

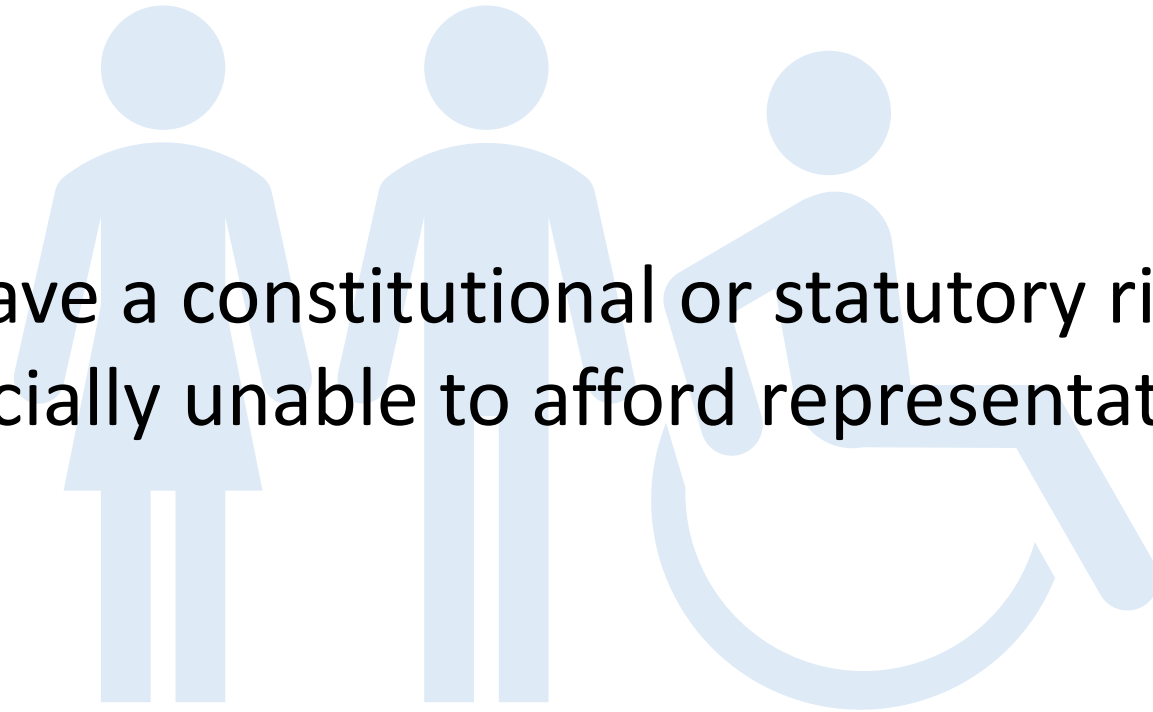


PUBLIC DEFENSE IN NORTH CAROLINA

OCTOBER 10, 2024

WHO IS SERVED BY PUBLIC DEFENSE?

People who have a constitutional or statutory right to a lawyer but who are financially unable to afford representation



PUBLIC DEFENSE IN NC

In 1963, the U.S. Supreme Court (*Gideon v. Wainwright*) decided that the States must provide attorneys to criminal defendants

1. who are charged with serious crimes and
2. who cannot afford to hire an attorney

Since then, the U.S. Supreme Court and the States have expanded this right to include other governmental actions that threaten basic liberties

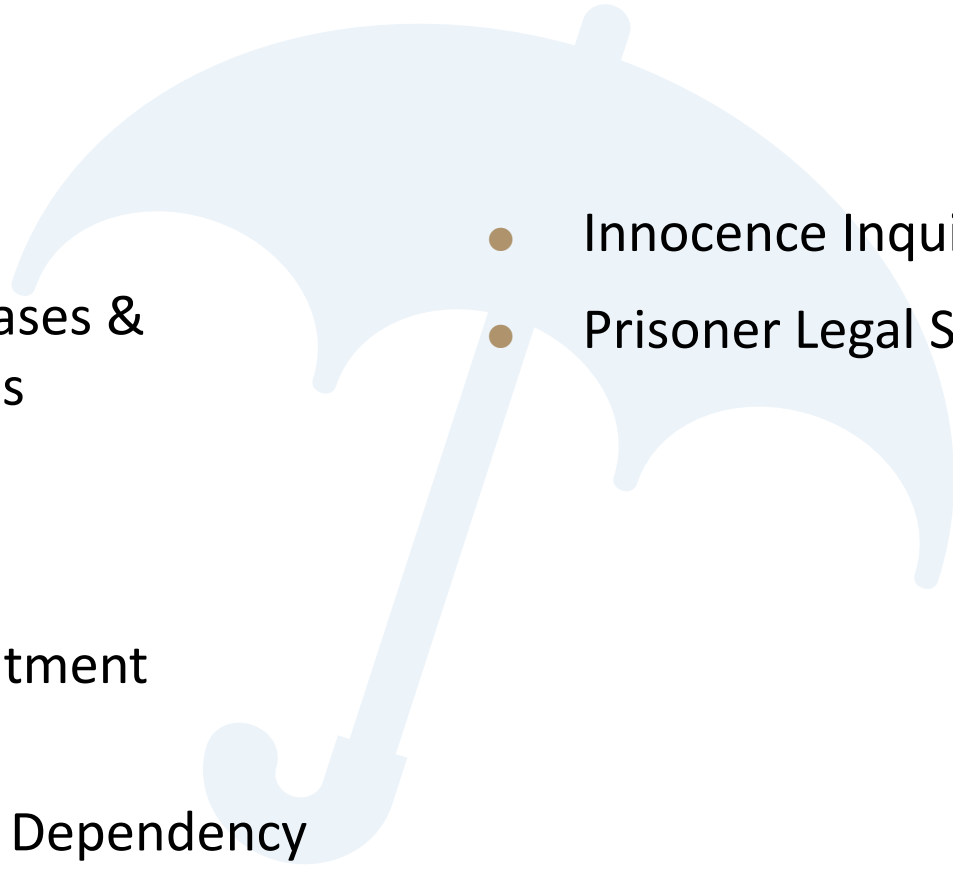
THE INDIGENT DEFENSE SERVICES ACT N.C. GEN. STAT. § 7A-498 ET SEQ

In North Carolina

- ⇒ The NC IDS Commission sets the policies and rules for the public defense system
- ⇒ The IDS Office implements the policies and rules and manages the State public defense appropriation
- ⇒ A network of state-employed and private attorneys provide the public defense

IDS UMBRELLA

- Adult Criminal Cases
 - Including Capital Cases & All Criminal Appeals
- Juvenile Delinquency
- Civil
 - Involuntary Commitment
 - Competency
 - Abuse Neglect and Dependency
 - Termination of Parental Rights
 - Child Support Contempt
- Innocence Inquiry Cases
- Prisoner Legal Services

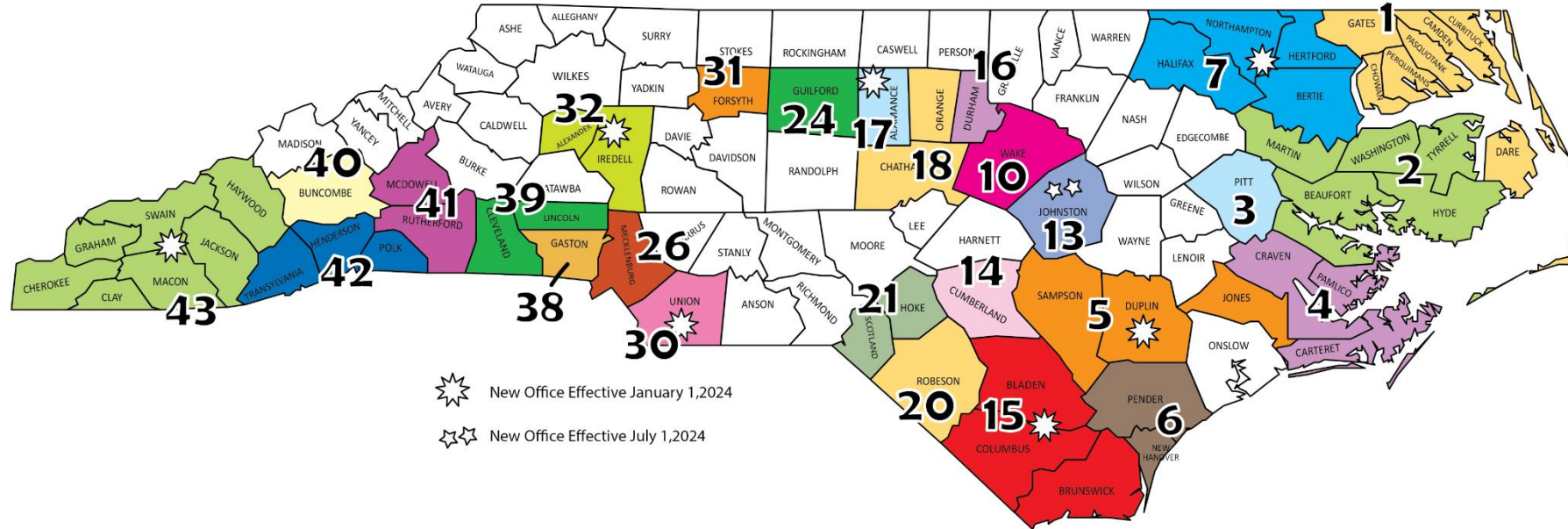


ATTORNEY APPOINTMENTS IN YOUR COUNTY

- Are determined by the Local Appointment Plan
- Set minimum standards for roster members
- Governed locally by bar indigent defense committee
- In PD districts, the chief public defender heads the local indigent defense committee

(b1) The Office of Indigent Defense Services shall develop a model appointment plan with minimum qualification standards for appointed private counsel by July 1, 2019, for adoption and promulgation by each judicial district. Judicial districts may request modifications to the model plan and qualification standards. If a judicial district has not adopted an appointment plan with the Indigent Defense Services' minimum qualification standards by January 2, 2021, the model plan and qualification standards developed by Indigent Defense Services will become effective on that date in that judicial district. Indigent Defense Services shall review the model plan and qualification standards every five years and, in the event it modifies the model plan and/or qualification standards, shall notify the judicial districts of the change. Judicial districts will have 18 months from the date Indigent Defense Services gives notice of a change to seek modifications to the revised model plan or to the qualification standards.

Public Defender Districts



FINDING YOUR LOCAL APPOINTMENT PLAN

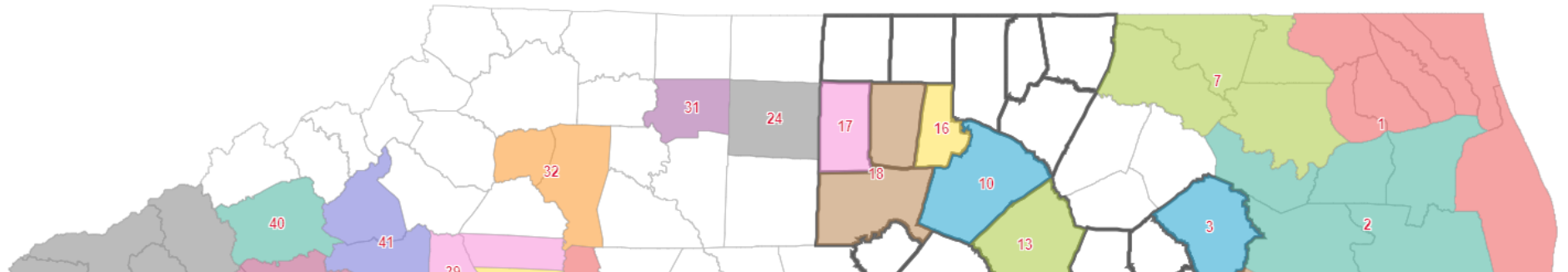
- Go to www.ncids.org/map

New here? Info changed? [Here's what you need to know...](#)


Public Defense in Your County

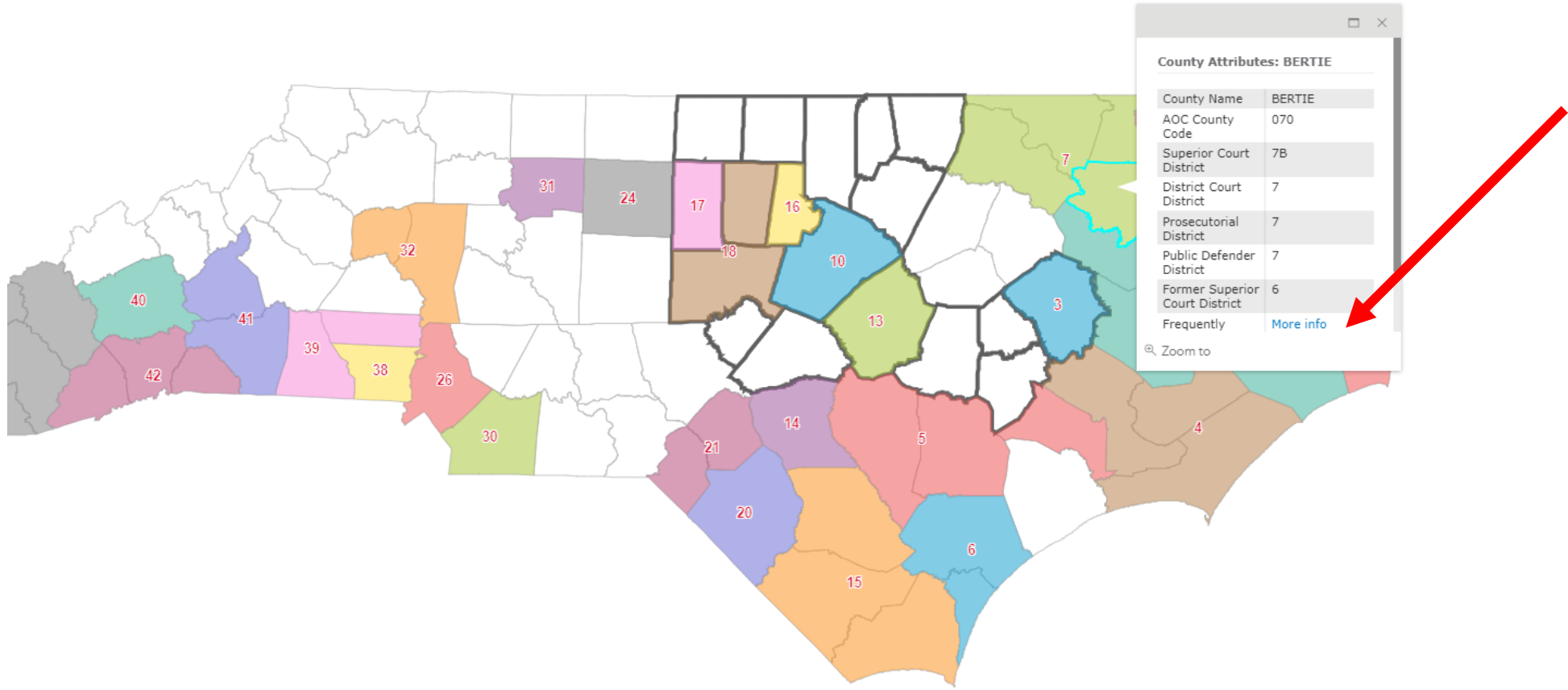
New interactive map takes a moment to load.

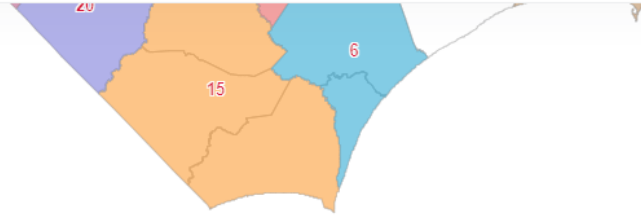
Click on any North Carolina county below for detailed information. **Use the "More Info" link in the county pop-up window to access the Local Appointment Plan/s.



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Find address or place 





Scroll



[View larger map](#)



Updated January 1, 2024

NC Counties

Alamance	Alexander	Alleghany	Anson	Ashe
Avery	Beaufort	Bertie	Bladen	Brunswick
Buncombe	Burke	Cabarrus	Caldwell	Camden
Carteret	Caswell	Catawba	Chatham	Cherokee
Chowan	Clay	Cleveland	Columbus	Craven

- Example:
Bertie County

IDS OFFICE OF INDIGENT DEFENSE SERVICES SAFEGUARDING JUSTICE

About IDS For the Defense Team Clients Public Info Careers

New here? Info changed? [Here's what you need to know...](#)

Bertie

Defender District: 7
Public Defender: Tonza D. Ruffin

Frequently Asked Questions for Bertie County

How do I find out if I have a lawyer?
Clerk of Superior Court: (252) 794-6800

How do I contact my lawyer?
If you know your lawyer's name, you can [look up contact information here](#).

Additional Info

[District Appointment Plan](#)

Where is the courthouse?
Address: 108 Dundee St, Windsor, NC 27983, USA

- Example:
Bertie County

District 7 Appointment Plan

**REGULATIONS FOR APPOINTMENT OF COUNSEL IN DEFENDER DISTRICT 7 (BERTIE, HALIFAX,
HERTFORD, AND NORTHAMPTON COUNTIES) IN CASES UNDER THE INDIGENT DEFENSE
SERVICES ACT**

I. Applicability

A. Generally

These regulations are issued pursuant to Rule 1.5 of the Rules for the *Continued Delivery of Services in Non-Capital and Non-Criminal Cases at the Trial Level*. They apply to all non-capital criminal and non-criminal cases in the trial division in Defender District 7 in which the provision of counsel is subject to the Indigent Defense Services Act of 2000 (G.S. 7A-498 through 7A-498.8) (hereinafter “IDS Act”).

B. Exceptions

1. In cases in which the defendant is charged with first-degree murder, an undesignated degree of murder, or an offense filed contemporaneously with or subsequently joined with such murder charges, the court shall appoint the Office of the Capital Defender, which shall appoint counsel in accordance with the *Rules for Providing Legal Representation in Capital Cases*. In cases in which the defendant or respondent was 17 years of age or younger at the time of the alleged offense and is not eligible for the death penalty, the court shall notify the Office of the Juvenile Defender to appoint counsel. The Office of the Juvenile Defender shall consult with the Public Defender in District 7 and determine whether the Public Defender will retain the case. If the Public Defender does not retain the case or is unable to appoint counsel within 48 hours, the Office of the Juvenile Defender shall appoint counsel.

New here? Info changed? [Here's what you need to know...](#)

Alamance

Defender District: 17

Regional Defender: D. Tucker Chams

Public Defender: Ricky W. Champion

- Example:
Alamance County

Frequently Asked Questions for Alamance County

How do I find out if I have a lawyer?

Clerk of Superior Court: (336)570-5200

How do I contact my lawyer?

If you know your lawyer's name, you can [look up contact information here](#).

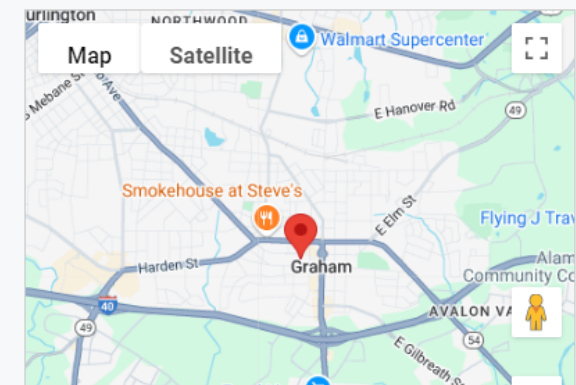
Additional Info

[Instructions for Appointment of Contract Counsel](#)

[Regulations for Appointment of Non-contract Counsel](#)

Where is the courthouse?

Address: 212 W Elm Street Graham, NC 27253



CHALLENGES FACING PUBLIC DEFENSE

FISCAL CHALLENGES

- Difficult to recruit and retain private attorneys to take court-appointed cases
 - Local economics can't sustain a private practice and appointed work does not pay sufficiently to earn a living
 - Appointed pay rate barely covers overhead to work a case
 - Competition pays better:
 - Federal cases
 - Other areas of practice are more lucrative
- PAC Fund Insufficient to meet Demand

LACK OF RESOURCES

- Costs of an inadequately resourced system:
 - Crowded jails because of excessive pre-trial detention
 - Court backlogs
 - Increased pressure to plead guilty against interest
 - Wrongful convictions
 - Improper or excessive sentences
 - Collateral consequences that affect a person's ability to earn a living and re-enter society
 - Weakens public trust in judicial system

SHIFTING POPULATION TRENDS

Population Growth & Change

Between 2010 and 2020, North Carolina's population grew from 9,535,483 to 10,439,483, an increase of 903,905 or 9.5%. Over this same period, 51 North Carolina counties lost population (for a total combined loss of 147,224) and 49 counties gained population (a total combined gain of 1,051,129).

Tippett, R (2021, 8-12) First look at 2020 Census for North Carolina. Carolina Demography.
<https://carolinademography.cpc.unc.edu/2021/08/12/first-look-at-2020-census-for-north-carolina/>

- Rural populations are shrinking
- But attorney need has not declined

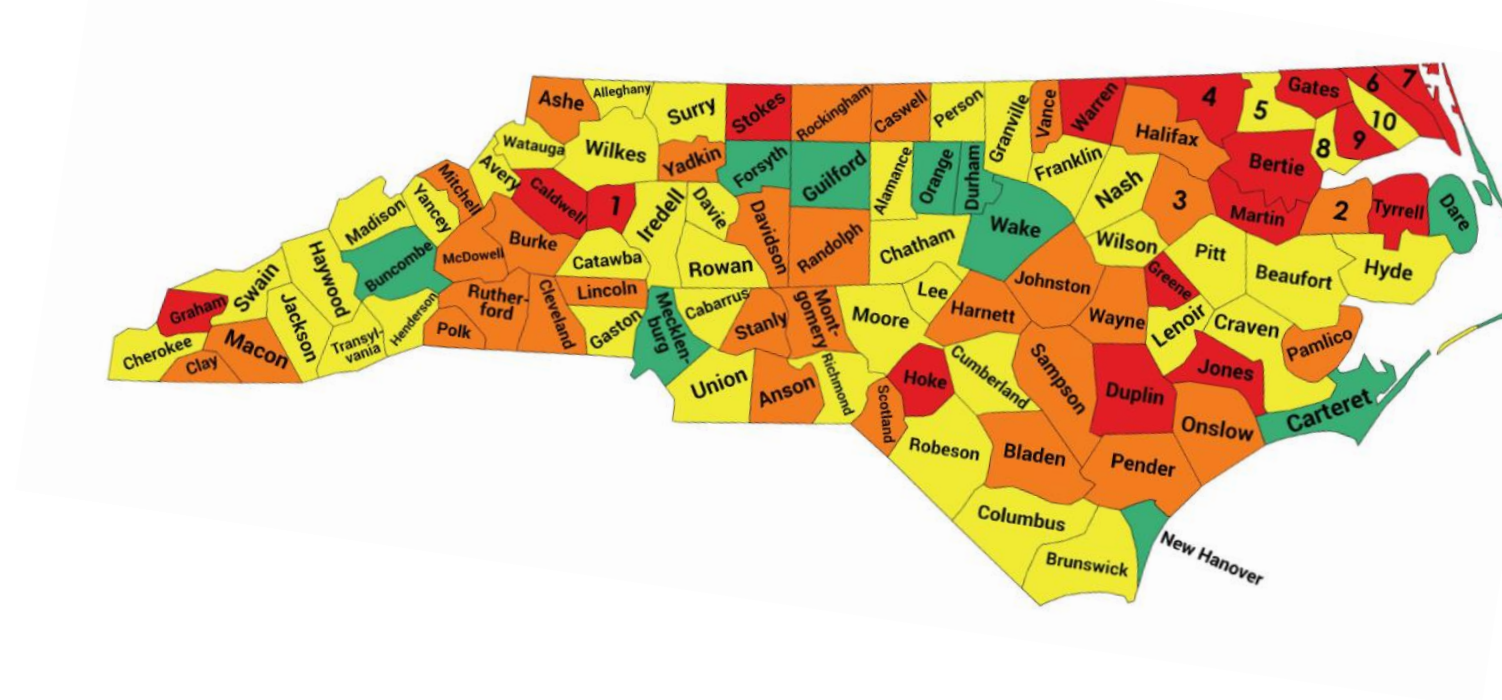
PAC ATTORNEYS CLOSE TO RETIREMENT

- PAC attorneys are aging out of the practice and younger attorneys are not filling in the gaps

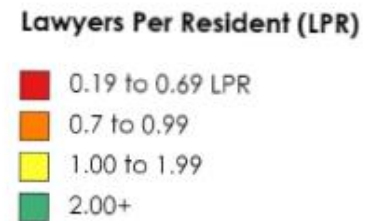
District	Population	Average Year of Admittance to NC Bar of Attorneys in District
36	168,222	1993
8	127,684	1993
22	113,832	1996
37	144,171	1996
29	151,809	1997
11	229,882	1998
5	321,499	1998
41	109,022	1998
33	211,642	1998
18	224,981	1999
14	334,728	1999
15	80,229	1999
2	85,520	1999

LEGAL DESERTS DEFINED

- A legal desert is an area where there is less than 1 lawyer for every 1,000 residents
 - 48 NC counties qualify as a “legal desert”



- 1 Alexander
- 2 Washington
- 3 Edgecombe
- 4 Northampton
- 5 Hertford
- 6 Camden
- 7 Currituck
- 8 Chowan
- 9 Perquimans
- 10 Pasquotank



North Carolina Legal Deserts

Credit: Brian Oten,
North Carolina State Bar 2022

- 48 of North Carolina's 100 counties qualify as a legal desert
- 46.7% of active, in-state North Carolina lawyers are in two counties (Wake and Mecklenburg)
 - Wake and Mecklenburg have 21.5% of the total state population
- 63% of active, in-state North Carolina lawyers are in five counties (Wake, Mecklenburg, Guilford, Durham, and Forsyth)
 - Those five counties account for 33.4% of the total state population
- Contrast:
 - Harnett County (1.28% of total state population, or 133,568 people) has 0.43% of lawyer population (109 lawyers)

SOLUTIONS FOR PUBLIC DEFENSE

NORTH CAROLINA COMMISSION ON THE ADMINISTRATION OF LAW AND JUSTICE



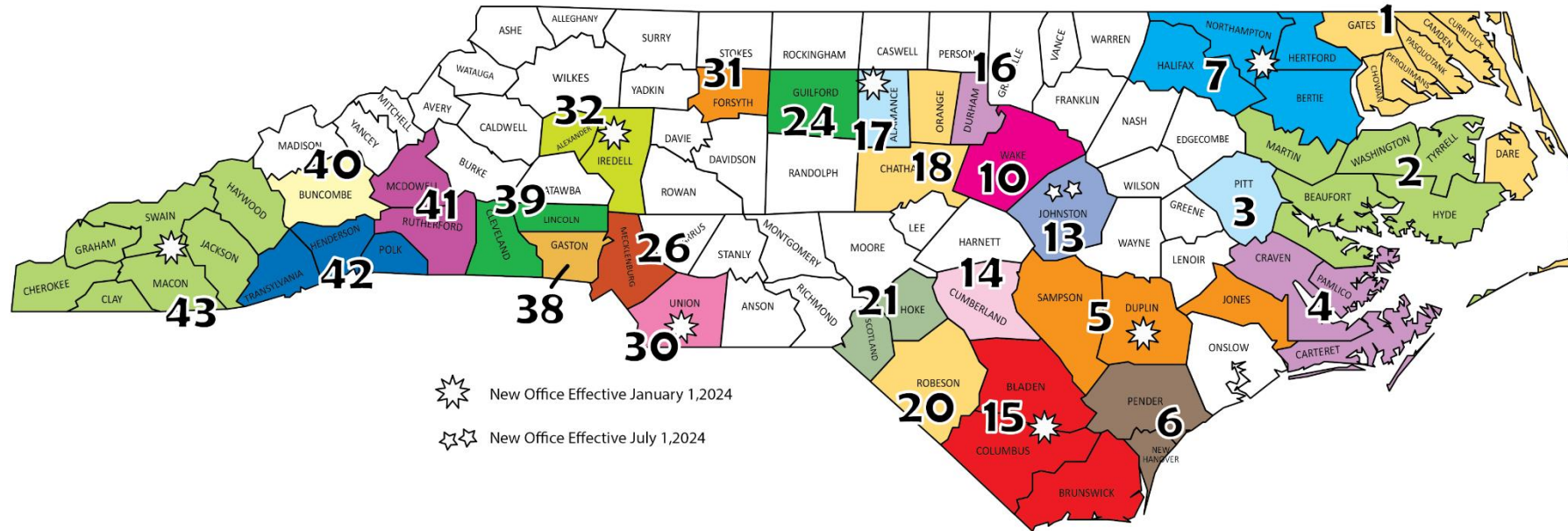
NORTH CAROLINA COMMISSION ON THE ADMINISTRATION OF LAW AND JUSTICE

- Recommendations to improve indigent defense:
 - **Establish/Expand public defender offices throughout the state**
 - Provide oversight, supervision and support to all counsel providing indigent defense services and provide them with reasonable compensation
 - Implement uniform indigency standards
 - Implement uniform qualification and workload standards

WHY PUBLIC DEFENDER OFFICES?

- Consistent, good quality representation
- Efficiency in handling cases
 - Cases may move through courts more quickly
- Effectiveness of counsel
 - Specialization in areas of law
- Supervision, training, and development of attorneys
- Largely predictable costs
- Trained investigators and other legal assistance in-house
- Local representation
 - Attorneys tend to live and work in the districts
 - Increases access to local facilities, like jails
 - Increases trust with local judicial officials
- Brings professionals to rural districts
- Reduced burden on local PAC means better representation, more willingness of PAC to take cases

Public Defender Districts



IDS LONG TERM PLAN

- Ensure availability of public defenders statewide as needed by end of the decade
- Local offices run by chief public defender recommended by local stakeholders
- Enhanced training, resources for private assigned counsel who will handle conflict and overflow work
- Ensure solvency of PAC Fund
- See N.C. Gen. Stat. § 7A-498.7 re: current statutory process for IDS to seek PD office expansion
- Requires consultation with local bar and opportunity for bar to comment
- Many districts affirmatively seeking expansion

PD EXPANSION

- In 2024, eight new PD offices opened, covering 10 judicial districts
- Each PD office reduces PAC caseloads in a district as assistant public defenders (APDs) absorb the casework
 - Not immediate; this takes time
- Because of the high rate of conflicts in public defense in criminal and parent defense cases, the system will always require a healthy and well-resourced local roster of private appointed counsel.

IN THE MEANTIME

- IDS is working to increase the numbers of PAC attorneys doing indigent work.
- IDS will, as it always does, seek funding to raise rates for PAC in the biennial budget
- IDS is working to pay PAC faster

PAYING 'PAC' FASTER

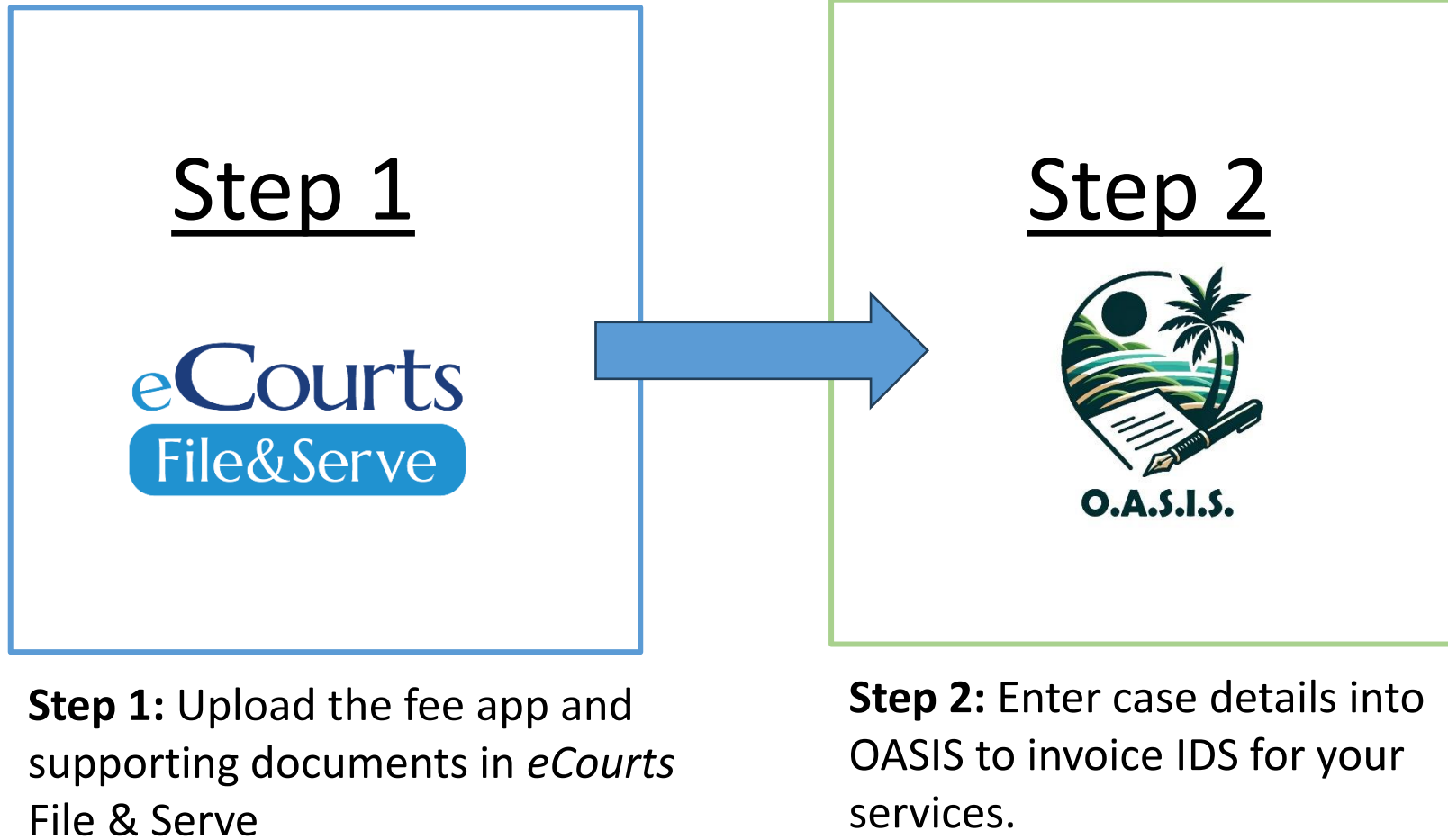


O.A.S.I.S.

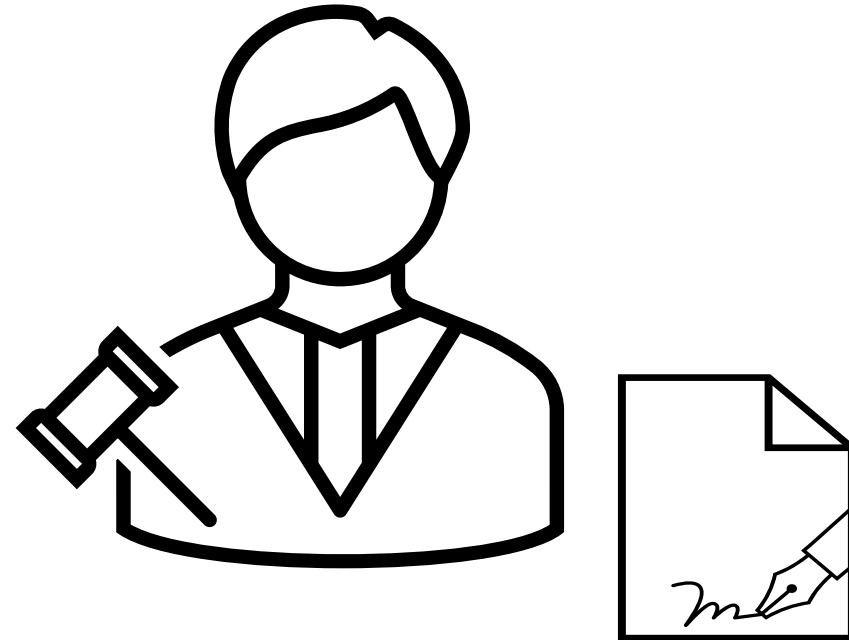
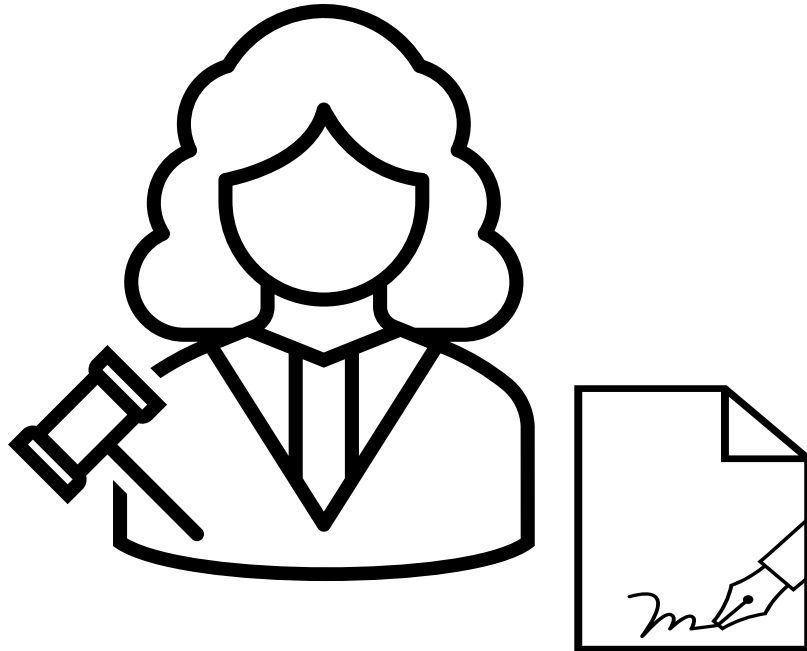
ONLINE ATTORNEY STATE INVOICE SYSTEM

- Adult criminal cases at trial level *only*
- Works in tandem with File & Serve/eCourts
- Attorney payment **within 30 days of filing fee app**

2-STEP PROCESS



IMPORTANT!



FOR ATTORNEY FEE REDUCTIONS



Aaron Gallagher

Aaron.M.Gallagher@nccourts.org

919-890-2188

FOR MORE INFORMATION

- Go to www.ncids.org/oasis/

ROSTER SHORTAGES

- IDS can:
 - Attempt to find attorneys willing to come in from out-of-district to handle cases
 - Provide training and resources to help qualify willing attorneys for the roster
- IDS cannot:
 - Appoint counsel
 - Provide staff attorneys to handle cases

YOU CAN HELP

- Educate policymakers about the importance of the public defense
- Support IDS efforts to obtain increased funding to pay private assigned counsel and to adequately staff public defender offices