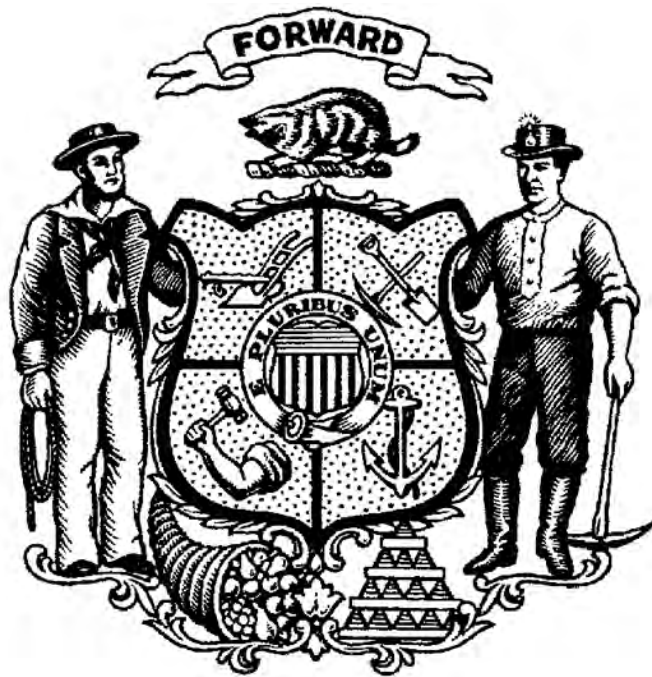


# State of Wisconsin

## Court of Appeals



Court Budget Request

2023 – 2025 Biennium

October 7, 2022

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## **COURT DESCRIPTION**

The Court of Appeals consists of 16 judges elected for staggered six-year terms. The court is divided into four panels located in Milwaukee, Waukesha, Wausau and Madison, and is supervised by a chief judge appointed by the Supreme Court.

The Court of Appeals has original jurisdiction to issue prerogative writs and appellate jurisdiction over all final judgments and orders of the Circuit Courts, which can be appealed as a matter of right.

The Court of Appeals usually sits as a three-judge panel to dispose of cases on their merits. However, a single judge may hear certain categories of cases, including small claims; municipal ordinance and traffic violations; and mental health, juvenile and misdemeanor cases. The Court of Appeals provides a written opinion containing a summary of the reasons for a decision made by the court.

		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	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.20%
<b>Total</b>		\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.20%
<b>Grand Total</b>		\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.20%

Source of Funds	Prior Year Total	ANNUAL SUMMARY					BIENNIAL SUMMARY			
		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 %
<b>01 Appellate proceedings</b>										
<b>Non Federal</b>										
<b>GPR</b>	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
S	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
<b>Total - Non Federal</b>	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
S	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
<b>PGM 01 Total</b>	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
<b>GPR</b>	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
S	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
<b>TOTAL 01</b>	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
S	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%
<b>COURT TOTAL</b>	\$11,447,627	\$12,384,500	\$12,105,500	\$12,123,300	75.50	75.50	\$24,769,000	\$24,228,800	(\$540,200)	-2.18%

<b>Decision Item</b>	<b>1st Year Total</b>	<b>2nd Year Total</b>	<b>1st Year FTE</b>	<b>2nd Year FTE</b>
2000 Adjusted Base Funding Level	\$12,384,500	\$12,384,500	75.50	75.50
3003 Full Funding of Continuing Position Salaries and Fringe Benefits	(\$323,500)	(\$323,500)	0.00	0.00
3010 Full Funding of Lease and Directed Moves Costs	\$17,500	\$35,300	0.00	0.00
5001 Court of Appeals LTE Staff Attorney	\$27,000	\$27,000	0.00	0.00
<b>TOTAL</b>	<b>\$12,105,500</b>	<b>\$12,123,300</b>	<b>75.50</b>	<b>75.50</b>

	<b>CODES</b>	<b>TITLES</b>
<b>DEPARTMENT</b>	660	Court of Appeals
<b>PROGRAM</b>	01	Appellate proceedings

**DATE**

<b>Revenue</b>	<b>Prior Year Actuals</b>	<b>Base Year Estimate</b>	<b>1st Year Estimate</b>	<b>2nd Year Estimate</b>
Opening Balance	\$0	\$0	\$0	\$0
Revenue	\$153,817	\$152,100	\$152,500	\$155,200
<b>TOTAL</b>	<b>\$153,817</b>	<b>\$152,100</b>	<b>\$152,500</b>	<b>\$155,200</b>

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**Decision Item (DIN) - 2000**

**Decision Item (DIN) Title - Adjusted Base Funding Level**

**NARRATIVE**

Adjusted Base Funding Level

<b>DEPARTMENT</b>	<b>CODES</b>	<b>TITLES</b>
	660	Court of Appeals

<b>DECISION ITEM</b>	<b>CODES</b>	<b>TITLES</b>
	2000	Adjusted Base Funding Level

	<b>Expenditure Items</b>	<b>1st Year Cost</b>	<b>2nd Year Cost</b>
01	Permanent Position Salaries	\$7,692,100	\$7,692,100
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$25,300	\$25,300
05	Fringe Benefits	\$2,692,600	\$2,692,600
06	Supplies and Services	\$1,830,500	\$1,830,500
07	Permanent Property	\$144,000	\$144,000
08	Unallotted 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
<b>17</b>	<b>TOTAL</b>	<b>\$12,384,500</b>	<b>\$12,384,500</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	75.50	75.50

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>2000 Adjusted Base Funding Level</b>				
01	Appellate proceedings				
	01 General program operations	\$12,384,500	\$12,384,500	75.50	75.50
	<b>Appellate proceedings Sub Total</b>	<b>\$12,384,500</b>	<b>\$12,384,500</b>	<b>75.50</b>	<b>75.50</b>
	<b>Adjusted Base Funding Level Sub Total</b>	<b>\$12,384,500</b>	<b>\$12,384,500</b>	<b>75.50</b>	<b>75.50</b>
	<b>Court Total</b>	<b>\$12,384,500</b>	<b>\$12,384,500</b>	<b>75.50</b>	<b>75.50</b>

Decision Item/Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>2000 Adjusted Base Funding Level</b>					
GPR	S	\$12,384,500	\$12,384,500	75.50	75.50
<b>Adjusted Base Funding Level Total</b>		<b>\$12,384,500</b>	<b>\$12,384,500</b>	<b>75.50</b>	<b>75.50</b>
<b>Court Total</b>		<b>\$12,384,500</b>	<b>\$12,384,500</b>	<b>75.50</b>	<b>75.50</b>

**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

<b>DEPARTMENT</b>	<b>CODES</b>	<b>TITLES</b>
	660	Court of Appeals

<b>DECISION ITEM</b>	<b>CODES</b>	<b>TITLES</b>
	3003	Full Funding of Continuing Position Salaries and Fringe Benefits

	<b>Expenditure Items</b>	<b>1st Year Cost</b>	<b>2nd Year Cost</b>
01	Permanent Position Salaries	(\$289,600)	(\$289,600)
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$0	\$0
05	Fringe Benefits	(\$33,900)	(\$33,900)
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unallotted 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
<b>17</b>	<b>TOTAL</b>	<b>(\$323,500)</b>	<b>(\$323,500)</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>3003 Full Funding of Continuing Position Salaries and Fringe Benefits</b>				
01	Appellate proceedings				
	01 General program operations	(\$323,500)	(\$323,500)	0.00	0.00
	<b>Appellate proceedings Sub Total</b>	<b>(\$323,500)</b>	<b>(\$323,500)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Full Funding of Continuing Position Salaries and Fringe Benefits Sub Total</b>	<b>(\$323,500)</b>	<b>(\$323,500)</b>	<b>0.00</b>	<b>0.00</b>
	<b>Court Total</b>	<b>(\$323,500)</b>	<b>(\$323,500)</b>	<b>0.00</b>	<b>0.00</b>

Decision Item/Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>3003 Full Funding of Continuing Position Salaries and Fringe Benefits</b>					
GPR	S	(\$323,500)	(\$323,500)	0.00	0.00
<b>Full Funding of Continuing Position Salaries and Fringe Benefits Total</b>		<b>(\$323,500)</b>	<b>(\$323,500)</b>	<b>0.00</b>	<b>0.00</b>
<b>Court Total</b>		<b>(\$323,500)</b>	<b>(\$323,500)</b>	<b>0.00</b>	<b>0.00</b>



**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

<b>DEPARTMENT</b>	<b>CODES</b>	<b>TITLES</b>
	660	Court of Appeals

<b>DECISION ITEM</b>	<b>CODES</b>	<b>TITLES</b>
	3010	Full Funding of Lease and Directed Moves Costs

	<b>Expenditure Items</b>	<b>1st Year Cost</b>	<b>2nd Year Cost</b>
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	\$17,500	\$35,300
07	Permanent Property	\$0	\$0
08	Unallotted 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
<b>17</b>	<b>TOTAL</b>	<b>\$17,500</b>	<b>\$35,300</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>3010 Full Funding of Lease and Directed Moves Costs</b>				
01	Appellate proceedings				
	01 General program operations	\$17,500	\$35,300	0.00	0.00
	<b>Appellate proceedings Sub Total</b>	<b>\$17,500</b>	<b>\$35,300</b>	<b>0.00</b>	<b>0.00</b>
	<b>Full Funding of Lease and Directed Moves Costs Sub Total</b>	<b>\$17,500</b>	<b>\$35,300</b>	<b>0.00</b>	<b>0.00</b>
	<b>Court Total</b>	<b>\$17,500</b>	<b>\$35,300</b>	<b>0.00</b>	<b>0.00</b>

Decision Item/Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>3010 Full Funding of Lease and Directed Moves Costs</b>					
GPR	S	\$17,500	\$35,300	0.00	0.00
<b>Full Funding of Lease and Directed Moves Costs Total</b>		<b>\$17,500</b>	<b>\$35,300</b>	<b>0.00</b>	<b>0.00</b>
<b>Court Total</b>		<b>\$17,500</b>	<b>\$35,300</b>	<b>0.00</b>	<b>0.00</b>

**Decision Item (DIN) - 5001**

**Decision Item (DIN) Title - Court of Appeals LTE Staff Attorney**

**NARRATIVE**

For the 2023-25 biennial budget, the Director of State Courts requests funding in each fiscal year for a Court of Appeals limited term employee (LTE) Staff Attorney.

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Court of Appeals

### **Proposal**

For the 2023-25 biennial budget, the Director of State Courts requests \$25,000 GPR in each fiscal year in s. 20.660(1)(a) be provided for a Court of Appeals LTE Staff Attorney.

Currently, \$25,000 per year is budgeted for an LTE Staff Attorney, which pays for 500-600 hours of LTE work. An increase to \$50,000 per year would pay for 1000-1200 hours of LTE work. This proposed increase is part of a multi-prong strategy to address a significant backlog of cases assigned to staff attorneys that is attributable in large part to a long-term increase in motions activity.

### **Background**

The significant backlog in staff attorney cases, as well as changes in caseloads caused by the pandemic and other factors, have led to a review of case flow in the Court of Appeals. The in-depth analysis started with the staff attorneys, and will continue to look at other staff roles (e.g., law clerks and judicial assistants) and how those staff members can be used to most efficiently draft and release cases. This type of study was conducted in the early 2000s, but not done recently. The goal is to identify new opportunities for efficiencies.

As for the staff attorneys, reviewing twenty years of historical data and one-on-one interviews with the staff attorneys helped identify challenges and opportunities. As well as considering how electronic records, mandatory eFiling, and the Court of Appeals Dashboard have affected work flow. Although the court has identified and implemented a number of ways to increase efficiency, it is clear that none of them will eliminate the significant backlog noted above.

From 2015-2018, LTE staff attorneys were used to help reduce backlogs, and we believe that LTE staff attorneys are a crucial component of our multi-prong plan to reduce our current backlog.

The LTE staff attorneys will draft screened cases and possibly no-merit to reduce backlog, starting with the oldest cases. While the time it takes to complete screened and no-merit cases varies greatly by case, it is estimated, the LTE staff attorneys can complete 50-100 cases. The LTE staff attorneys will not handle motions, leaves, or writs providing uninterrupted blocks of time for drafting. This will allow motions staff attorneys to address motions and complicated no-merit cases. At this time, the use of LTE staff attorneys is preferable to seeking additional permanent staff attorneys.

## Analysis & Justification

Over the last twenty years, the Court of Appeals has experienced a significant increase in motions activity, as illustrated below:

Year	Motions
2001	9,925
2002	9,850
2003	10,111
2004	10,023
2005	10,623
2006	10,661
2007	10,789
2008	11,435
2009	12,679
2010	12,003
2011	12,382
2012	12,856
2013	13,805
2014	13,729
2015	14,157
2016	14,952
2017	14,777
2018	15,876
2019	16,381
2020	14,384
2021	13,811

From 2001 to 2021, motion activity increased thirty-nine percent (39%). The vast majority of motions are assigned to attorneys in the Central Staff Attorney Office in Madison, where staff attorneys are also assigned screened cases, no-merit cases, writs, and petitions for leave. In general, Central Staff Attorneys spend 30-45% of their time handling motions.

Based on time studies completed in 2008 and 2019, about two-thirds of motions are routine, requiring 5-15 minutes to complete. However, the remaining one-third of motions are non-routine and can take hours or even days to resolve. In 2008, non-routine motions consumed almost three-quarters of the time spent on motions. Pro se motions are especially challenging and require more time to interpret the motions and draft the orders.

Handling the significant motions load has been made more difficult by the introduction of electronic records. While electronic records provide significant benefits to the parties and to the court (e.g., reduced printing and filing costs, immediate electronic communication, remote access), staff attorneys report that reviewing electronic records to analyze new motions takes longer because they have to open multiple documents instead of quickly reviewing a sheaf of printed orders in a correspondence file. Adding even a few minutes to the review process for each motion can add multiple hours to the motions attorney's workload for the week.



Finally, there has been a modest increase in the time required to resolve motions over the last year due to an increased focus on cases where numerous extensions have been granted. Specifically, the Seventh Circuit of Appeals issued a decision that was critical of the Court of Appeals for using form orders to grant lengthy extensions of time for postconviction counsel to file a postconviction motion or notice of appeal. As a result of that decision, there is an increase in consultation with the presiding judges deciding repeat extension motions, and drafting longer orders that provide more detailed reasons for granting multiple extensions.

The sheer volume of motions presents challenges because in addition to handling motions, staff attorneys are assigned a significant caseload of decisions to draft. In 2020, a year with reduced filings due to the pandemic, full-time staff attorneys were still assigned an average of more than fifty cases each, including screened cases, no-merit cases, petitions for leave to appeal and other writs. Because the motions load takes such significant time, staff attorneys cannot complete all of their assigned cases, leading to backlogs.

Currently, there is a backlog of more than 300 no-merit cases that were assigned to staff attorneys in 2021 or earlier, including over 150 cases assigned more than a year ago. It is imperative that there is a timely review of no-merit cases to give finality to litigants and victims, whether affirming the conviction or rejecting the no-merit report so that identified issues of merit can be pursued.

Currently, there are more than 200 screened cases that were assigned to staff attorneys for drafting in 2021 or earlier, including approximately fifty cases that are more than six months old. As with no-merit litigants, these litigants are eager to learn the outcome of their appeals, most of which were first filed more than a year ago.

One of the benefits of using a LTE staff attorney(s) to reduce existing backlog is that the LTE can engage in uninterrupted drafting, rather than drafting in spurts between motions rotations. This is a highly efficient way to process routine cases, with long-time, experienced staff attorneys available to answer questions.

Another benefit is that we can easily track the time spent per case, providing valuable data on the resources needed to reduce our backlog and analyze whether hiring LTE staff attorney(s) is preferable to seeking additional permanent staff attorneys.

Finally, if the use of the LTE staff attorneys is not yielding desired results, LTE staff attorney use can be reevaluated to make best use of their time.

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<b>DEPARTMENT</b>	<b>CODES</b>	<b>TITLES</b>
	660	Court of Appeals

<b>DECISION ITEM</b>	<b>CODES</b>	<b>TITLES</b>
	5001	Court of Appeals LTE Staff Attorney

	<b>Expenditure Items</b>	<b>1st Year Cost</b>	<b>2nd Year Cost</b>
01	Permanent Position Salaries	\$0	\$0
02	Turnover	\$0	\$0
03	Project Position Salaries	\$0	\$0
04	LTE/Misc. Salaries	\$25,000	\$25,000
05	Fringe Benefits	\$2,000	\$2,000
06	Supplies and Services	\$0	\$0
07	Permanent Property	\$0	\$0
08	Unallotted 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
<b>17</b>	<b>TOTAL</b>	<b>\$27,000</b>	<b>\$27,000</b>
18	Project Positions Authorized	0.00	0.00
19	Classified Positions Authorized	0.00	0.00
20	Unclassified Positions Authorized	0.00	0.00

Program	Decision Item/Numeric	1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
	<b>5001 Court of Appeals LTE Staff Attorney</b>				
01	Appellate proceedings				
	01 General program operations	\$27,000	\$27,000	0.00	0.00
	<b>Appellate proceedings Sub Total</b>	<b>\$27,000</b>	<b>\$27,000</b>	<b>0.00</b>	<b>0.00</b>
	<b>Court of Appeals LTE Staff Attorney Sub Total</b>	<b>\$27,000</b>	<b>\$27,000</b>	<b>0.00</b>	<b>0.00</b>
	<b>Court Total</b>	<b>\$27,000</b>	<b>\$27,000</b>	<b>0.00</b>	<b>0.00</b>

Decision Item/Source of Funds		1st Year Total	2nd Year Total	1st Year FTE	2nd Year FTE
<b>5001 Court of Appeals LTE Staff Attorney</b>					
GPR	S	\$27,000	\$27,000	0.00	0.00
<b>Court of Appeals LTE Staff Attorney Total</b>		<b>\$27,000</b>	<b>\$27,000</b>	<b>0.00</b>	<b>0.00</b>
<b>Court Total</b>		<b>\$27,000</b>	<b>\$27,000</b>	<b>0.00</b>	<b>0.00</b>

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