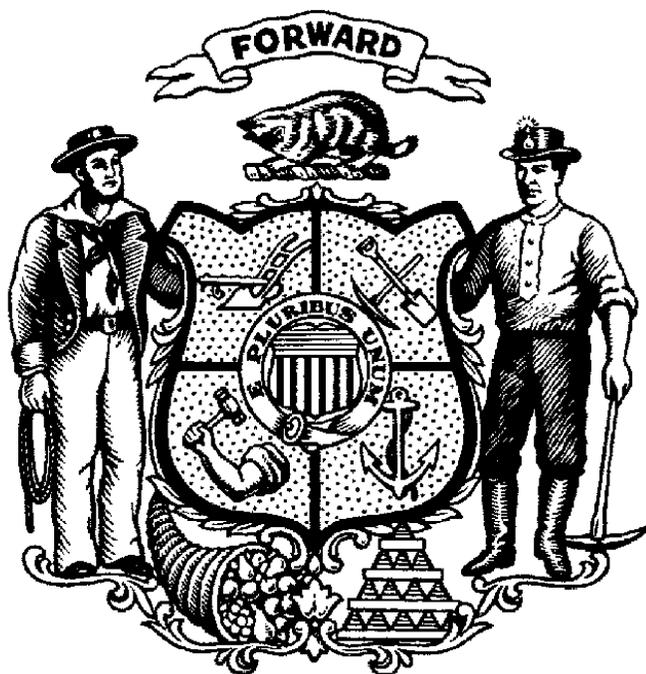


State of Wisconsin

Public Defender Board



Agency Budget Request
2017 – 2019 Biennium
September 15, 2016

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Wisconsin State Public Defender

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Kelli S. Thompson
State Public Defender

Michael Tobin
Deputy State
Public Defender

September 15, 2016

Secretary Scott Neitzel
Department of Administration
1 E. Wilson St., 10th Floor
Madison, WI 53703

Dear Secretary Neitzel,

On behalf of the Public Defender Board, I am submitting the attached 2017-2019 biennial budget proposal. This budget proposal, which was approved by the board on September 9, 2016, has been carefully screened to identify the most critical needs of both the State Public Defender (SPD) and the criminal justice system as a whole.

Since Governor Walker signed an executive order creating the State Criminal Justice Coordinating Council, SPD has had the opportunity to work more closely with partner agencies in the criminal justice system. That collaboration has spawned several system-wide initiatives designed to enhance public safety and make more efficient use of taxpayer resources without sacrificing the constitutional protections of individual liberty and justice. Many of the proposals in this budget incorporate those concepts and seek ways to ensure that Wisconsin continues to meet its constitutional obligation to provide effective counsel in the most effective and efficient way possible.

Please understand that, given the constitutional mandate of the SPD and the related need to appoint attorneys for all eligible applicants, all appropriations within the agency are interrelated. In other words, changing funding in one portion of the budget directly impacts all other areas of agency operations. We look forward to discussing with you and your staff how these issues impact the agency, its mission, and the taxpayers as this proposal moves forward.

Thank you for the opportunity to submit this proposal. Please feel free to contact me with any additional questions you may have.

Sincerely,

Kelli Thompson
State Public Defender

AGENCY DESCRIPTION

The Public Defender Board oversees the Office of the State Public Defender, which provides legal representation for indigent persons who are accused of crimes or are defendants in certain civil matters. Pursuant to Wisconsin Statutes and administrative rules, the office determines financial eligibility based on an analysis of each applicant's income, assets, family size and essential expenses, unless the applicant is a juvenile or is seeking representation for cases involving mental health or protective placement proceedings.

The board consists of nine members appointed to three-year terms by the Governor with the advice and consent of the Senate. At least five of the nine must be members of the State Bar of Wisconsin. The board appoints a state public defender to oversee the agency.

The office was created by statute in 1965, became an independent agency in 1977, and gradually began to represent indigent clients at the trial level with both in-house and private bar attorneys.

The office consists of the Trial, Appellate, Administrative and Assigned Counsel Divisions and the Office of Legal Counsel and Office of Training and Development.

MISSION

The mission of the agency is to promote justice throughout Wisconsin by providing high-quality and compassionate legal services, protecting individual rights, and advocating as a criminal justice partner for effective defender services and a fair and rational criminal justice system.

PROGRAMS, GOALS, OBJECTIVES AND ACTIVITIES

Program 1: Legal Assistance

Goal A: Continuously improve services to clients.

Objective/Activity: Fair treatment and representation of clients.

Goal B: Strengthen public value to clients, the community, other government agencies, other states and nations, and partners.

Objective/Activity: Reduce crime by reaching and educating young people before they offend.

Goal C: Continuously improve administrative management.

Objective/Activity: Maximize resources to serve eligible clients.

Agency Performance Measures

2015 and 2016 Goals and Actuals

Program Number	Performance Measures	Goal 2015	Actual 2015	Goal 2016	Actual 2016
1	Court grants attorney withdrawals at client request as a percentage of total trial cases.	2%	2.7%	2%	2.4%
1	Number of educational contacts with children and youth.	2,750	2,792	2,750	2,610
1	Number of qualified attorneys certified to take cases who accept at least 12 cases per year.	800	747	800	719
1	Number of cases with greatest risk of penalties handled by staff attorneys.	1,200	1,515	1,200	1,547

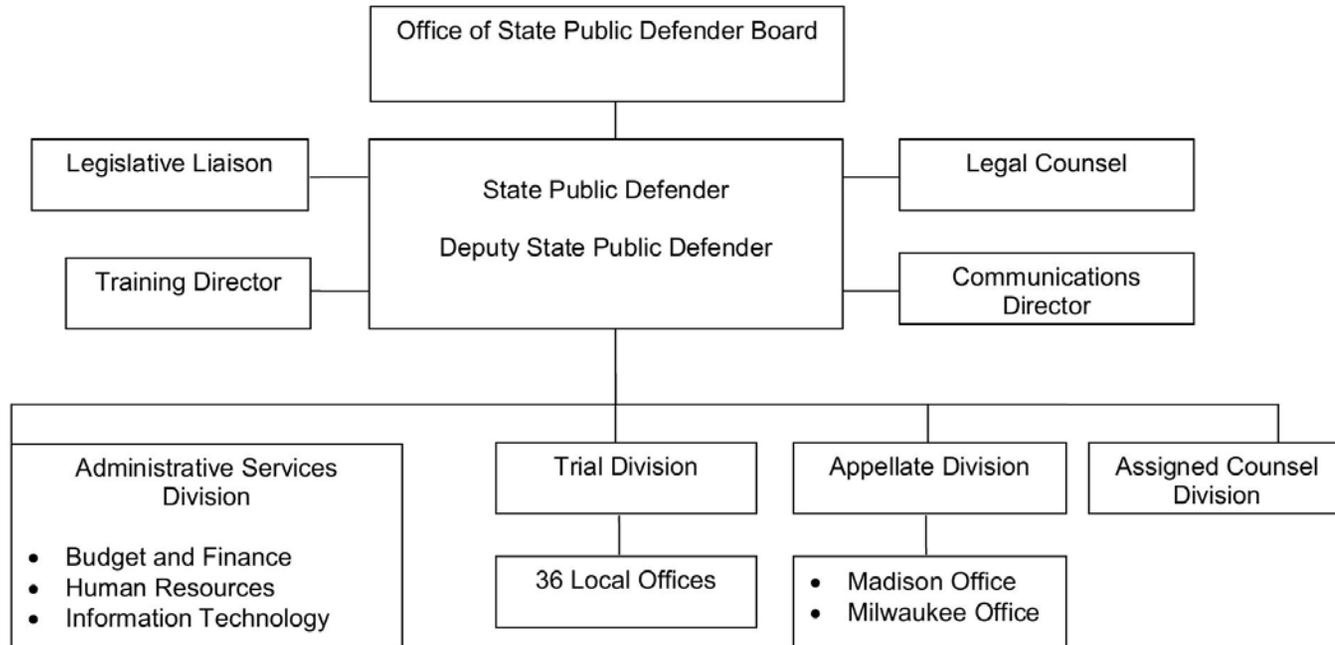
Note: Based on fiscal year.

2017, 2018 and 2019 Goals

Program Number	Performance Measures	Goal 2017	Goal 2018	Goal 2019
1	Court grants attorney withdrawals at client request as a percentage of total trial cases.	2%	2%	2%
1	Number of educational contacts with children and youth.	2,750	2,750	2,750
1	Number of qualified attorneys certified to take cases who accept at least 12 cases per year.	800	800	800
1	Number of cases with greatest risk of penalties handled by staff attorneys.	1,300	1,350	1,400

Note: Based on fiscal year.

Office of the State Public Defender



Agency Total by Fund Source

Public Defender Board

1719 Biennial Budget

		ANNUAL SUMMARY						BIENNIAL SUMMARY			
Source of Funds		Prior Year Total	Adjusted Base	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	Biennial Request	Change From (BYD)	Change From BYD %
GPR	S	\$89,993,246	\$84,620,300	\$89,265,100	\$96,044,000	609.85	609.85	\$169,240,600	\$185,309,100	\$16,068,500	9.5%
Total		\$89,993,246	\$84,620,300	\$89,265,100	\$96,044,000	609.85	609.85	\$169,240,600	\$185,309,100	\$16,068,500	9.5%
PR	S	\$1,584,543	\$1,348,200	\$1,378,200	\$1,378,900	5.00	5.00	\$2,696,400	\$2,757,100	\$60,700	2.3%
Total		\$1,584,543	\$1,348,200	\$1,378,200	\$1,378,900	5.00	5.00	\$2,696,400	\$2,757,100	\$60,700	2.3%
PR Federal	S	\$80,700	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	
Total		\$80,700	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	
Grand Total		\$91,658,489	\$85,968,500	\$90,643,300	\$97,422,900	614.85	614.85	\$171,937,000	\$188,066,200	\$16,129,200	9.4%

Agency Total by Program

550 Public Defender Board

1719 Biennial Budget

Source of Funds	ANNUAL SUMMARY						BIENNIAL SUMMARY			
	Prior Year Actual	Adjusted Base	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE	Base Year Doubled (BYD)	Biennial Request	Change From (BYD)	Change From BYD %
01 LEGAL ASSISTANCE										
Non Federal										
GPR	\$89,993,246	\$84,620,300	\$89,265,100	\$96,044,000	609.85	609.85	\$169,240,600	\$185,309,100	\$16,068,500	9.49%
S	\$89,993,246	\$84,620,300	\$89,265,100	\$96,044,000	609.85	609.85	\$169,240,600	\$185,309,100	\$16,068,500	9.49%
PR	\$1,584,543	\$1,348,200	\$1,378,200	\$1,378,900	5.00	5.00	\$2,696,400	\$2,757,100	\$60,700	2.25%
S	\$1,584,543	\$1,348,200	\$1,378,200	\$1,378,900	5.00	5.00	\$2,696,400	\$2,757,100	\$60,700	2.25%
Total - Non Federal	\$91,577,789	\$85,968,500	\$90,643,300	\$97,422,900	614.85	614.85	\$171,937,000	\$188,066,200	\$16,129,200	9.38%
S	\$91,577,789	\$85,968,500	\$90,643,300	\$97,422,900	614.85	614.85	\$171,937,000	\$188,066,200	\$16,129,200	9.38%
Federal										
PR	\$80,700	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.00%
S	\$80,700	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.00%
Total - Federal	\$80,700	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.00%
S	\$80,700	\$0	\$0	\$0	0.00	0.00	\$0	\$0	\$0	0.00%
PGM 01 Total	\$91,658,489	\$85,968,500	\$90,643,300	\$97,422,900	614.85	614.85	\$171,937,000	\$188,066,200	\$16,129,200	9.38%
GPR	\$89,993,246	\$84,620,300	\$89,265,100	\$96,044,000	609.85	609.85	\$169,240,600	\$185,309,100	\$16,068,500	9.49%
S	\$89,993,246	\$84,620,300	\$89,265,100	\$96,044,000	609.85	609.85	\$169,240,600	\$185,309,100	\$16,068,500	9.49%
PR	\$1,665,243	\$1,348,200	\$1,378,200	\$1,378,900	5.00	5.00	\$2,696,400	\$2,757,100	\$60,700	2.25%
S	\$1,665,243	\$1,348,200	\$1,378,200	\$1,378,900	5.00	5.00	\$2,696,400	\$2,757,100	\$60,700	2.25%

Agency Total by Program

550 Public Defender Board

1719 Biennial Budget

TOTAL 01	\$91,658,489	\$85,968,500	\$90,643,300	\$97,422,900	614.85	614.85	\$171,937,000	\$188,066,200	\$16,129,200	9.38%
S	\$91,658,489	\$85,968,500	\$90,643,300	\$97,422,900	614.85	614.85	\$171,937,000	\$188,066,200	\$16,129,200	9.38%
Agency Total	\$91,658,489	\$85,968,500	\$90,643,300	\$97,422,900	614.85	614.85	\$171,937,000	\$188,066,200	\$16,129,200	9.38%

Agency Total by Decision Item

Public Defender Board

1719 Biennial Budget

Decision Item	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
2000 Adjusted Base Funding Level	\$85,968,500	\$85,968,500	614.85	614.85
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	(\$3,210,900)	(\$3,210,900)	0.00	0.00
3005 Reclassifications and Semiautomatic Pay Progression	\$0	\$0	0.00	0.00
3007 Overtime	\$214,300	\$214,300	0.00	0.00
3010 Full Funding of Lease and Directed Moves Costs	\$42,000	\$107,500	0.00	0.00
4001 Private Bar Cost to Continue	\$6,776,600	\$6,776,600	0.00	0.00
4003 Transcripts, Interpreters and Discovery Cost to Continue	\$1,080,400	\$1,080,400	0.00	0.00
4502 Charging and Sentencing Alternatives	(\$1,146,200)	(\$2,292,300)	0.00	0.00
5001 Private Bar Rate Increase	\$0	\$7,575,700	0.00	0.00
5005 Business related IT Resources	\$325,600	\$337,100	0.00	0.00
5010 IT Case Management System Enhancements	\$343,000	\$616,000	0.00	0.00
5018 Tuition reimbursement/loan assistance	\$250,000	\$250,000	0.00	0.00
TOTAL	\$90,643,300	\$97,422,900	614.85	614.85

GPR Earned

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance

DATE September 14, 2016

Revenue	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$0	\$0	\$0	\$0
PR Lapse	\$118,700	\$118,700	\$118,700	\$118,700
Royalty Checks	\$2,000	\$3,000	\$3,500	\$3,500
Miscellaneous Revenue	\$2,600	\$3,500	\$4,000	\$4,000
Total	\$123,300	\$125,200	\$126,200	\$126,200

Program Revenue

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	31	Gifts, grants and proceeds

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$52,300	\$63,500	\$73,000	\$70,500
Miscellaneous Sponsors and Gifts	\$10,500	\$10,000	\$0	\$0
Miscellaneous Sales	\$3,700	\$3,500	\$3,500	\$3,500
Total Revenue	\$66,500	\$77,000	\$76,500	\$74,000
Expenditures	\$3,000	\$4,000	\$0	\$0
Purchase of Sale Merchandise	\$0	\$0	\$2,000	\$2,000
Miscellaneous Expenditures	\$0	\$0	\$4,000	\$4,000
Total Expenditures	\$3,000	\$4,000	\$6,000	\$6,000
Closing Balance	\$63,500	\$73,000	\$70,500	\$68,000

Program Revenue

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	33	Tuition payments

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$120,500	\$121,800	\$101,800	\$95,800
Miscellaneous Revenues	\$6,000	\$5,000	\$4,000	\$4,000
Training Course Fees	\$182,200	\$195,000	\$210,000	\$210,000
Total Revenue	\$308,700	\$321,800	\$315,800	\$309,800
Expenditures	\$186,900	\$220,000	\$0	\$0
Training Expenditures	\$0	\$0	\$220,000	\$220,000
Total Expenditures	\$186,900	\$220,000	\$220,000	\$220,000
<u>Closing Balance</u>	<u>\$121,800</u>	<u>\$101,800</u>	<u>\$95,800</u>	<u>\$89,800</u>

Program Revenue

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	35	Payments from clients; administrative costs

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$0	\$0	\$0	\$0
Transfer from 20.550(1)(fb)	\$283,100	\$283,300	\$300,800	\$307,300
Total Revenue	\$283,100	\$283,300	\$300,800	\$307,300
Expenditures	\$283,100	\$283,300	\$0	\$0
2000 Adjusted Base Funding Level	\$0	\$0	\$283,300	\$283,300
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$0	\$0	\$5,700	\$5,700
3010 Full Funding of Lease and Directed Moves Costs	\$0	\$0	\$3,500	\$3,800
Health Insurance Reserves	\$0	\$0	\$2,100	\$4,900
Compensation Reserve	\$0	\$0	\$3,400	\$6,800
Wisconsin Retirement System	\$0	\$0	\$0	\$0
3007 Overtime	\$0	\$0	\$2,800	\$2,800
Total Expenditures	\$283,100	\$283,300	\$300,800	\$307,300
Closing Balance	\$0	\$0	\$0	\$0

Program Revenue

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	36	Private bar and inv. reimbursement; payments for legal representation

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$201,600	\$154,700	\$0	\$0
Court Ordered and Collected Atty Fees for Commitment Cases	\$22,700	\$25,000	\$30,000	\$30,000
Client Payments	\$591,000	\$600,000	\$667,500	\$674,000
DOA Contracted Collections	\$321,800	\$320,000	\$330,000	\$330,000
Court Ordered and Collected Atty Fees for Juveniles	\$276,300	\$280,000	\$290,000	\$290,000
Court Ordered and Collected Atty Fees for Adult Cases	\$9,600	\$10,000	\$15,000	\$15,000
Total Revenue	\$1,423,000	\$1,389,700	\$1,332,500	\$1,339,000
Expenditures	\$1,268,300	\$1,389,700	\$0	\$0
2000 Adjusted Base Funding Level	\$0	\$0	\$913,000	\$913,000
PR Cash Lapse	\$0	\$0	\$118,700	\$118,700
Transfer to 20.550(1)(l)	\$0	\$0	\$300,800	\$307,300
Total Expenditures	\$1,268,300	\$1,389,700	\$1,332,500	\$1,339,000
Closing Balance	\$154,700	\$0	\$0	\$0

Program Revenue

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	37	Conferences and training

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$0	\$0	\$0	\$0
Penalty Surcharge Transfer from DOJ	\$151,800	\$151,900	\$173,900	\$179,000
Total Revenue	\$151,800	\$151,900	\$173,900	\$179,000
Expenditures	\$151,800	\$151,900	\$0	\$0
2000 Adjusted Base Funding Level	\$0	\$0	\$151,900	\$151,900
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	\$0	\$0	\$1,800	\$1,800
Compensation Reserve	\$0	\$0	\$2,100	\$4,200
Health Insurance Reserves	\$0	\$0	\$1,900	\$4,500
Wisconsin Retirement System	\$0	\$0	\$0	\$0
3010 Full Funding of Lease and Directed Moves Costs	\$0	\$0	\$16,200	\$16,600
Total Expenditures	\$151,800	\$151,900	\$173,900	\$179,000
Closing Balance	\$0	\$0	\$0	\$0

Program Revenue

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
PROGRAM	01	Legal assistance
SUBPROGRAM		
NUMERIC APPROPRIATION	41	Federal aid

Revenue and Expenditures	Prior Year Actuals	Base Year Estimate	1st Year Estimate	2nd Year Estimate
Opening Balance	\$0	\$0	\$0	\$0
BJA Grant	\$80,700	\$319,300	\$0	\$0
Total Revenue	\$80,700	\$319,300	\$0	\$0
Expenditures	\$80,700	\$319,300	\$0	\$0
Total Expenditures	\$80,700	\$319,300	\$0	\$0
<u>Closing Balance</u>	\$0	\$0	\$0	\$0

Decision Item (DIN) - 2000

Decision Item (DIN) Title - Adjusted Base Funding Level

NARRATIVE

Adjusted Base Funding Level

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	2000	Adjusted Base Funding Level

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$39,356,100	\$39,356,100
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$122,800	\$122,800
05	Fringe Benefits	\$16,561,500	\$16,561,500
06	Supplies and Services	\$29,928,100	\$29,928,100
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$85,968,500	\$85,968,500
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	237.65	237.65
20	Unclassified Positions Authorized	377.20	377.20

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	2000	Adjusted Base Funding Level			
01	Legal assistance				
	01 Program administration	\$2,757,900	\$2,757,900	18.40	18.40
	02 Appellate representation	\$4,581,700	\$4,581,700	43.35	43.35
	03 Trial representation	\$53,657,300	\$53,657,300	542.85	542.85
	04 Private bar and investigator reimbursement	\$21,210,400	\$21,210,400	0.00	0.00
	05 Private bar and investigator payments; administration costs	\$606,000	\$606,000	5.25	5.25
	06 Transcripts, discovery and interpreters	\$1,325,700	\$1,325,700	0.00	0.00
	07 Salary adjustments	\$481,300	\$481,300	0.00	0.00
	35 Payments from clients; administrative costs	\$283,300	\$283,300	3.00	3.00
	36 Private bar and inv. reimbursement; payments for legal representation	\$913,000	\$913,000	0.00	0.00
	37 Conferences and training	\$151,900	\$151,900	2.00	2.00
	Legal assistance SubTotal	\$85,968,500	\$85,968,500	614.85	614.85
	Adjusted Base Funding Level SubTotal	\$85,968,500	\$85,968,500	614.85	614.85
	Agency Total	\$85,968,500	\$85,968,500	614.85	614.85

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	2000	Adjusted Base Funding Level				
	GPR	S	\$84,620,300	\$84,620,300	609.85	609.85
	PR	S	\$1,348,200	\$1,348,200	5.00	5.00
	Total		\$85,968,500	\$85,968,500	614.85	614.85
Agency Total			\$85,968,500	\$85,968,500	614.85	614.85

Decision Item (DIN) - 3003

Decision Item (DIN) Title - Full Funding of Continuing Position Salaries and Fringe Benefits

NARRATIVE

Standard Budget Adjustment - Full Funding of Continuing Position Salaries and Fringe Benefits

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	3003	Full Funding of Continuing Position Salaries and Fringe Benefits

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	(\$2,178,400)	(\$2,178,400)
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	(\$1,032,500)	(\$1,032,500)
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	(\$3,210,900)	(\$3,210,900)
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	3003	Full Funding of Continuing Position Salaries and Fringe Benefits			
01	Legal assistance				
	01 Program administration	\$19,000	\$19,000	0.00	0.00
	02 Appellate representation	(\$524,400)	(\$524,400)	0.00	0.00
	03 Trial representation	(\$2,727,800)	(\$2,727,800)	0.00	0.00
	05 Private bar and investigator payments; administration costs	\$14,800	\$14,800	0.00	0.00
	35 Payments from clients; administrative costs	\$5,700	\$5,700	0.00	0.00
	37 Conferences and training	\$1,800	\$1,800	0.00	0.00
	Legal assistance SubTotal	(\$3,210,900)	(\$3,210,900)	0.00	0.00
	Full Funding of Continuing Position Salaries and Fringe Benefits SubTotal	(\$3,210,900)	(\$3,210,900)	0.00	0.00
	Agency Total	(\$3,210,900)	(\$3,210,900)	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	3003	Full Funding of Continuing Position Salaries and Fringe Benefits				
	GPR	S	(\$3,218,400)	(\$3,218,400)	0.00	0.00
	PR	S	\$7,500	\$7,500	0.00	0.00
	Total		(\$3,210,900)	(\$3,210,900)	0.00	0.00
Agency Total			(\$3,210,900)	(\$3,210,900)	0.00	0.00

Decision Item (DIN) - 3005

Decision Item (DIN) Title - Reclassifications and Semiautomatic Pay Progression

NARRATIVE

Standard Budget Adjustment - Reclassifications and Semiautomatic Pay Progression

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	3005	Reclassifications and Semiautomatic Pay Progression

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$0	\$0
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	3005	Reclassifications and Semiautomatic Pay Progression			
01	Legal assistance				
	07 Salary adjustments	\$0	\$0	0.00	0.00
	Legal assistance SubTotal	\$0	\$0	0.00	0.00
	Reclassifications and Semiautomatic Pay Progression SubTotal	\$0	\$0	0.00	0.00
	Agency Total	\$0	\$0	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	3005	Reclassifications and Semiautomatic Pay Progression				
	GPR	S	\$0	\$0	0.00	0.00
	Total		\$0	\$0	0.00	0.00
Agency Total			\$0	\$0	0.00	0.00

Decision Item (DIN) - 3007

Decision Item (DIN) Title - Overtime

NARRATIVE

Standard Budget Adjustment – Overtime

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	3007	Overtime

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$185,200	\$185,200
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$29,100	\$29,100
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$214,300	\$214,300
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	3007	Overtime			
01	Legal assistance				
	01 Program administration	\$9,600	\$9,600	0.00	0.00
	02 Appellate representation	\$25,300	\$25,300	0.00	0.00
	03 Trial representation	\$166,200	\$166,200	0.00	0.00
	05 Private bar and investigator payments; administration costs	\$10,400	\$10,400	0.00	0.00
	35 Payments from clients; administrative costs	\$2,800	\$2,800	0.00	0.00
	Legal assistance SubTotal	\$214,300	\$214,300	0.00	0.00
	Overtime SubTotal	\$214,300	\$214,300	0.00	0.00
	Agency Total	\$214,300	\$214,300	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	3007	Overtime				
	GPR	S	\$211,500	\$211,500	0.00	0.00
	PR	S	\$2,800	\$2,800	0.00	0.00
	Total		\$214,300	\$214,300	0.00	0.00
Agency Total			\$214,300	\$214,300	0.00	0.00

Decision Item (DIN) - 3010

Decision Item (DIN) Title - Full Funding of Lease and Directed Moves Costs

NARRATIVE

Standard Budget Adjustment - Full Funding of Lease and Directed Moves Costs

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	3010	Full Funding of Lease and Directed Moves Costs

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$42,000	\$107,500
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$42,000	\$107,500
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	3010	Full Funding of Lease and Directed Moves Costs			
01	Legal assistance				
	01 Program administration	\$2,000	\$7,800	0.00	0.00
	02 Appellate representation	\$2,200	\$8,700	0.00	0.00
	03 Trial representation	\$17,900	\$69,700	0.00	0.00
	05 Private bar and investigator payments; administration costs	\$200	\$900	0.00	0.00
	35 Payments from clients; administrative costs	\$3,500	\$3,800	0.00	0.00
	37 Conferences and training	\$16,200	\$16,600	0.00	0.00
	Legal assistance SubTotal	\$42,000	\$107,500	0.00	0.00
	Full Funding of Lease and Directed Moves Costs SubTotal	\$42,000	\$107,500	0.00	0.00
	Agency Total	\$42,000	\$107,500	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	3010	Full Funding of Lease and Directed Moves Costs				
	GPR	S	\$22,300	\$87,100	0.00	0.00
	PR	S	\$19,700	\$20,400	0.00	0.00
	Total		\$42,000	\$107,500	0.00	0.00
Agency Total			\$42,000	\$107,500	0.00	0.00

Decision Item (DIN) - 4001

Decision Item (DIN) Title - Private Bar Cost to Continue

NARRATIVE

The Public Defender Board requests, for the Office of the State Public Defender (SPD), a cost-to-continue funding adjustment of \$6,776,600 GPR in FY18, and \$6,776,600 GPR in FY19, in appropriations 20.550 (1) (d) (private bar and investigator reimbursement).

**Office of the State Public Defender
2017-2019 Biennial Budget
Issue Paper**

Topic: DIN 4001 – Private Bar Cost to Continue

Agency Request

The Public Defender Board requests, for the Office of the State Public Defender (SPD), a cost-to-continue funding adjustment of \$6,776,600 GPR in FY18, and \$6,776,600 GPR in FY19, in appropriation s. 20.550 (1) (d) (private bar and investigator reimbursement).

Problem Description

The SPD is responsible for the cost of private bar and investigator reimbursements. The SPD will face a structural deficit if budget adjustments are not made as requested.

Background

The State Public Defender's Trial Division is authorized 344.45 FTE attorney and attorney supervisor positions, all but ten of which are budgeted to achieve statutorily defined annual caseloads per s. 977.08(5)(bn) Wis. Stats. SPD attorneys at the trial level, on average, carry caseloads at approximately 125% of the recommended level based on national standards to provide ethical and competent representation. Additionally, the Appellate Division is authorized 27.75 FTE attorneys and attorney supervisors. In FY16, staff attorneys (Trial and Appellate) were assigned 81,268 of the 138,795 total cases in which the defendant qualified for SPD services.

Overflow cases and those in which staff attorneys may have a conflict of interest are appointed to private bar attorneys throughout the state, at statutory hourly rates of \$40 per hour [refer to DIN 5001 regarding an increase in the private bar reimbursement rate] for time in or out of court and \$25 per hour for travel. In fiscal year 2016, a total of 57,527 (41%) were appointed to private bar attorneys.

Analysis

The private bar appropriation is impacted by factors beyond the control of the SPD, most notably variations in charging practices among counties, the number of cases in which multiple defendants face the same charges, availability of private bar attorneys in particular geographic areas, and turnover in SPD staff attorney positions. In particular, SPD (as well as other state agencies including District Attorneys) saw significantly higher than normal turnover in the past biennium. This turnover rate appears to be due to both retirements and resignations.

	FY18	FY19
Estimated Cost for Private Bar Assignments	\$28,898,000	\$28,898,000
Client Collections	-\$1,200,000	-\$1,200,000
Estimated Client Accounts Admin Costs	\$289,000	\$289,000
Funding Needed	\$27,987,000	\$27,987,000
FY17 GPR Base (appn. 104)	-\$21,210,400	-\$21,210,400
Additional GPR requested	\$6,776,600	\$6,776,600

The SPD provides constitutionally and statutorily guaranteed representation to people who meet the financial eligibility standards. The agency's overall workload is determined externally, by the number and severity of charges filed and by economic factors such as unemployment rates. When defendants qualify for a public defender, the agency must appoint counsel. Although \$6.2 million received in the 2013-15 biennium resolved a long-standing structural deficit, the cost to continue for private bar remains driven by factors outside of the control of the agency.

If this decision item is not approved or is reduced, the appropriation for private bar payments will again face a structural deficit, resulting in a significant payment delay. Such payment delays cause undue hardship to private bar attorneys – small business people in communities throughout the state – by forcing them to wait months for payment.

Summary

	FY18		FY19	
	Funding	FTE	Funding	FTE
GPR	\$6,776,600	0.00	\$6,776,600	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$	0.00	\$	0.00

Prepared by:
Martina Allen, Budget Director
608-267-0311

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	4001	Private Bar Cost to Continue

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$6,776,600	\$6,776,600
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$6,776,600	\$6,776,600
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	4001	Private Bar Cost to Continue			
01	Legal assistance				
	04 Private bar and investigator reimbursement	\$6,776,600	\$6,776,600	0.00	0.00
	Legal assistance SubTotal	\$6,776,600	\$6,776,600	0.00	0.00
	Private Bar Cost to Continue SubTotal	\$6,776,600	\$6,776,600	0.00	0.00
	Agency Total	\$6,776,600	\$6,776,600	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	4001	Private Bar Cost to Continue				
	GPR	S	\$6,776,600	\$6,776,600	0.00	0.00
	Total		\$6,776,600	\$6,776,600	0.00	0.00
Agency Total			\$6,776,600	\$6,776,600	0.00	0.00

Decision Item (DIN) - 4003

Decision Item (DIN) Title - Transcripts, Interpreters and Discovery Cost to Continue

NARRATIVE

The Public Defender Board requests, for the Office of the State Public Defender (SPD), increased funding of \$1,080,400 GPR, per year for the appropriation under §20.550(1)(f) for payments for transcripts, discovery, and interpreters, to reflect current needs.

**Office of the State Public Defender
2017-2019 Biennial Budget
Issue Paper**

Topic: DIN 4003 - Transcripts, Interpreters and Discovery Cost to Continue

Agency Request

The Public Defender Board requests, for the Office of the State Public Defender (SPD), increased funding of \$1,080,400 GPR, per year for the appropriation under §20.550(1)(f) for payments for transcripts, discovery, and interpreters, to reflect current needs.

Problem Description

The State Public Defender (SPD) is responsible for the cost of transcripts of court proceedings that SPD staff and private bar attorneys request from the courts, for copying costs incurred by counties and other parties to provide SPD attorneys with discovery materials, and for the cost of interpreters needed for attorney-client communication and other case preparation (the courts are responsible for the costs of in-court interpreters). These costs are funded by a single appropriation under §20.550(1)(f). Total funding and expenditure/commitment levels each year since FY02 are shown below:

	<u>Appropriated</u>	<u>Needed</u>	<u>Shortfall</u>
FY02	\$1,339,100	\$1,365,781	(\$ 26,681)
FY03	\$1,339,100	\$1,449,304	(\$110,204)
FY04	\$1,339,100	\$1,595,480	(\$256,380)
FY05	\$1,339,100	\$1,966,968	(\$627,868)
FY06	\$1,339,100	\$1,761,832	(\$422,732)
FY07	\$1,339,100	\$1,644,047	(\$304,947)
FY08	\$1,339,100	\$1,775,960	(\$436,860)
FY09	\$1,339,100	\$1,844,328	(\$505,228)
FY10	\$1,325,700	\$1,963,371	(\$637,671)
FY11	\$1,325,700	\$2,084,068	(\$758,368)
FY12	\$1,325,700	\$2,098,427	(\$772,727)
FY13	\$1,325,700	\$2,013,207	(\$687,507)
FY14	\$1,325,700	\$2,279,247	(\$953,547)
FY15	\$1,325,700	\$2,429,151	(\$1,103,451)
FY16	\$1,325,700	\$2,406,052	(\$1,080,352)

The amounts appropriated were sufficient in the 1999-01 biennium. Since then, this appropriation was subjected to a five percent across the board "efficiency reduction" in 2001 Wisconsin Act 16, the 2001-2003 biennial budget act. However, as discussed below, these expenses are largely driven by the volume and complexity of SPD appointments.

The SPD's request for a base funding increase in FY09-11, FY11-13, FY13-15 and FY15-17 to address this shortfall was not included in the biennial budget.

Background

Beginning in FY02, the SPD has ended each fiscal year with a growing amount of pending and unpaid bills relating to that fiscal year which, until FY05, were instead paid in the following fiscal year due to a funding shortfall. In FY03-04, this appropriation was depleted by the end of May 2004. This depletion resulted in delayed payments to numerous court reporters, interpreters, and counties. It also resulted in the SPD incurring interest costs on payments made after thirty days. This has again happened in FY14 where payments were delayed and some costs were moved to the following fiscal year.

At the end of each fiscal year beginning in FY02, significant delays in payments to court reporters, interpreters, and counties were avoided by transferring available expenditure authority from the salary, fringe benefit, and LTE budget lines. Although these transfers prevented funding deficits and payment backlogs from being compounded each year, they did not increase the base level of funding going forward and did not allow the agency to utilize the money in other areas of significant need, such as information technology upgrades. The SPD had a structural deficit in this appropriation of approximately \$1,080,352 at the end of FY16.

Transcript Payments

The FY16 base budget for transcripts was \$600,431; however, total expenses for transcripts in FY16 was \$1,465,460. The need for transcripts is a function of the number of type of cases appointed, their complexity, the number and duration of court appearances and trials, and the number of cases in which defendants seek post-conviction (appellate) representation from SPD. The SPD has attempted to mitigate the effect of the increased expenditures for transcripts by urging staff attorneys to carefully determine when transcripts are needed and when they are not. Transcript expenditures are reviewed on a monthly basis, and higher than average expenditure levels are further reviewed to determine which individual attorneys are incurring high transcript costs and why.

Transcript requests have become more numerous and complex as more items have become electronic such as video surveillance, audio and video recordings and interrogations. Audio and video files take significant time to transcribe since people sometimes are talking at the same time or the quality of the audio and video increases the difficulty of an accurate transcription. Also, courts increasingly require attorneys to produce transcripts of recordings before the recordings are played in open court.

Discovery Payments

Defendants have a constitutional right to "discovery"; that is, the disclosure of the prosecutor's evidence. Prosecutors comply with this discovery obligation by making

available copies of reports, recordings, and other pertinent investigative materials. Since FY94, the SPD has been responsible for reimbursing counties for copying costs associated with providing discovery materials to SPD attorneys. At first, many counties did not submit bills for discovery; however, as county budgets became tighter in recent years, they began doing so. Now, all counties bill the SPD for discovery.

The SPD was initially provided \$60,000 in the 1995 Budget Adjustment Bill for discovery payments. The appropriation was increased to \$150,000 in the 1999-2001 biennial budget, but was then reduced to \$141,100 by across-the-board reduction in the 2001-03 and 2009-11 biennial budget acts.

Discovery payments from this appropriation are driven by the number of cases appointed. Appointments in FY16 were as high as 8.2% in fiscal years after the first across-the-board reduction in 2001-03. In FY16, the SPD incurred costs totaling \$858,834 for discovery.

A portion of the rising discovery costs is attributable to 2005 Wisconsin Act 60, which was enacted in December 2005. Act 60 "codifies the *Jerrell* recording requirement," as described in the analysis of the bill by the Legislative Reference Bureau. It "requires that law enforcement agencies make an audio or (audio/visual) recording of a custodial interrogation of a juvenile who is suspected of committing a crime if the interrogation is conducted at a place of detention. (It) also requires law enforcement agencies to make a recording, if feasible, of a custodial interrogation of a juvenile suspected of committing a crime if the interrogation is conducted at a place other than a place of detention" with some exceptions.

Further, 2005 Wis Act 60 provides that custodial interrogations of adult felony defendants should be recorded and admitted into evidence at trial, and that, barring good cause not to do so, the judge may instruct the jury that they may consider the absence of a recording when weighing the evidence. These recordings are subject to discovery. The SPD experienced an eight-fold increase in payments for video recordings since FY05 (from \$12,184 in FY05 to \$146,707 in FY14). Squad-car recordings and security-camera recordings also contribute to the increased costs in this appropriation. As noted above, recordings also entail transcription costs because of the need to present the court with an accurate record of the recorded statement, interrogation, or other conversation.

Interpreter Payments

Even before the SPD's \$10,000 budget in FY01 for interpreter payments was permanently reduced by the five percent across-the-board efficiency reduction, the funding was insufficient to meet the growing need for interpreters. The current allocation is \$108,657. The number of defendants who are not able to communicate effectively with their attorney without such assistance has grown. In FY16, the SPD incurred costs totaling \$81,759 for interpreters. The agency has attempted to mitigate costs for interpreters through language line services; however, that option is

not always available when meetings or interviews occur in jails, courthouses, and other non-office settings.

In addition to the need to communicate directly with the client, SPD staff often need to interview potential witnesses who require an interpreter.

Like discovery payments, interpreter payments from this appropriation are driven by the number of cases appointed.

The SPD is not the only participant in the criminal justice system to see an increase in interpreter costs. The 2007-09 biennial budget act provided a base funding increase to the Circuit Courts of \$298,000 per year to increase state reimbursement to counties for in-court interpreter services.

Analysis

The Public Defender Board requests that additional funding be provided for transcript, discovery and interpreter payments as follows:

Full funding of transcript payments	\$1,465,460 annually
Full funding of discovery payments	\$ 858,834 annually
Full funding of interpreter payments	<u>\$ 81,759 annually</u>
Total Projected Annual Need in 2017-19	\$2,406,052 annually
Appn. 106 Adjusted 2017 Base Funding	<u>\$1,325,700</u>
Annual increase needed	\$ 1,080,352

Summary

	FY18		FY19	
	Funding	FTE	Funding	FTE
GPR	\$1,080,400	0.00	\$1,080,400	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$1,080,400	0.00	\$1,080,400	0.00

Prepared by:
Martina Allen, Budget Director
608-267-0311

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	4003	Transcripts, Interpreters and Discovery Cost to Continue

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$1,080,400	\$1,080,400
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$1,080,400	\$1,080,400
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	4003	Transcripts, Interpreters and Discovery Cost to Continue			
01	Legal assistance				
	06 Transcripts, discovery and interpreters	\$1,080,400	\$1,080,400	0.00	0.00
	Legal assistance SubTotal	\$1,080,400	\$1,080,400	0.00	0.00
	Transcripts, Interpreters and Discovery Cost to Continue SubTotal	\$1,080,400	\$1,080,400	0.00	0.00
	Agency Total	\$1,080,400	\$1,080,400	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	4003	Transcripts, Interpreters and Discovery Cost to Continue				
	GPR	S	\$1,080,400	\$1,080,400	0.00	0.00
	Total		\$1,080,400	\$1,080,400	0.00	0.00
Agency Total			\$1,080,400	\$1,080,400	0.00	0.00

Decision Item (DIN) - 4502

Decision Item (DIN) Title - Charging and Sentencing Alternatives

NARRATIVE

The Public Defender Board, for the Office of the State Public Defender (SPD), proposes statutory changes to the penalty surcharge and/or charging process for certain offenses (juvenile and adult) to reduce the number of cases in which the SPD must appoint an attorney. This request would save \$1,146,200 GPR in FY18 and \$2,292,300 GPR in FY19 in agency-wide savings. There would also be collateral savings for other criminal justice system entities.

**OFFICE OF THE STATE PUBLIC DEFENDER
2017-2019 Biennial Budget
Issue Paper**

Topic: DIN 4502 – Charging and Sentencing Alternatives

Agency Request

The Public Defender Board, for the Office of the State Public Defender (SPD), proposes statutory changes to the penalty surcharge and/or charging process for certain offenses (juvenile and adult) to reduce the number of cases in which the SPD must appoint an attorney. This request would save \$1,146,200 GPR in FY18 and \$2,292,300 GPR in FY19 in agency-wide savings. There would also be collateral savings for other criminal justice system entities.

Problem Description

Many criminal charges are settled before trial, reduced to a conforming municipal ordinance, or addressed with an alternative to incarceration; however, when a criminal statute is originally charged, these alleged offenders can qualify for representation by the SPD. This disparity between the criminal statute and case resolution significantly and unnecessarily increases costs overall to the criminal justice system.

Background

The SPD has the statutory responsibility to appoint counsel for financially eligible defendants in criminal and juvenile delinquency cases, sec. 977.05(4)(i), Stats. The SPD does not provide representation to persons whose charges are classified as non-criminal forfeitures (such as city and county ordinance cases). Thus, when cases are diverted from the formal criminal and delinquency court processes without the issuance of formal charges, the SPD will have fewer cases in which it is required to appoint counsel. Also, to the extent that remaining SPD cases are charged as misdemeanors, rather than as felonies, the average cost per case will decrease.

Analysis

The right to counsel in a criminal proceeding is contained in both chapter 977 of the Wisconsin statutes and in the United States and Wisconsin Constitutions. Therefore, the SPD cannot unilaterally reduce the number of cases in which the agency appoints counsel. The SPD's caseload and associated costs are largely determined by the number and nature of criminal proceedings filed in state court. This proposal advances a potential strategy for reducing the number of SPD cases by amending specified criminal statutes. Criminal charges identified in this request include both adult and juvenile charges.

Provide a Diversion/Restitution Alternative

The SPD requests a change to the procedure for charging an adult or a juvenile with first offense misdemeanor violations of s. 947.01, Disorderly Conduct when the alleged offender has not been convicted of a felony offense and has not been convicted of any similar offense in the previous three years.

Before issuing a criminal charge under this misdemeanor statutes, the District Attorney would be required to offer the alleged first offender the opportunity to either 1) complete a diversion program by satisfying all conditions of the program, including restitution when applicable; or 2) pay a forfeiture under a stipulated finding of guilt of a non-criminal ordinance violation.

SPD anticipates that most defendants would accept either the diversion option or agree to pay a forfeiture, given that the alternative would be to face a criminal charge. SPD would not appoint an attorney unless the defendant turned down the options for the non-criminal disposition.

Defendants in these cases are currently eligible for representation by the State Public Defender's office because a conviction for any of these misdemeanors can result in incarceration. In practice, however, most of these cases do not result in jail time; they are ultimately dismissed (on the prosecutor's motion or following an acquittal at trial), reduced to a conforming ordinance, or addressed with one or more alternatives to incarceration.

This proposal would also provide benefits to other justice agencies, such as district attorneys and courts, because more resources could be focused on prosecution and adjudication of more-serious allegations.

We estimate that approximately half of the SPD's 9,686 disorderly conduct cases could have been diverted if this proposed provision had been in effect during FY16 (the numbers represent the numbers of SPD appointments for these case types during the fiscal year). Based on cost per case averages, this option could reduce SPD costs by \$1,067,305.

Reclassify Offenses

Many counties and municipalities issue non-criminal citations for possession of marijuana. When criminal charges are filed, they are often resolved with dispositions that do not include incarceration. Thus, the proposed reclassification of these offenses to non-criminal forfeitures is a reasonable component of reducing the cost to provide SPD representation.

The SPD recommends the reclassification of drug possession for marijuana, expanding the ability for first and second offense drug charges to be prosecuted as forfeitures as allowed under 2013 Wisconsin Act 293 if there are no allegations that the individual was manufacturing, distributing or delivering the controlled substance. We further recommend that the 3rd offense be considered a misdemeanor. Additional savings could

be realized if municipalities expanded the drugs allowable for forfeiture or placed individuals of controlled substances into diversion programs.

In FY16, the SPD represented clients in almost 8,442 related to possession of drugs. If these cases would not have qualified for representation due to the suggested reclassification to ordinances, then the SPD would have saved \$455,312.

SPD also recommends eliminating the felony penalty for bail jumping under s. 946.49 and allowing for a misdemeanor penalty regardless of the original criminal charge, which is still pending regardless of the additional bail jumping charge. In FY 16, SPD provided representation in 8,147 felony bail jumping cases. If these had been charged as misdemeanors instead, based on the cost differential between an average felony and misdemeanor bail jumping case, SPD would expect to save \$769,729.

As a number of statewide and county-based justice work groups study best practices, a consensus is emerging that incarceration is less effective than other responses to criminal conduct, especially when the defendant does not pose a high degree of risk to the community. The statutory changes in this proposal would apply to individuals charged with nonviolent offenses, and the decrease in potential incarceration would be consistent with evidence-based practices.

Summary

As it would take 6 months to complete cases charged under the current system, SPD estimates savings of half the costs listed above in Fiscal Year 18 and the full cost in Fiscal Year 19. These cases are represented by staff attorneys as well as private bar attorneys.

	FY18		FY19	
	Funding	FTE	Funding	FTE
GPR	\$(1,146,200)	0.00	\$(2,292,300)	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$(1,146,200)	0.00	\$(2,292,300)	0.00

Prepared by:
Adam Plotkin, Legislative Liaison
608-264-8572

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	4502	Charging and Sentencing Alternatives

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	(\$1,146,200)	(\$2,292,300)
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	(\$1,146,200)	(\$2,292,300)
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	4502	Charging and Sentencing Alternatives			
01	Legal assistance				
	04 Private bar and investigator reimbursement	(\$1,146,200)	(\$2,292,300)	0.00	0.00
	Legal assistance SubTotal	(\$1,146,200)	(\$2,292,300)	0.00	0.00
	Charging and Sentencing Alternatives SubTotal	(\$1,146,200)	(\$2,292,300)	0.00	0.00
	Agency Total	(\$1,146,200)	(\$2,292,300)	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	4502	Charging and Sentencing Alternatives				
	GPR	S	(\$1,146,200)	(\$2,292,300)	0.00	0.00
	Total		(\$1,146,200)	(\$2,292,300)	0.00	0.00
Agency Total			(\$1,146,200)	(\$2,292,300)	0.00	0.00

Decision Item (DIN) - 5001

Decision Item (DIN) Title - Private Bar Rate Increase

NARRATIVE

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$0 GPR in FY18 and \$7,575,700 GPR in FY19 to increase the \$40 per hour reimbursement rate for private bar attorneys to a tiered payment rate of \$45 to \$60 per hour. The new rates would apply to cases assigned on or after July 1, 2018. The Office of the SPD requests modification of the statutory reimbursement rate for in-court and out-of-court work in Wis. Stats. s. 977.08 (4m).

**OFFICE OF THE STATE PUBLIC DEFENDER
2017-2019 Biennial Budget
Issue Paper**

Topic: DIN 5001 – Private Bar Rate Increase

Agency Request

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$0 GPR in FY18 and \$7,575,700 GPR in FY19 to increase the \$40 per hour reimbursement rate for private bar attorneys to a tiered payment rate of \$45 to \$60 per hour. The new rates would apply to cases assigned on or after July 1, 2018. The Office of the SPD requests modification of the statutory reimbursement rate for in-court and out-of-court work in Wis. Stats. s. 977.08 (4m).

Problem Description

The hourly rate paid to the private bar attorneys who accept appointments to provide legal representation in Public Defender cases is impeding the SPD's ability to recruit and retain private bar attorneys who consistently accept appointments and provide quality representation.

Background

When the Legislature created the SPD in 1977, it established the hourly rate paid to private bar attorneys at \$45 per hour for time spent in-court and \$35 for time spent out-of-court. See s. 977.08 (4m) (a). Travel time was, and continues to be, reimbursed at \$25 per hour. In 1992, the Legislature raised private bar rates to \$50 per hour for in-court and \$40 per hour for out-of-court work. See s. 977.08 (4m) (b). However, in 1995, the private bar rate was reduced to \$40 per hour for in-court work. See s. 977.08 (4m) (c). This \$40 hourly rate remains the current rate at which private bar attorneys are paid for work on Public Defender cases, for both in-court and out-of-court work.

The \$40 hourly reimbursement rate, unchanged since 1995, is now unreasonably below market rate. Attorneys in private practice set their hourly rates so that overhead is covered and the attorney is paid at a rate commensurate with experience, knowledge, and skills. As small business operational costs increased, the median hourly rate that attorneys charge clients has increased. According to the State Bar of Wisconsin's study, *2013 Economics of Law Practice in Wisconsin*, by all measures the current SPD rate is far below industry standards. The report shows the following:

- The median gross annual salary for an attorney in private practice is \$108,000.
- The median hourly billing rate for a private practitioner is \$210.
- The median hourly billing rate for a criminal law private practitioner is \$145.
- The mean hourly billing rate for a legal associate with no experience is \$166.

Wage inflation rates compiled by the Social Security Administration indicate that a \$40 per hour wage set in 1995 would equate to \$75.25 per hour in 2014. Over the same period, the buying power of the dollar has decreased to \$0.64 in 2014. In perspective, the buying power of \$40 in 1995 is the equivalent of \$25.20 in 2014. The cumulative effect of even modest annual inflation rates shows that in terms of buying power, private attorneys have had their reimbursement rate substantially reduced over time.

Analysis

The SPD proposes significant changes to the structure of the reimbursement rates for private bar attorneys appointed cases by the SPD, as well as a modest rate increase. If implemented, these changes would coincide with program and policy changes designed to ensure that the quality of representation becomes more consistent with that provided by SPD staff attorneys.

Private Bar In and Out of Court Reimbursement Rate

The SPD appoints cases to the private bar attorneys when SPD staff is unavailable due to vacancies or workloads. Some appointments to the private bar are necessitated by conflicts of interest, such as when multiple SPD clients are co-defendants in the same case. The assigned cases vary greatly in complexity, from simple misdemeanors to serious felonies. These cases require different levels of attorney skill, knowledge, and experience. To recognize these factors, the SPD is proposing a trifurcated hourly rate, based on case type, for cases assigned to the private bar. The private bar reimbursement rate would be set at \$45-\$60 per hour for in-court and out-court work based on the case type. Appendix A details the case types identified with each rate structure. The proposed rates for each case type are intended to reflect the expertise and specialization ordinarily required for the respective case types, the risk of imprisonment or other significant consequences for the client, and/or the difficulty that some SPD offices experience in appointing the cases to qualified private attorneys.

The current \$40 per hour rate, applicable regardless of the complexity of the case, has been cited by private bar attorneys as the main factor in their decisions to no longer accept or too infrequently accept SPD case appointments. Most attorneys are small-business owners who must make sound economic decisions in order to remain in business. Experienced attorneys who have paying clients lose a significant amount of money for every hour they spend on an SPD case.

Experienced attorneys who have paying clients cannot justify or afford to take more than a few SPD cases. Another key finding of the State Bar's *Economics of Law Practice in Wisconsin* is that the median overhead rate to operate a law practice is 38% of gross income. Given the median income for attorneys, the SPD payment rate is inadequate to meet overhead requirements, and is a disincentive for many attorneys to accept SPD appointments. The SPD does not have the authority to appoint a private attorney unless the attorney has agreed to accept the case in question.

In any local small business, inability to cover overhead costs reduces the ability to rent office space and hire staff. If the reimbursement for work on SPD cases is increased to

better offset overhead costs, the attorneys accepting SPD appointments will likely increase their contributions to the local economy through office rentals and hiring of support staff.

In comparison, other attorneys retained by federal, state and local government are paid substantially more than \$40 per hour. Defense attorneys are paid \$129 per hour for non-capital federal cases. The Office of Lawyer Regulation uses outside counsel in some disciplinary matters and pays them \$70 per hour. Other state agencies charge-back for their in-house attorney services. For example, the prior Department of Regulation and Licensing charged back attorney time to license holders who committed misconduct at the rate of \$61.00 per hour. The disparities among state agencies in attorney reimbursement rates is continually identified by the private bar attorneys as another reason why they will take cases for some state agencies, but not the SPD.

According to a Legislative Fiscal Bureau memo dated October 17, 2013, nearly every service for which the state contracts at an hourly rate is higher than the SPD private bar rate. Some overall findings include:

- The median rate of hourly pay ranges from \$50-\$90.
- The median rate of hourly pay in legal professions ranges from \$50-\$120.
- Out of 99 different job titles, only 10 paid a maximum hourly rate *lower* than \$40 per hour.
- Attorneys received an hourly rate as high as \$509.
- Paralegal services were contracted for at a minimum hourly rate of \$70 and went as high as \$248 an hour.

The low rate makes it increasingly difficult to find competent lawyers to take SPD appointments. Although there are currently about 1,200 lawyers on the appointment lists, in CY 2015, of those active attorneys on the SPD appointment list, 13% took zero case appointments. 31% took less than 26 appointments. 18% took 26-50 appointments and 38% took more than 50 appointments. About 56% regularly accept SPD appointments (26 or more in a year). These numbers demonstrate the difficulties in appointing cases that have been reported by field staff. The SPD local offices report that one reason lawyers who used to accept appointments now take fewer appointments – or none at all – is because counties and federal courts pay substantially higher rates. Based on an informal survey with 41 responses from counties, the average hourly rate of pay for an attorney appointed at county expense is just over \$70 per hour.

The SPD is experiencing difficulty in making appointments to the private bar, especially in sexual assault cases, which has consequences for the justice system. Many offices serving counties outside of Milwaukee and Dane must routinely appoint attorneys from other counties, increasing travel time and mileage expenses.

Cost Estimate

Private Bar In and Out of Court Reimbursement Rate

Appendix A identifies the case types and the requested new rate structure per case type. Case types at the lowest rate of \$45 per hour are generally more routine in nature. Case types at the middle rate of \$50 per hour ordinarily require more specialization or complex knowledge of legal theory, practice and strategy. The case types at the highest level of \$60 per hour require significant subject matter expertise and deal with the most severe criminal penalties. The Appellate case type rates would be allocated based on the underlying trial level case type. This linkage ensures that the skills, knowledge and competencies required at the trial level would be required at the Appellate level as well. Estimates are based on actual payments by case type for FY16. Using the average in-court and out-of-court time and dividing by the number of cases, we estimate the average hours spent per case type and multiply that first by the number of cases and then by the low, medium or high reimbursement rate.

Formula: In- and out-of-court average case cost/\$40 reimbursement rate = average hours spent per case type X number of cases X reimbursement rate = estimated cost per case type.

Example: Chapter 55 Case Type: $(\$43.01 + \$295.05)/\$40 = 8.45$ hours per case X 844 cases X \$50 = \$356,590 estimated increase in a fiscal year.

SPD requests that the rate increase beginning with cases appointed in the second year of the biennium, July 1, 2018. The cost to increase the private bar rate would not be realized until October of 2018, due to a three month lag between the opening and closing of a case by the private bar. The annual cost is \$10,101,000. Partial year costs would first occur in FY17, estimated at \$7,575,700.

Statutory Changes (Appendix B)

Amend s. §977.08(4m) to increase the statutory reimbursement rate for in-court and out-of-court work to \$45-\$60 per hour based on case type, for cases assigned on or after July 1, 2018.

Summary

	FY18		FY19	
	Funding	FTE	Funding	FTE
GPR	\$0	0.00	\$7,575,700	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$0	0.00	\$7,575,700	0.00

Prepared by:
Adam Plotkin, Legislative Liaison
608-264-8572

Appendix A – Trifurcated Reimbursement Rate by Case Type

CASE TYPE	NO OF CASES	Appellate Distribution (underlying charge)	AVG IN COURT	AVG OUT COURT	AVG HOURS PER CASE				
						\$40	\$45	\$50	\$60
Appellate Plea	1,724	0.0%	\$ 13.54	\$ 923.16	23.42	\$ 1,614,876	\$ 878,947	\$ 922,114	\$ 143,814
Appellate Trial	1,091	0.0%	\$ 21.24	\$ 1,867.90	47.23	\$ 2,061,057	\$ 1,121,794	\$ 1,176,889	\$ 183,550
Class A/B/C Felony	2,978	4.2%	\$ 227.67	\$ 1,822.89	51.26	\$ 6,106,568			\$ 9,159,852
Homicide	82	0.1%	\$ 466.81	\$ 4,499.71	124.16	\$ 407,255			\$ 610,882
Homicide/Juv Co Chair	5	0	\$ 546.80	\$ 5,177.86	143	\$ 28,623			\$ 42,935
Other Life Sentence	45	0	\$ 292.31	\$ 2,720.75	75	\$ 135,588			\$ 203,382
Juvenile Waiver	172	0.2%	\$ 54.50	\$ 194.16	6.22	\$ 42,769			\$ 64,153
Sexual Predator (original)	34	0.0%	\$ 202.82	\$ 2,789.29	74.80	\$ 101,732			\$ 152,598
Sexual Predator	82	0.1%	\$ 120.90	\$ 797.54	22.96	\$ 75,312			\$ 112,968
TPR	840	1.2%	\$ 165.92	\$ 955.85	28.04	\$ 942,284			\$ 1,413,426
Chapter 55	844	1.2%	\$ 43.01	\$ 295.05	8.4516	\$ 285,325		\$ 356,656	
Deinquency - Felony	1,220	1.7%	\$ 97.25	\$ 418.82	12.90	\$ 629,609		\$ 787,012	
Felony	24,844	34.8%	\$ 90.14	\$ 512.17	15.06	\$ 14,963,790		\$ 18,704,737	
Revocation	5,700	8.0%	\$ 24.14	\$ 286.98	7.78	\$ 1,773,384		\$ 2,216,730	
Commitment	3,702	5.2%	\$ 25.83	\$ 162.35	4.70	\$ 696,643	\$ 783,723		
Intake	131	0.2%	\$ 53.07	\$ 107.50	4.01	\$ 21,035	\$ 23,664		
Juvenile	5,003	7.0%	\$ 46.40	\$ 183.29	5.74	\$ 1,149,139	\$ 1,292,781		
Misdemeanor	16,865	23.6%	\$ 35.87	\$ 226.49	6.56	\$ 4,424,701	\$ 4,977,789		
Misdemeanor Traffic	2,718	3.8%	\$ 38.65	\$ 211.58	6.26	\$ 680,125	\$ 765,141		
Post Disposition	1,271	0	\$ 36.54	\$ 124.15	4	\$ 204,239	\$ 229,769		
Special	4,845	6.8%	\$ 28.92	\$ 168.77	4.94	\$ 957,822	\$ 1,077,550		

Appendix B – Statutory Changes

Create 977.08(4m)(e) for a trifurcated hourly rate.

Proposed language:

Unless otherwise provided by a rule promulgated under s. 977.02(7r) or by a contract authorized under sub. (3)(f), for cases assigned on or after July 1, 2018, private local attorneys shall be paid \$45 to \$60 per hour, based upon the case type, for time spent related to a case, excluding travel.

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	5001	Private Bar Rate Increase

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$0	\$7,575,700
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$0	\$7,575,700
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	5001	Private Bar Rate Increase			
01	Legal assistance				
	04 Private bar and investigator reimbursement	\$0	\$7,575,700	0.00	0.00
	Legal assistance SubTotal	\$0	\$7,575,700	0.00	0.00
	Private Bar Rate Increase SubTotal	\$0	\$7,575,700	0.00	0.00
	Agency Total	\$0	\$7,575,700	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	5001	Private Bar Rate Increase				
	GPR	S	\$0	\$7,575,700	0.00	0.00
	Total		\$0	\$7,575,700	0.00	0.00
Agency Total			\$0	\$7,575,700	0.00	0.00

Decision Item (DIN) - 5005

Decision Item (DIN) Title - Business related IT Resources

NARRATIVE

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$325,600 GPR in FY18 and \$337,100 in FY19 to provide hardware and software technology necessary for SPD staff to fulfill business needs related to client representation, including related computer operations required for interfacing with the court's mandatory eFiling system.

OFFICE OF THE STATE PUBLIC DEFENDER
2017-2019 Biennial Budget
Issue Paper

Topic: DIN 5005 – Business related IT Resources

Agency Request

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$325,600 GPR in FY18 and \$337,100 in FY19 to provide hardware and software technology necessary for SPD staff to fulfill business needs related to client representation, including related computer operations required for interfacing with the court's mandatory eFiling system.

Problem Description

As the court system in general becomes increasingly technology dependent, SPD staff have limited mobile access to electronic data while outside the office. Staff also lack some of the software programs necessary to meet day-to-day business needs.

Although many staff utilize personal electronic devices such as cell phones to access e-mail and their calendars, the agency and the Department of Administration's Division of Enterprise Technology are not able to directly support those devices or provide mobile equipment that would allow secure access to electronic work files and client/case-related information. With 37 Trial Division offices covering all 72 counties, the SPD employs a significant number of staff who spend a majority of their work week away from their home office and therefore away from their computers. Increased connectivity from agency-supported devices would dramatically increase the productivity of staff, particularly in the Trial Division.

Specifically, the lack of mobile technology has the following impact:

- Limits productivity and impacts client representation because staff, particularly attorneys, cannot remotely access their work documents or key legal resources (e.g., state statutes, Circuit Court Automation Project (CCAP) data, case files, previous court rulings, Department of Justice (DOJ) Criminal Information Bureau (CIB) system, court calendars, legal research sites, etc.), at remote locations (e.g., courthouses, intake locations, county jails, etc.). A common situation is that the judge and prosecutor consult an electronic record or conduct electronic research during a court proceeding, while the SPD staff are unable to access the same materials.
- Results in lost productivity particularly for attorneys who travel great distances from their offices to courthouses, jails and prisons because they are not able to easily return to their offices to work during unforeseen court delays and other

unforeseen down times. They cannot access work files remotely during such times.

- Results in a paper-based environment for attorneys, investigators and support staff as intake forms are filled out on paper for entry into the case management system at a later time, paper client files are carried back and forth to court instead of having ready access to the case management system. When attorneys work with investigators and other professionals, they are unable to access key case-file documents electronically when away from the office. Making multiple paper copies is an inefficient way to distribute, review, and discuss these materials.
- Is contrary to Lean Government concepts; results in wasted taxpayer dollars due to the duplication created by having to enter data from paper forms into the case management system and due to the amount of "dead time" experienced by attorneys, investigators and client services specialists whose productivity is limited without access to client files and legal resources while away from their home office.

Additionally, in June 2016, the Wisconsin Supreme Court voted to implement mandatory electronic case filing (eFiling), which will be introduced in certain case types, and county-by-county over the next 6-24 months. This system has the potential to increase the efficiency of SPD staff in serving clients, but would be enhanced by additional software. The ability to create, edit and submit files in the Portable Document Format (a.k.a. Adobe PDF) would be increased if at least three Adobe Pro licenses were available in each office.

Background

The SPD currently deploys 670 desktop computers at 41 sites statewide. In addition, as part of the supplies and services acquisition for new staff provided in 2015 Wisconsin Act 55, the SPD purchased 35 laptop computers with docking stations in lieu of desktop computers. The SPD's representation of clients in all 72 counties often requires significant attorney travel from SPD local offices to county courthouses, jails and prisons. With expanded access to the internet and the move away from paper-based operations, there has been an increasing demand for the SPD to respond to the technological advances of its criminal justice partners who increasingly share information, data and case-related material electronically: information that is available to SPD staff on desktop computers located at their local office.

The SPD's current desktop inventory was last purchased as follows: 362 desktops purchased in 2011 and 308 purchased in 2012. By the end of FY17, 100% of the SPD's Office desktop computers will have exceeded their useful life based on the DET recommended and industry standard 4-year replacement cycle. To gain efficiencies, increase productivity, better serve clients and maximize the use of taxpayer resources, the SPD proposes replacing 20% of its desktop computer inventory in each year of the

biennium with mobile-equipped laptops. This proposal includes 268 laptops with docking stations, carrying cases, and a secondary power supply. The SPD has no funds budgeted for IT equipment replacement and therefore no funds available to implement mobile technology. Any funding realized through salary savings is almost entirely utilized for direct client representation in underfunded appropriations such as transcripts, interpreters and discovery.

The SPD through base resources has been able to purchase 21 Adobe Pro licenses, but with the introduction of eFiling, the SPD would benefit from an additional 117 licenses at \$467 each.

The SPD does not have funds appropriated for the replacement of IT permanent property funding. The 1999-2001 biennial budget (1999 Wisconsin Act 9) established the supplies and services budget for the SPD Office of Information Technology at \$93,700 annually for "*software licenses, equipment maintenance agreements and parts*". Permanent property funding for equipment was not provided. Funding for equipment replacements and upgrades has been sporadic and dependent upon the availability of year-end salary savings resulting from agency retirements, vacancy rates, etc. Using supplies and services funding for agency IT equipment needs has become increasingly more difficult as the agency's supplies and services budget has been repeatedly reduced in the recent biennia due to unanticipated cuts and required lapses. Specifically, the SPD has had to absorb the following base cuts and lapses, further limiting the agency's ability to make investments that would greatly increase productivity and maximize staff's use of valuable time.

Required Supplies and Services Base Cuts and Lapses

2001-03	\$ 537,000 annually
2005-07	\$ 201,400 annually
2011-13	\$ 864,616 annually
2013-15	\$ 118,700 annually
2015-17	\$ 118,700 annually

The lack of base funding for IT permanent property and the funding reduction for supplies and services prevent the agency from replacing desktops on a regular replacement cycle. Similarly, these budget limitations have prevented the SPD from adopting mobile computing that would allow staff such as attorneys, client service specialists and investigators to conduct work away from their headquarter offices. The nature of SPD work requires that these professionals spend much of their time outside the office (staff attorneys generally have multiple court appearances in a given day, and other staff have to interview clients and witnesses in a variety of locations away from the office).

Analysis

Enterprise standards established by the Department of Administration in 2004 recommended a four-year replacement cycle for personal computers. The SPD's successful conversion to state standard hardware and software in CY 1998 replaced an outmoded collection of Macintosh computers. It also provided the basic IT infrastructure for the agency to conduct its business efficiently and to continue to improve agency management and communications through implementation of a comprehensive management information system and a wide area network. However, the funding that the SPD was provided to convert the Macintosh computers to IBM PCs was one-time, not base-building. The SPD has not been appropriated any base funds to replace hardware and software. When the SPD recently updated its strategic plan for information technology, establishing and implementing a hardware and software replacement schedule again emerged as a high, although unfunded, priority.

Cost Estimate

The SPD is requesting \$409,600 in permanent property funding for the purchase of 268 laptop computers and \$198,500 in ongoing supplies and services to cover the DET charges for the VPN connections and to cover the monthly wireless connection for each laptop. Since the laptops are replacing desktops (i.e., are not in addition to desktops), the request does not include additional funding for software, antivirus licenses, etc; existing desktop software will be transferred from the desktop to the laptop prior to the desktop being decommissioned. The cost per device includes the following:

Cost Per Device:

Laptop Computer (including office docking station)	\$1,528.00
DET VPN Per User Per Year	\$ 10.80
Wireless Cell Service (\$40 per month per device)	\$ 480.00
Symantec Endpoint Protection software per device per year)	\$ 2.93
Total Per Device	\$2,021.73

Calculation:

\$1,528 x 134 Mobile Devices in FY 18 = \$204,752 (permanent property)
\$1,528 x 134 Mobile Devices in FY 19 = \$204,752 (permanent property)
\$493.73 x 134 devices in FY 18 = \$66,160 (ongoing supplies & services)
\$493.73 x 268 devices in FY 19 = \$132,320 (ongoing supplies & services)
Total = \$607,984

SPD also requests funding to obtain and maintain licenses for Adobe Pro on three computers in each office. This requires 117 licenses at an annual cost of \$467.

Calculation: $\$467 \times 117 \text{ devices} = \$54,639$

Information Technology Management Strategic Plan

The above is consistent with the SPD 2017 Annual Information Technology Plan as submitted to the Department of Administration in March, 2016.

Return on Investment

The Return on Investment (ROI) will be realized in efficiency savings for attorneys who travel considerably and are currently unable to access case files or legal research tools remotely or review or file briefs and motions electronically. This proposal will allow attorneys to work on case files electronically rather than only being able to work on paper case files that they happened to bring with them. This efficiency is the most significant impact on the ROI.

	2018	2019	Total
Cost of Investment: Purchase of equipment and wireless service	\$(325,600)	\$(337,000)	\$(662,600)
Gain from investment: Mobility	\$2,651,830	\$2,651,830	\$5,303,660
Net Benefit	\$2,326,230	\$2,314,830	\$4,641,060

The calculated ROI is 3.17 in efficiency measures:

ROI Calculation: $(\$5,303,660 - \$1,270,600) / \$1,270,600 = 3.17$ over a two year period.

Summary

By the end of FY17, 100% of the SPD's desktops will have exceeded their useful life; will be without warranties, and will lack vendor support. Instead of replacing all of these desktops with new desktops, the SPD proposes replacing slightly less than half of the current desktop inventory with mobile-equipped laptops: laptops that can be used both remotely and within the office. This strategy not only addresses the issues arising from aging equipment (e.g., computer downtime, difficulty in finding replacement parts, the cost of repairs exceeding the value of the machine, etc.), but also provides the means to greatly increase the productivity of the Trial Division staff attorneys who frequently work away from their offices and therefore away from their computers. In addition, the availability of Adobe Pro to all SPD staff will allow compliance with the eFiling system being implemented by the state court system.

	FY18		FY19	
	Funding	FTE	Funding	FTE
GPR	\$325,600	0.00	\$337,100	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$325,600	0.00	\$337,100	0.00

Prepared by:
Adam Plotkin
Legislative Liaison
608-264-8572

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	5005	Business related IT Resources

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$66,200	\$132,300
07	Permanent Property	\$259,400	\$204,800
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$325,600	\$337,100
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	5005	Business related IT Resources			
01	Legal assistance				
	03 Trial representation	\$325,600	\$337,100	0.00	0.00
	Legal assistance SubTotal	\$325,600	\$337,100	0.00	0.00
	Business related IT Resources SubTotal	\$325,600	\$337,100	0.00	0.00
	Agency Total	\$325,600	\$337,100	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	5005	Business related IT Resources				
	GPR	S	\$325,600	\$337,100	0.00	0.00
	Total		\$325,600	\$337,100	0.00	0.00
Agency Total			\$325,600	\$337,100	0.00	0.00

Decision Item (DIN) - 5010

Decision Item (DIN) Title - IT Case Management System Enhancements

NARRATIVE

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$343,000 GPR in FY18 and \$616,000 GPR in FY19 to upgrade and enhance the current case management system (eOPD), enhance the functionality and efficiency of the SPD connection to the court's new eFiling system, and to create and track performance metrics to inform agency operations and client representation.

**OFFICE OF THE STATE PUBLIC DEFENDER
2017-2019 Biennial Budget
Issue Paper**

Topic: DIN 5010 – IT Case Management System Enhancements

Agency Request

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$343,000 GPR in FY18 and \$616,000 GPR in FY19 to upgrade and enhance the current case management system (eOPD), enhance the functionality and efficiency of the SPD connection to the court's new eFiling system, and to create and track performance metrics to inform agency operations and client representation.

Problem Description

The current case management system, eOPD, was developed using base agency resources in 2002. Since that time, the system has become outdated, provides only modest day-to-day business information, and has extremely limited capacity to provide information to inform agency operations and to develop performance metrics.

SPD does not have sufficient internal personnel or fiscal resources to enhance eOPD to the level of a modern, effective system.

Background

The SPD has 614.85 FTE headquartered in 39 locations statewide. The Information Technology (IT) unit is staffed by 6.0 FTE, including 3.0 FTE for help desk and IT support, 1.0 FTE database administrator, 1.0 FTE systems programmer/developer, and 1.0 FTE Management Information Manager.

The SPD implemented a web-based case management system in 2002 (eOPD), which also serves as the billing system for private bar attorneys who accept SPD case appointments. Because clients are assessed a fee for legal representation, a client accounts and verification module is included in the system. Since eOPD was implemented, over 1.7 million cases have been entered in the system. This system is not sophisticated enough to ensure the reliability and accuracy of the data, and users have reported discrepancies when performing conflict of interest checks and entering or searching for other data in the system.

A significant disparity exists between resources and funding of IT resources for the defense and prosecution. Since the existing eOPD case management system was originally developed, the SPD has received no additional funding for enhancements, technology upgrades and significant functional changes. In contrast, Wisconsin prosecutors utilize the PROTECT case management system, which is biennially funded at \$8.8 million – a significant difference in funding between defense and prosecution IT resources.

An enhanced case management system will not only assist agency staff with accurate and timely data entry and retrieval, but will also allow the agency to better assess the effectiveness and/or the cost of changes in the justice system as well as to make operational decisions based on performance metrics. For example, although the current eOPD system cannot be readily modified to track outcomes of clients in treatment courts and diversion programs, an enhanced system could generate that data. This information could be helpful as an indicator of the relative effectiveness of these programs, in comparison to traditional litigation.

An enhanced system could also more effectively allow the SPD to receive and maintain records from other agencies, such as risk assessments generated by the Department of Corrections, court records generated through the automated CCAP system, and documents and other material provided through the court's eFiling system.

The Director of State Courts' office reports that the courts hope to be able to accept and require the electronic filing of all criminal complaints beginning in March 2017. The current eOPD could severely limit the SPD's ability to communicate with this electronic filing system effectively and efficiently.

Analysis

The SPD's legacy case management system (eOPD) needs significant overhaul to fix coding issues related to conflict of interest checks, management reports, and case entry and management. The system is almost fifteen years old and is built on an archaic platform. Today's developers do not possess the skill sets required to work on the outdated technology that supports the case management system, making it difficult for SPD to recruit and retain developers capable of maintaining and updating the system. Finally, the system can run only a limited number of ad-hoc reports, which results in staff having to rely on the SPD's one programmer to extract the most basic data and statistics required for management reports, legislative inquiries, and fiscal information. Newer case management systems have interfaces that allow for the easy access and manipulation of data by non-IT staff.

To continue to support the mission of our agency as well as meet the ethical and legal requirements for our attorneys, the agency must take steps to enhance and upgrade the existing case management system.

The decision to build or buy a software solution is always a consideration. The agency has examined both options and has determined that building an enhanced version of eOPD is more cost effective, less disruptive to ongoing business needs, allows more customization, and requires less ongoing costs than purchasing an off-the-shelf system. It also allows better guarantees that the client data will remain confidential as required by Supreme Court rules.

In 2015, the SPD received a grant from the United State Department of Justice to begin the process of creating a system to extract information from the current case

management system. This program, entitled Reporting, Analysis, and Mining Project (RAMP), has allowed the SPD to begin to create a more robust data reporting system that will allow better use of data in both client representation and in effective and efficient distribution of agency resources. We have also assembled a quality-indicators document to guide the development of the RAMP tool. Through this work, SPD has identified numerous ways in which to enhance eOPD beyond what is possible through the RAMP grant.

According to information obtained by the SPD in response to a Request for Information, an off-the-shelf program could cost approximately \$900,000 up front plus an ongoing annual cost into the future ranging from \$300,000 to \$600,000 per year. SPD is requesting a one-time biennial appropriation of \$903,000 to upgrade and enhance eOPD. These funds would be utilized as follows:

Fiscal Year	Item	Resources	Est. Hours	Rate	Total Cost
2018	Migrate existing reports from eOPD to SSRS	Contractors	2000	\$70/hour	\$140,000
2018	Migrate SQL server database	Contractors	400	\$70/hour	\$28,000
2018	Application fix to minimize data errors	Contractors	2000	\$70/hour	\$140,000
2018	REST CCAP Datafeed enhancements	Contractors	500	\$70/hour	\$35,000
2019	Build Data Warehouse for reporting	Contractors	4000	\$70/hour	\$280,000
2019	Enhance eOPD to store documents electronically	VB .NET programmers	800	\$70/hour	\$56,000
2019	Rebuild Intranet to tie into eOPD	VB .NET programmers	2000	\$70/hour	\$140,000
2019	Enhance eOPD complaint log	VB .NET programmers	2000	\$70/hour	\$140,000
				FY 18 total	\$343,000
				FY 19 total	\$616,000

Information Technology Management Strategic Plan

This request is consistent with the SPD 2017 Annual Information Technology Plan as submitted to the Department of Administration in March 2016.

This project also meets several of the key strategic goals identified in the Division of Enterprise Technology 2010 Strategic Plan, as follows:

- The project enhances service delivery by aligning the service delivery method more closely with current business requirements.
- The project expands utilization of technology to improve efficiencies and reduce costs.
- The reengineering or replacement of a legacy system is crucial to allow for mobile technology accessibility and according to the Strategic Plan, more efficient and cost effective.

Return on Investment

The Return on Investment (ROI) will be realized in efficiency savings that improve data validity and improve service delivery. For staff who complete conflict checks they would be able to accurately determine if staff attorneys can take a case. Being able to confidently determine whether a conflict exists is significant to meet the ethical requirements of the legal profession. Also, there will be efficiency savings that a new case management system would reduce the need for duplicative entries of data allowing for improved service delivery.

NET BENEFIT			
	2018	2019	2 Year Total
Project Cost	\$ (343,000)	\$ (616,000)	\$ (959,000)
Improved Data Validity		\$ 1,000,348	\$ 1,000,348
Improved Service Delivery		\$ 423,067	\$ 423,067
Net Benefit	\$ (343,000)	\$ 807,416	\$ 464,416

The calculated ROI is 0.58 in efficiency measures over a two year period.
ROI Calculation: $(\$1,423,416 - \$903,000) / \$903,000 = 0.58$ over a two year period.

Summary

Enhancing the out-of-date case management system will have a beneficial impact on the agency by addressing the need to modernize and redefine essential business

processes. The antiquated architecture of the agency's legacy system has limited the ability to improve system capabilities, the associated business processes, and staff communications. The agency is committed to enhancing its legacy system as the least expensive and best decision to strengthen operational capabilities, adapt to changes in the criminal justice field, and meet increasing staff and client expectations.

	FY18		FY19	
	Funding	FTE	Funding	FTE
GPR	\$343,000	0.00	\$616,000	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$343,000	0.00	\$616,000	0.00

Prepared by:
Adam Plotkin
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608-264-8572

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	5010	IT Case Management System Enhancements

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$343,000	\$616,000
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$343,000	\$616,000
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	5010	IT Case Management System Enhancements			
01	Legal assistance				
	01 Program administration	\$343,000	\$616,000	0.00	0.00
	Legal assistance SubTotal	\$343,000	\$616,000	0.00	0.00
	IT Case Management System Enhancements SubTotal	\$343,000	\$616,000	0.00	0.00
	Agency Total	\$343,000	\$616,000	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	5010	IT Case Management System Enhancements				
	GPR	S	\$343,000	\$616,000	0.00	0.00
	Total		\$343,000	\$616,000	0.00	0.00
Agency Total			\$343,000	\$616,000	0.00	0.00

Decision Item (DIN) - 5013

Decision Item (DIN) Title - Income Eligibility Indexing

NARRATIVE

The Public Defender Board requests a change to § 977.02(3)(b) and § 977.02(3)(c) related to the eligibility standards to qualify for public defender representation.

**OFFICE OF THE STATE PUBLIC DEFENDER
2017-2019 Biennial Budget
Statutory Language Change**

Topic: DIN 5013 - Income Eligibility Indexing

Agency Request

The Public Defender Board requests a change to § 977.02(3)(b) and § 977.02(3)(c) related to the eligibility standards to qualify for public defender representation.

Background and Analysis

2009 Wisconsin Act 164 updated the eligibility standards to qualify for public defender representation. Before Act 164, income eligibility limits were determined with reference to the defunct 1987 Aid to Families with Dependent Children guidelines. Over time, the lack of any adjustment for changes in the cost of living created a gap whereby defendants did not statutorily qualify for public defender representation, but were still financially unable to afford an adequate defense. Courts frequently found that these defendants were constitutionally entitled to appointment of an attorney, and these judicial appointments at county expense resulted in a total cost to counties of \$7 million a year.

Act 164 incorporated many of the financial criteria of the Wisconsin Works (W2) program into the Office of State Public Defender (SPD) eligibility criteria. The new criteria specifically referenced the federal poverty guidelines, which are reviewed and updated annually to account for changes in the cost of living. However, 2009 Act 164 was amended as part of 2011 Wisconsin Act 32 by linking the State Public Defender income criteria to the 2011 federal poverty guidelines, without an indexing provision.

This amendment, although clearly intended to remove the indexing aspect of 2009 Wis. Act 164, incorporates the 2011 version of a federal statute that defines the term "poverty line" as the federal poverty guidelines updated annually by the federal Office of Management and Budget. A literal reading of the reference to 2011 could convey the intent to adopt the federal updating methodology as it existed in 2011, rather than the intent to freeze the cost-of-living numbers at the 2011 level.

The SPD has resolved this linguistic ambiguity by honoring the legislative intent to use the 2011 levels in calculating cost-of-living. However, the SPD anticipates that as the gap referenced above increases, a strong likelihood exists that a county may challenge this interpretation and order the SPD to use current federal poverty guidelines. This budget proposal would eliminate the prospect of litigation over this statutory language.

Act 164 in effect transferred to the jurisdiction of the State Public Defender over 12,000 cases in Fiscal Year 2012 that would otherwise have received county-appointed defense counsel. The total case numbers for the State Public Defender have remained

relatively stable in Fiscal Years 2015 and 2016, with a total of over 138,000 cases in FY 16.

The following table details the annual gap in income between the indexed federal poverty limit and the SPD income eligibility limits which are frozen at the 2011 guidelines:

Family Size	2011 115% of FPL	2016 115% of FPL	Annual Eligibility Gap
1	\$12,524	\$13,662	\$1,139
2	\$16,917	\$18,423	\$1,507
3	\$21,310	\$23,184	\$1,875
4	\$25,703	\$27,945	\$2,243
5	\$30,096	\$32,706	\$2,611
6	\$34,489	\$37,467	\$2,979
7	\$38,882	\$42,240	\$3,358
8	\$43,275	\$47,024	\$3,749

As this gap continues to widen over time, the same issue that led to the need for the changes in 2009 Act 164 gradually is recurring. The State Public Defender will be required to deny services to defendants living at or below the current federal poverty guideline, which will place more burden back on counties to appoint attorneys at county expense. A return to this two-tiered system of indigent defense would decrease the ability of Wisconsin's justice system to provide uniform, cost-effective representation for indigent defendants. Restoring the Act 164 indexing provision now will allow the State Public Defender to absorb these cases without additional staff or funding. In the future, as the monetary gap depicted in the table above continues to grow, indexing might result in additional costs to provide legal representation to the increased number of applicants eligible for services.

Current Language

Sections 3559d and 3559h of 2011 Wisconsin Act 32, the biennial budget, removed a provision from 2009 Act 164 that indexed the income eligibility guidelines to 115% of the federal poverty guidelines. Although the short-term effect is negligible, over time the lack of an indexing provision for the income eligibility limit will create a gap between public defender and county-appointed representation similar to the gap that was addressed by 2009 Act 164.

§ 977.02(3)(b) Subject to par. (d), treat assets as available to the person to pay the costs of legal representation if the assets exceed \$2,500 in combined equity value. In determining the combined equity value of assets, the representative of the state public defender shall exclude the equity value of vehicles up to a total equity value of \$10,000 and shall exclude the first \$30,000 of the equity value of the home that serves as the individual's homestead.

§ 977.02(3)(c) Subject to par. (d), treat income as available to the person to pay the costs of legal representation only if the gross income exceeds 115 percent of the federal poverty guideline, as defined in 42 USC 9902 (2) (2011). In calculating gross income under this paragraph, the representative of the state public defender shall include all earned and unearned income of the person, except any amount received under section 32 of the Internal Revenue Code, as defined in s. 71.01 (6), any amount received under s. 71.07 (9e), any payment made by an employer under section 3507 of the Internal Revenue Code, as defined in s. 71.01 (6), any student financial aid received under any federal or state program, any scholarship used for tuition and books, and any assistance received under s. 49.148. In determining the earned and unearned income of the individual, the representative of the state public defender may not include income earned by a dependent child of the person.

Suggested Language

§977.02(3)(b) Subject to par. (d), consider assets in the manner described in s. 49.145(3)(a) and treat assets as available to the person to pay the costs of legal representation if the assets exceed the resource limitations under s. 49.145(3)(a), except that \$2,500 in combined equity value. In determining the combined equity value of assets, the representative of the state public defender shall exclude only the equity value of vehicles up to a total equity value of \$10,000 and shall exclude the first \$30,000 of the equity value of the home that serves as the individual's homestead.

§977.02(3)(c) Subject to par. (d), treat income as available to the person to pay the costs of legal representation only if the gross income exceeds the income limitations in s. 49.145(3)(b) 115 percent of the federal poverty guideline, as defined in 42 USC 9902 (2) (2011). In calculating gross income under this paragraph, ~~the representative of the state public defender shall include all earned and unearned income of the person, except any amount received under section 32 of the Internal Revenue Code, as defined in s. 71.01 (6), any amount received under s. 71.07 (9e), any payment made by an employer under section 3507 of the Internal Revenue Code, as defined in s. 71.01 (6), any student financial aid received under any federal or state program, any scholarship used for tuition and books, and any assistance received under s. 49.148. In determining the earned and unearned income of the individual, the representative of the state public defender may not include income earned by a dependent child of the person.~~

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Decision Item (DIN) - 5018

Decision Item (DIN) Title - Tuition reimbursement/loan assistance

NARRATIVE

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$250,000 GPR in FY18 and \$250,000 GPR in FY19 to conduct a pilot tuition reimbursement program for private bar attorneys who accept public defender appointments and who meet certain additional criteria.

**OFFICE OF THE STATE PUBLIC DEFENDER
2017-2019 Biennial Budget
Issue Paper**

Topic: DIN 5018 – Tuition reimbursement/loan assistance

Agency Request

The Public Defender Board requests, for the Office of the State Public Defender (SPD), \$250,000 GPR in FY18 and \$250,000 GPR in FY19 to conduct a pilot tuition reimbursement program for private bar attorneys who accept public defender appointments and who meet certain additional criteria.

Problem Description

As a result of many factors, the availability of certified private bar attorneys to accept private bar appointments in certain parts of the state has become a systemic issue affecting the efficiency of the court system and impacting procedural justice for clients.

Although the low private bar rate of reimbursement plays a role statewide (see DIN 5001), the availability of private attorneys in specific geographic regions is beginning to have a severe impact on court operations in all case types, both civil and criminal. An even smaller subset of private attorneys seek certification to accept SPD appointments. The shortage of local attorneys who accept public defender appointments results in delays in appointing attorneys and, in an increasing number of cases, in the appointment of attorneys whose headquarters is a significant distance from the county in which the case is pending.

Background

For many years, the SPD has seen fluctuations in the number of attorneys who are willing to accept appointments. These fluctuations generally correlate to the state of the economy. However, because the private bar reimbursement rate has remained stagnant for many years, the overall trend has been that the economic incentive for attorneys to accept SPD appointments has decreased.

In recent years, and in specific parts of the state, the lack of available private bar attorneys has become a significant problem. It is not unusual for an appointment secretary in an SPD office to make a minimum of 35-40 calls to different private bar attorneys before being able to find an available attorney. Often, when making that many contacts, the attorney who is appointed is from another county. In some instances, the SPD has been required to appoint an attorney from as far away as Madison on a case pending in Bayfield County.

Aside from the low rate of reimbursement, there has been a general decrease in the number of attorneys locating their practice in more rural parts of the state. The State

Bar of Wisconsin has undertaken a review of the geographic dispersion of attorneys in Wisconsin. It has released several findings, including the following:

- Fewer than 40 percent of Wisconsin's 12,752 active attorneys practice law outside of major urban areas
- Fifteen counties have 10 or fewer attorneys actively practicing law
- Nine of those counties are in northern Wisconsin, including Iron, Langlade and Forest counties
- In Vilas County, only six of the county's 40 attorneys are under the age of 50
- Around 64 percent of active attorneys in Wisconsin practice law in Waukesha, Milwaukee and Dane counties

According to 2012 data from the American Bar Association, the average law student borrowed anywhere from \$84,000 to \$122,000 to finance their education. Repayment obligations can be a disincentive for new attorneys to start a practice in a rural community, because it may take time to build a stable client base. The availability of SPD appointments, especially if supplemented with loan assistance under this proposal, could attract more new lawyers to underserved areas.

Providing an incentive in the form of a pilot tuition reimbursement program to locate a law practice in a rural area would not only benefit clients and the court system by providing better access to justice, but it would serve as an economic boost to rural areas as small and solo law firms are local small businesses.

Analysis

Wisconsin currently offers two tuition reimbursement programs, both geared at the medical profession - the Wisconsin Health Professionals Loan Assistance Program (WHPLA) and the Primary Care and Physician Shortage Grant (PCPS.)

The WHPLA is administered by the University of Wisconsin School of Medicine and Public Health and the Office of Rural Health. It provides up to \$100,000 in grants to a physician who practices in a federally designated shortage area. The program is funded up to \$748,000 with \$300,000 coming from the federal government and \$448,000 in state money coming from the Division of Gaming.

The PCPS is administered by the Higher Educational Aids Board. It provides a minimum annual award of \$20,800 for up to 12 physicians and 12 psychiatrists per fiscal year with a \$1.5 million appropriation. Each applicant is eligible for up to three years of funding. The person must practice in an underserved area as defined by either the federal government or the Governor. Physicians should have completed their medical residency in Wisconsin as well.

26 states also operate a State Loan Repayment Assistance Program (LRAP) for attorneys meeting certain eligibility criteria. The general program criteria cover who

may apply (type of employment, amount of qualified debt, years out of school, etc.), the available amount per person, the length of the award, and the funding source.

SPD suggests the following criteria as possible options:

- Administration of program
 - SPD (verification of attorney certification and acceptance of appointments)
 - The State Public Defender Board will need authority to promulgate administrative rules for the administration of the program
 - HEAB (potential partner organization to verify loan balances, to administer funds, and disburse funds)
- Eligibility
 - Licensed to practice in Wisconsin & certified for SPD appointments
 - Maintains a law practice with headquarters or demonstrated majority of legal work performed in a county of fewer than 25,000 residents
- Grant terms
 - Must maintain SPD practice in county while receiving award
 - Must accept minimum of 50 SPD appointments per year
 - Up to \$20,000 per year
- Funding amount
 - \$250,000 per fiscal year, \$500,000 for biennium

Summary

	FY18		FY19	
	Funding	FTE	Funding	FTE
GPR	\$250,000	0.00	\$250,000	0.00
PR	\$0	0.00	\$0	0.00
TOTAL	\$250,000	0.00	\$250,000	0.00

Prepared by:
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608-264-8572

Decision Item by Line

1719 Biennial Budget

	CODES	TITLES
DEPARTMENT	550	Public Defender Board
	CODES	TITLES
DECISION ITEM	5018	Tuition reimbursement/loan assistance

Expenditure items		1st Year Cost	2nd Year Cost
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	\$0	\$0
06	Supplies and Services	\$250,000	\$250,000
07	Permanent Property	\$0	\$0
08	Unalloted Reserve	\$0	\$0
09	Aids to Individuals Organizations	\$0	\$0
10	Local Assistance	\$0	\$0
11	One-time Financing	\$0	\$0
12	Debt Service	\$0	\$0
13		\$0	\$0
14		\$0	\$0
15		\$0	\$0
16		\$0	\$0
17	Total Cost	\$250,000	\$250,000
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Decision Item by Numeric

Public Defender Board

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	5018	Tuition reimbursement/loan assistance			
01	Legal assistance				
	01 Program administration	\$250,000	\$250,000	0.00	0.00
	Legal assistance SubTotal	\$250,000	\$250,000	0.00	0.00
	Tuition reimbursement/loan assistance SubTotal	\$250,000	\$250,000	0.00	0.00
	Agency Total	\$250,000	\$250,000	0.00	0.00

Decision Item by Fund Source

Public Defender Board

	Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
Decision Item	5018	Tuition reimbursement/loan assistance				
	GPR	S	\$250,000	\$250,000	0.00	0.00
	Total		\$250,000	\$250,000	0.00	0.00
Agency Total			\$250,000	\$250,000	0.00	0.00

Decision Item (DIN) - 5019

Decision Item (DIN) Title - TPR Appointments

NARRATIVE

The Public Defender Board requests clarification of intent and practice in § 977.07(1)(a) related to the financial eligibility for representation of a parent who is the subject of a termination of parental rights (TPR) proceeding.

**OFFICE OF THE STATE PUBLIC DEFENDER
2017-2019 Biennial Budget
Statutory Language Change**

Topic: DIN 5019 - TPR Appointments

Agency Request

The Public Defender Board requests clarification of intent and practice in § 977.07(1)(a) related to the financial eligibility for representation of a parent who is the subject of a termination of parental rights (TPR) proceeding.

Background and Analysis

In 2007 Wisconsin Act 20, the Legislature made changes to allow appointment of a public defender without a determination of indigency for clients facing mental health commitment under Chapters 51 and 55. This change was enacted to address concerns that an individual facing a mental health crisis would not have the capacity to fill out an eligibility form. In lieu of determining eligibility, the agency has the authority to appoint counsel on referral from the court in these proceedings.

2007 Wisconsin Act 20 also changed the process for payment of attorney fees by respondents in cases under chapters 51 and 55, establishing a back-end process for the court to order payment of fees and for the State Public Defender (SPD) to collect financial information after the conclusion of the case.

In making the change in 2007, the word "child" in s. 977.07(1)(a) was changed to "person." Before 2007, s. 977.07(1)(a) read, in part, that "no determination of indigency is required for a child who is entitled to be represented by counsel under s. 48.23 or 938.23." At that time, children in chapters 48 and 938 were the only individuals whom the SPD could represent without first making a determination of indigency. The SPD has always been required to complete financial evaluations of parents in juvenile proceedings, just as the agency has been required to complete such evaluations for defendants in criminal proceedings. The change to "person" appears to have created the question of whether the SPD must appoint counsel to parents in TPR proceedings without a determination of indigency. It is clear from the legislative history and the context in which that change was made, however, that the legislature did not intend to change the requirement that the SPD make an indigency determination before it can appoint counsel for a parent in a TPR proceeding.

For adults, section 48.23(4) states that "if it appears that the parent or adult expectant mother is unable to afford counsel in full, or the parent or adult expectant mother so indicates; the court shall refer the parent or adult expectant mother to the authority for indigency determinations specified under s. 977.07(1)." When this language is read together with the pre-2007 version of s. 977.07(1)(a), it is clear that the SPD was required to make an indigency determination before appointing counsel for a parent in a TPR proceeding. Because this language remained unchanged in 2007 and does not

correspond to the specific language (“without a determination of indigency”) used in reference to children, the SPD believes that despite the linguistic change in chapter 977, the legislature did not intend to change SPD procedures for parents in chapter 48 proceedings.

Since 2014, SPD has been ordered in at least three TPR cases to provide counsel to financially ineligible parents based on a judge’s reading of the statutory language that currently exists in s. 977.07(1)(a) and s. 48.23(4).

A best practice given the impact and complex nature of termination of parental rights proceedings is to ensure that all parents, regardless of their ability to pay, receive counsel. According to 2015 statistics from the Director of State Courts office, there were 953 involuntary TPR cases opened in calendar year 2015. Because some cases may involve multiple parents, SPD estimates 953 filings would include approximately 1430 parents (estimating 1.5 parents per filing). In calendar year 2015, SPD represented 947 parents who were the subject of an involuntary TPR filing. This number represents 66% of the total. In order to provide representation in the remaining cases, SPD would require one additional staff attorney position at \$70,167 annually and funding to appoint cases to private attorneys in the amount of \$276,854 annually.

Alternatively, the statutes could be amended to match the intent of the 2007 legislation which would then clarify statute to match the practice that has existed since 2007. Specific language suggestions are listed in the next section. This option would not result in either increased SPD appointments or increased SPD costs. It would also retain the consistency in how parents in TPR cases and adults in criminal cases qualify for SPD representation.

Current Language

2007 Wisconsin Act 27 amended s. 977.07(1)(a) in this way: “no determination of indigency is required for a ~~child~~ person who is entitled to be represented by counsel under s. 48.23, 51.60, 55.105, or 938.23.”

§ 977.07(1)(a) Determination of indigency for persons entitled to counsel shall be made as soon as possible and shall be in accordance with the rules promulgated by the board under s. 977.02 (3) and the system established under s. 977.06. No determination of indigency is required for a person who is entitled to be represented by counsel under s. 48.23, 51.60, 55.105, or 938.23.

Suggested Language

§ 977.07(1)(a) Determination of indigency for persons entitled to counsel shall be made as soon as possible and shall be in accordance with the rules promulgated by the board under s. 977.02 (3) and the system established under s. 977.06. No determination of indigency is required for a ~~person~~ child who is entitled to be represented by counsel under s. 48.23, ~~51.60, 55.105,~~ or 938.23 or for a person who is entitled to be represented by counsel under s. 51.60 or 55.105.

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ACT 201

Proposal under s. 16.42(4)(b)2.: **0% change in each fiscal year**

FY: **FY18**

Agency: **SPD - 550**

Exclusions: Federal
Debt Service

Columns A-G were prepopulated for agencies to reflect state operations adjusted base and reductions agreed to by DOA and LFB. See Appendix H for instructions on how to complete these templates.

Proposed \$ and Proposed FTE columns reflect total agency proposed spending and positions for indicated fiscal year. These amounts should include standard budget adjustments (SBAs), any proposed reallocations or reductions to meet the target, and any other requests that the agency would want considered under this proposal.

Appropriations with zero dollars and zero FTEs are not loaded into the template. If you have any questions, contact your SBO analyst.

IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY18 TO FY18 AND 19.

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2017-18		Item Ref.	Change from Adj Base		(See Note 2)		Change from Adjusted Base after Removal of SBAs	
	Alpha	Numeric		\$	FTE	0% Change Target	Proposed \$	Proposed FTE		\$	FTE	Remove SBAs \$	FTE	\$	FTE
550	1a	101	GPR	2,757,900	18.40	0	2,788,500	18.40	2, 4	30,600	0.00	(30,600)	0.00	0	0.00
550	1b	102	GPR	4,581,700	43.35	0	4,084,800	43.35		(496,900)	0.00	496,900	0.00	0	0.00
550	1c	103	GPR	53,657,300	542.85	0	51,113,600	542.85	3	(2,543,700)	0.00	2,543,700	0.00	0	0.00
550	1d	104	GPR	21,210,400	0.00	0	20,130,000	0.00	1, 5	(1,080,400)	0.00		0.00	(1,080,400)	0.00
550	1e	105	GPR	606,000	5.25	0	631,400	5.25		25,400	0.00	(25,400)	0.00	0	0.00
550	1em	107	GPR	481,300	0.00	0	481,300	0.00		0	0.00		0.00	0	0.00
550	1f	106	GPR	1,325,700	0.00	0	2,406,100	0.00		1,080,400	0.00		0.00	1,080,400	0.00
550	1fb	135	PR	283,300	3.00	0	295,300	3.00		12,000	0.00	(12,000)	0.00	0	0.00
550	1kj	137	PR	151,900	2.00	0	169,900	2.00		18,000	0.00	(18,000)	0.00	0	0.00
550	1L	136	PR	913,000	0.00	0	913,000	0.00		0	0.00		0.00	0	0.00
Totals				85,968,500	614.85	0	83,013,900	614.85		(2,954,600)	0.00	2,954,600	0.00	0	0.00

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.

Target Reduction = 0

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Difference = **0**
Should equal \$0

Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency

- 1 Statutory changes to the penalty surcharge and/or charging process for certain offenses to reduce the number of cases in which the SPD must appoint an attorney (Appr. 104 -\$1,220,700)
- 2 Remove DIN 5010 - IT Case Mng System Enhancements
- 3 Remove DIN 5005 - Business related IT resources
- 4 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 5 Remove \$5,490,100 from DIN 4001-Private Bar Cost to Continue

All the changes to appropriation 104 would result in structural deficit (Items 1 and 5)

ACT 201

Proposal under s. 16.42(4)(b)1.: 5% change in each fiscal year

FY: **FY18**

Agency: **SPD - 550**

Exclusions: Federal
Debt Service

Columns A-G were prepopulated for agencies to reflect state operations adjusted base and reductions agreed to by DOA and LFB. See Appendix H for instructions on how to complete these templates.

Proposed \$ and Proposed FTE columns reflect total agency proposed spending and positions for indicated fiscal year. These amounts should include standard budget adjustments (SBAs), any proposed reallocations or reductions to meet the target, and any other requests that the agency would want considered under this proposal.

Appropriations with zero dollars and zero FTEs are not loaded into the template. If you have any questions, contact your SBO analyst.

IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY18 TO FY18 AND 19.

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2017-18		Item Ref.	Change from Adj Base		(See Note 2)		Change from Adjusted Base after Removal of SBAs	
	Alpha	Numeric		\$	FTE	5% Reduction Target	Proposed \$	Proposed FTE		\$	FTE	\$	FTE	\$	FTE
550	1a	101	GPR	2,757,900	18.40	(137,900)	2,788,500	18.40	2, 4	30,600	0.00	(30,600)	0.00	0	0.00
550	1b	102	GPR	4,581,700	43.35	(229,100)	4,084,800	43.35		(496,900)	0.00	496,900	0.00	0	0.00
550	1c	103	GPR	53,657,300	542.85	(2,682,900)	51,113,600	542.85	3	(2,543,700)	0.00	2,543,700	0.00	0	0.00
550	1d	104	GPR	21,210,400	0.00	(1,060,500)	16,911,800	0.00	1, 5, 7	(4,298,600)	0.00		0.00	(4,298,600)	0.00
550	1e	105	GPR	606,000	5.25	(30,300)	631,400	5.25		25,400	0.00	(25,400)	0.00	0	0.00
550	1em	107	GPR	481,300	0.00	(24,100)	481,300	0.00		0	0.00		0.00	0	0.00
550	1f	106	GPR	1,325,700	0.00	(66,300)	1,325,700	0.00	6	0	0.00		0.00	0	0.00
550	1fb	135	PR	283,300	3.00	(14,200)	295,300	3.00		12,000	0.00	(12,000)	0.00	0	0.00
550	1kj	137	PR	151,900	2.00	(7,600)	169,900	2.00		18,000	0.00	(18,000)	0.00	0	0.00
550	1L	136	PR	913,000	0.00	(45,700)	913,000	0.00		0	0.00		0.00	0	0.00
Totals				85,968,500	614.85	(4,298,600)	78,715,300	614.85		(7,253,200)	0.00	2,954,600	0.00	(4,298,600)	0.00

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources.

Target Reduction = (4,298,600)

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Difference = **0**

Should equal \$0

Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency

- 1 Statutory changes to the penalty surcharge and/or charging process for certain offenses to reduce the number of cases in which the SPD must appoint an attorney (Apr. 104 -\$1,220,700)
- 2 Remove DIN 5010 - IT Case Mng System Enhancements
- 3 Remove DIN 5005 - Business related IT resources
- 4 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 5 Remove DIN 4001-Private Bar Cost to Continue
- 6 Remove DIN 4003-Transcript, Discovery & Interpreters Cost to Continue. This reduction would result in structural deficit.
- 7 Reduce Private Bar program by \$1,931,700. This reduction would result in structural deficit.

All the changes to appropriation 104 would result in structural deficit (Items 1, 5 and 7)

ACT 201

Proposal under s. 16.42(4)(b)2.: **0% change in each fiscal year**

FY: **FY19**

Agency: **SPD - 550**

IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY18 TO FY18 AND 19.

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2018-19		Item Ref.	Change from Adj Base		(See Note 2)	Change from Adjusted Base after Removal of SBAs		
	Alpha	Numeric		\$	FTE	0% Change Target	Proposed \$	Proposed FTE		\$	FTE	Remove SBAs	\$	FTE	
550	1a	101	GPR	2,757,900	18.40	0	2,794,300	18.40	2, 4	36,400	0.00	(36,400)	0.00	0	0.00
550	1b	102	GPR	4,581,700	43.35	0	4,091,300	43.35		(490,400)	0.00	490,400	0.00	0	0.00
550	1c	103	GPR	53,657,300	542.85	0	51,165,400	542.85	3	(2,491,900)	0.00	2,491,900	0.00	0	0.00
550	1d	104	GPR	21,210,400	0.00	0	20,130,000	0.00	1, 5, 6	(1,080,400)	0.00		0.00	(1,080,400)	0.00
550	1e	105	GPR	606,000	5.25	0	632,100	5.25		26,100	0.00	(26,100)	0.00	0	0.00
550	1em	107	GPR	481,300	0.00	0	481,300	0.00		0	0.00		0.00	0	0.00
550	1f	106	GPR	1,325,700	0.00	0	2,406,100	0.00		1,080,400	0.00		0.00	1,080,400	0.00
550	1fb	135	PR	283,300	3.00	0	295,600	3.00		12,300	0.00	(12,300)	0.00	0	0.00
550	1kj	137	PR	151,900	2.00	0	170,300	2.00		18,400	0.00	(18,400)	0.00	0	0.00
550	1L	136	PR	913,000	0.00	0	913,000	0.00		0	0.00	0	0.00	0	0.00
Totals				85,968,500	614.85	0	83,079,400	614.85		(2,889,100)	0.00	2,889,100	0.00	0	0.00

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources. Target Reduction = 0

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Difference = 0
Should equal \$0

Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency

- 1 Statutory changes to the penalty surcharge and/or charging process for certain offenses to reduce the number of cases in which the SPD must appoint an attorney (Appr. 104 - \$2,441,300)
- 2 Remove DIN 5010 - IT Case Mng System Enhancements
- 3 Remove DIN 5005 - Business related IT resources
- 4 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 5 Remove \$3,123,400 from DIN 4001-Private Bar Cost to Continue
- 6 Remove DIN 5001-Private Bar Rate

All the changes to appropriation 104 would result in structural deficit (Items 1, 5 and 6)

ACT 201

Proposal under s. 16.42(4)(b)1.: 5% change in each fiscal year

FY: **FY19**

Agency: **SPD - 550**

IF YOUR AGENCY PLANS TO TAKE THE SAME CUTS OVER BOTH YEARS, YOU SHOULD ONLY FILL OUT ONE GRID FOR 0% GROWTH AND ONE GRID FOR 5% REDUCTION, THEN CHANGE FY18 TO FY18 AND 19.

Agency	Appropriation		Fund Source	Adjusted Base		(See Note 1)	Proposed Budget 2018-19		Item Ref.	Change from Adj Base		(See Note 2)	Change from Adjusted Base after Removal of SBAs		
	Alpha	Numeric		\$	FTE	5% Reduction Target	Proposed \$	Proposed FTE		\$	FTE	Remove SBAs	\$	FTE	
550	1a	101	GPR	2,757,900	18.40	(137,900)	2,794,300	18.40	2, 4	36,400	0.00	(36,400)	0.00	0	0.00
550	1b	102	GPR	4,581,700	43.35	(229,100)	4,091,300	43.35		(490,400)	0.00	490,400	0.00	0	0.00
550	1c	103	GPR	53,657,300	542.85	(2,682,900)	51,165,400	542.85	3	(2,491,900)	0.00	2,491,900	0.00	0	0.00
550	1d	104	GPR	21,210,400	0.00	(1,060,500)	16,476,800	0.00	1, 5, 7	(4,733,600)	0.00		0.00	(4,733,600)	0.00
550	1e	105	GPR	606,000	5.25	(30,300)	632,100	5.25		26,100	0.00	(26,100)	0.00	0	0.00
550	1em	107	GPR	481,300	0.00	(24,100)	481,300	0.00		0	0.00		0.00	0	0.00
550	1f	106	GPR	1,325,700	0.00	(66,300)	1,760,700	0.00	6	435,000	0.00		0.00	435,000	0.00
550	1fb	135	PR	283,300	3.00	(14,200)	295,600	3.00		12,300	0.00	(12,300)	0.00	0	0.00
550	1kj	137	PR	151,900	2.00	(7,600)	170,300	2.00		18,400	0.00	(18,400)	0.00	0	0.00
550	1L	136	PR	913,000	0.00	(45,700)	913,000	0.00		0	0.00	0	0.00	0	0.00
Totals				85,968,500	614.85	(4,298,600)	78,780,800	614.85		(7,187,700)	0.00	2,889,100	0.00	(4,298,600)	0.00

Note 1: Reduction target must be met within state operations appropriations, but may be allocated across those appropriations and fund sources. Target Reduction = (4,298,600)

Note 2: Amounts should be SBAs (DINs 3001 - 3011) from agency request multiplied by -1.

Difference = 0
Should equal \$0

Items - Describe proposed changes (excl. SBAs) to reach target or other priorities of agency

- 1 Statutory changes to the penalty surcharge and/or charging process for certain offenses to reduce the number of cases in which the SPD must appoint an attorney (Appr. 104 - \$2,441,300)
- 2 Remove DIN 5010 - IT Case Mng System Enhancements
- 3 Remove DIN 5005 - Business related IT resources
- 4 Remove DIN 5018 - Tuition Reimbursement/loan assistance
- 5 Remove DIN 4001-Private Bar Cost to Continue
- 6 Remove \$645,400 from DIN 4003-Transcript, Discovery & Interpreters Cost to Continue. This reduction would result in structural deficit.
- 7 Remove DIN 5001-Private Bar Rate

All the changes to appropriation 104 would result in structural deficit (Items 1,5,7)