attorney

Joel R. Elmer, MSPD Deputy Director

DATED this ____ day of _____, 20____.

DATED this ____ day of _____, 20____.

**Please return this form to MSPD Case Contracting at
Case.Contracting@mspd.mo.gov.**

For contract rates and more information visit our website: www.publicdefender.mo.gov

Appendix A

Case Type	Contract Guideline
Murder 1st Degree	\$10,000
Sexual Predator Hearing	\$4,000
Sexual Predator Trial	\$8,000
Other Homicide	\$6,000
AB Felony Drug	\$750
AB Felony Other	\$1,500
AB Felony Sex	\$2,000
CDE Felony Drug	\$750
CDE Felony Other	\$750
CDE Felony Sex	\$1,500
Misdemeanor	\$375
Probation Violation	\$375
Juvenile Murder 1st Degree	\$2,000
Juvenile Other Homicide	\$1,500
Juvenile AB Felony Drug	\$500
Juvenile AB Felony Other	\$750
Juvenile AB Felony Sex	\$1,250
Juvenile CDE Felony Drug	\$500
Juvenile CDE Felony Other	\$500
Juvenile CDE Felony Sex	\$1,000
Juvenile Misdemeanor	\$375
Juvenile Status	\$375
Juvenile Motion to Modify Supervision Violation Only	\$375
PCR Rule 24.035 Motion	\$500
PCR Rule 24.035 Evidentiary Hearing	\$250
PCR Rule 24.035 Appeal	\$500
PCR Rule 29.15 Motion	\$1,000
PCR Rule 29.15 Evidentiary Hearing	\$500
PCR Rule 29.15 Appeal	\$1,875
Direct Appeal	\$3,750

Note: When multiple cases are assigned for the same client, unless otherwise determined by MSPD, the full contract guideline amount is paid for the most serious case and the multi-case discounted rate of half the contract guideline amount is paid for other cases.

In all homicide cases in adult court, as well as sexual predator trials and hearings, one half of the fee is payable initially and the second half of the fee is payable upon completion of 60 hours of work.

The fee for certain cases, such as matters assigned for sentencing only or writs, shall be as determined by MSPD.

MSPD will pay additional compensation in cases resolved by trial: Jury Trial - \$1,500 for the first day and \$750 for each additional day, partial days prorated. Bench Trial - \$750/day prorated. MSPD also will pay that same additional bench trial compensation for certification hearings where the Deputy Juvenile Officer recommended the child be prosecuted in adult court.

Cases prosecuted in adult court following certification in juvenile court are assigned and paid independent of the original juvenile case.

If the attorney doing the direct appeal also did the trial, then MSPD will pay \$1,875 for the direct appeal or half the guideline amount.

In rare, exceptional cases involving complex litigation demanding an extraordinary amount of time and preparation, MSPD will consider variations from the fee schedule.

The Panel Attorney shall provide representation through final disposition. If counsel is unable to do so, then as determined by MSPD, MSPD will require counsel to either accept reduced-fee assignments, return the full fee to the State of Missouri, or, if approved by MSPD, subcontract the case by to another Panel Attorney or other licensed member of the Missouri Bar. MSPD may also recoup such fee through non-payment of additional compensation, trial compensation, mileage reimbursement, or other money otherwise owed the Panel Attorney.