

BOARD OF INDIGENTS' DEFENSE SERVICES

	Actual FY 2020	Agency Est. FY 2021	Gov. Rec. FY 2021	Agency Req. FY 2022	Gov. Rec. FY 2022
Operating Expenditures:					
State General Fund	\$ 31,178,202	\$34,779,949	\$ 31,659,949	\$ 50,871,997	\$ 37,608,162
Other Funds	1,175,245	617,472	769,106	606,000	606,000
<i>Subtotal</i>	<u>\$ 32,353,447</u>	<u>\$35,397,421</u>	<u>\$ 32,429,055</u>	<u>\$ 51,477,997</u>	<u>\$ 38,214,162</u>
Capital Improvements:					
State General Fund	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Other Funds	0	0	0	0	0
<i>Subtotal</i>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>	<u>\$ 0</u>
TOTAL	<u>\$ 32,353,447</u>	<u>\$35,397,421</u>	<u>\$ 32,429,055</u>	<u>\$ 51,477,997</u>	<u>\$ 38,214,162</u>
Percentage Change:					
Operating Expenditures					
State General Fund	1.4 %	11.6 %	1.5 %	46.3 %	18.8 %
All Funds	2.3	9.4	0.2	45.4	17.8
FTE Positions	199.7	200.8	199.7	294.8	199.7

For purposes of this analysis, full-time equivalent (FTE) positions include non-FTE permanent unclassified positions but continue to exclude temporary employees. FTE positions reflect permanent state positions equating to a 40-hour work week.

AGENCY OVERVIEW

The Board of Indigents' Defense Services (BIDS) is the state agency tasked with providing and supervising constitutionally and statutorily required legal services for indigents accused of felonies. BIDS fulfills this mission by overseeing a statewide system of public defender offices and by compensating assigned counsel when public defenders are unavailable. The agency also serves as the pass-through agency for funding for Legal Services for Prisoners, Inc., a nonprofit corporation providing legal assistance to indigent inmates of Kansas correctional institutions.

MAJOR ISSUES FROM PRIOR YEARS

The **2010 Legislature** reduced the hourly rate for assigned counsel from \$80 to \$62 per hour and deleted \$947,703 from fiscal year (FY) 2011 to accommodate the rate reduction. The rate reduction was intended to expire in FY 2013. The Legislature further deleted \$539,761 from the agency operating budget for a 2.5 percent reduction in FY 2011.

The **2011 Legislature** added \$750,000 from the State General Fund (SGF) to offset the reduction in federal American Reinvestment and Recovery Act and federal Justice Assistance Grant funds with SGF dollars and pay for expert witness expenditures in FY 2012.

The **2012 Legislature** added \$925,502 SGF to fund expert witness services, court reporter services, and vacant positions, as well as to partially fund the agency's enhancement request for public defender pay parity with similar positions in the Executive Branch.

The **2014 Legislature** added \$1.3 million SGF in FY 2014 to supplement funding for assigned counsel services. The Legislature also added \$50,000 to fund an expected increase in litigation associated with HB 2442, which changed state sentencing guidelines for individuals convicted of fleeing and eluding police.

The **2015 Legislature** added \$950,000 SGF for FY 2016 and \$1.5 million SGF for FY 2017 to fund assigned counsel expenditures in a newly created litigation support account.

The **2017 Legislature** added \$1.1 million SGF for FY 2018 and \$1.4 million SGF for FY 2019 for state capital *habeas* proceedings for capital punishment cases.

The **2018 Legislature** added language to the appropriations bill to allow the agency to classify public defenders based on the level of cases to which such public defenders are assigned for FY 2018 and FY 2019.

The **2019 Legislature** added \$800,000 SGF for FY 2019 and \$2.4 million SGF for FY 2020 to fund assigned counsel expenditures. The Legislature also added \$400,000 SGF for FY 2020 for salary adjustment for public defenders and \$103,635 SGF for FY 2020 due to the 2019 Legislative Pay Plan.

The **2020 Legislature** added \$600,000 SGF for FY 2020 and \$300,000 SGF for FY 2021 for assigned counsel expenditures.

The **2020 Legislature** added language to the appropriations bill requiring the agency to submit a report to the Legislative Budget Committee detailing the status of staff vacancies and retention and detailing a strategy to address such staffing concerns.

BUDGET SUMMARY AND KEY POINTS

FY 2021 – Current Year. The **agency** estimates revised expenditures of \$35.4 million, including \$34.8 million from the State General Fund (SGF), in FY 2021. This is an all funds decrease of \$3.3 million, or 8.5 percent, and an SGF decrease of \$3.3 million, or 8.6 percent, below the FY 2021 approved amount. The SGF decrease is primarily attributable to the lapse of FY 2020 reappropriated funds in the amount of \$3.4 million. The revised estimate includes a special revenue fund increase of \$11,472, or 1.9 percent, above the FY 2021 approved amount. This increase is attributable to a fee fund carryforward from the Indigents' Defense Services Fee Fund and the In-Service Education Fee Fund. The revised estimate includes 200.8 FTE positions, which is 1.1 FTE positions above the FY 2021 approved number. According to the agency, the accounting system included classified temporary positions as FTE positions.

The **Governor** recommends expenditures of \$32.4 million, including \$31.7 million SGF, in FY 2021. This is an all funds decrease of \$3.0 million, or 8.4 percent, and an SGF decrease of \$3.1 million, or 9.0 percent, below the agency's FY 2021 revised estimate. The decrease is

due to the Governor recommending a reduction to the assigned counsel program of \$3.0 million based on the Fall 2020 Assigned Counsel Caseload projection. The decrease is partially offset by the Governor recommending \$147,141, all SGF, for the agency's supplemental request to address information technology (IT) security.

The recommendation includes 199.7 FTE positions, which is 1.1 FTE positions below the agency's revised estimate. The reduction in FTE positions is due to correcting a technical error that counted the temporary positions as FTE positions in the agency's revised estimate.

FY 2022 – Budget Year. The **agency** requests \$51.5 million, including \$50.9 million SGF, for FY 2022. This is an all funds increase of \$16.1 million, or 45.4 percent, and an SGF increase of \$16.1 million, or 46.3 percent, above the FY 2021 revised estimate. The increase is primarily due to the agency's enhancement requests for funds to upgrade IT security measures, an assigned counsel rate increase, implementation of a case management system, and staffing enhancements. The request includes 294.8 FTE positions, which is an increase of 94.0 FTE positions above the FY 2021 revised estimate. This increase is entirely due to the agency's caseload staffing enhancement request.

The **Governor** recommends expenditures of \$38.2 million, including \$37.6 million SGF, for FY 2022. This is an SGF decrease of \$13.3 million, or 26.1 percent, below the agency's request. The decrease is primarily attributable to the Governor only recommending one of agency's enhancement requests, \$4.1 million, all SGF, for recruiting and retention. The decrease is also due a reduction of \$1.7 million, all SGF, due to the Governor recommending part of the agency's reduced resources budget. These decreases are partially offset by an increase of \$342,983 for assigned counsel caseload estimates.

The recommendation includes 199.7 FTE positions, which is 95.1 FTE positions below the agency's request. The decrease in FTE positions is due to the Governor not recommending the enhancements that includes 94.0 FTE positions for staffing, and the correction of a technical error that counted the temporary positions as 1.1 FTE positions.

PERFORMANCE MEASURES

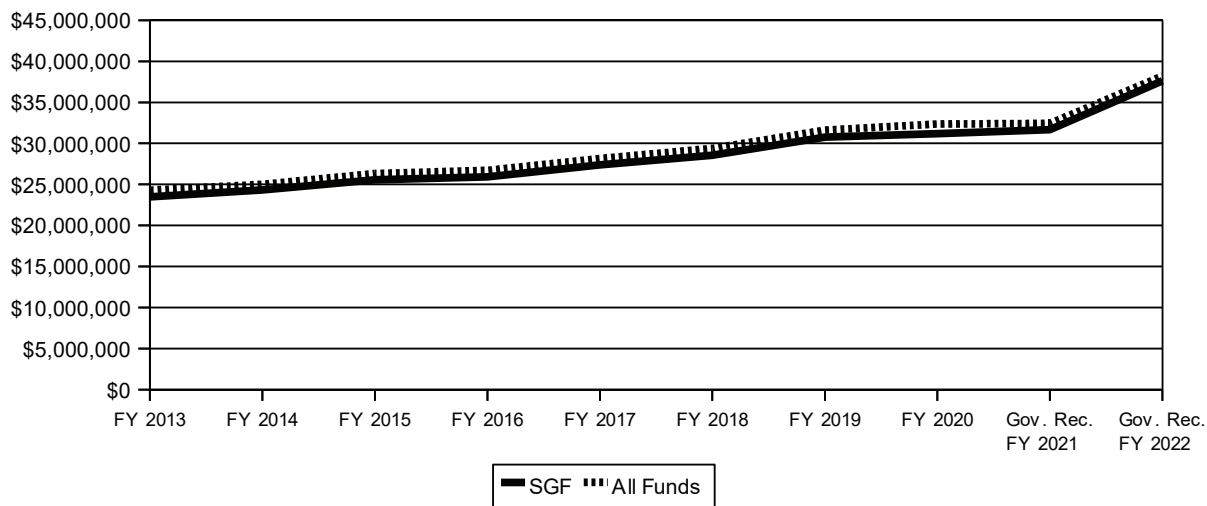
The 2016 Legislature passed HB 2739, which outlined a three-year process for state agencies to develop and implement a system of performance budgeting using outcome measures to evaluate program effectiveness. Measures to evaluate agency-wide performance are presented below. Additional measures to evaluate specific programs appear in the relevant program sections.

PERFORMANCE MEASURES						
Measure	Actual FY 2018	Actual FY 2019	Gov. Rec. FY 2020	Actual FY 2020	Gov. Rec. FY 2021	Gov. Rec. FY 2022
Number of Continuing Legal Education Programs Offered to Panel Attorneys	2	2	2	2	2	2
Cost Per Case: Assigned Counsel, Non-contract	\$ 885	\$ 941	\$ 941	\$ 993	\$ 993	\$ 993
Cost Per Case: Public Defender	\$ 609	\$ 659	\$ 659	\$ 818	\$ 818	\$ 818
Agency Expenditures						
All Funds (Dollars in Millions)	\$ 29.4	\$ 31.6	\$ 35.2	\$ 32.4	\$ 32.4	\$ 38.2
FTE Positions	196.6	199.7	199.7	199.7	199.7	199.7

The increased cost of the assigned counsel program is due to several factors. The two major factors are the increase in the rate of pay for assigned counsel and the agency's increased reliance on assigned counsel. In FY 2019, the rate for assigned counsel increased from \$70 per hour to \$75 per hour, and in FY 2020, the rate increased from \$75 per hour to the statutory maximum of \$80 per hour. The agency believes the cost of assigned counsel will continue to increase as more cases are sent to outside counsel due the agency's continued staffing issues.

BUDGET TRENDS

OPERATING EXPENDITURES FY 2013 – FY 2022



OPERATING EXPENDITURES FY 2013 – FY 2022

Fiscal Year	SGF	% Change	All Funds	% Change	FTE
2013	\$ 23,492,839	7.9 %	\$ 24,289,946	6.8 %	187.5
2014	24,339,737	3.6	25,007,745	3.0	187.5
2015	25,560,143	5.0	26,323,843	5.3	189.0
2016	25,927,322	1.4	26,710,462	1.5	189.0
2017	27,382,803	5.6	28,149,212	5.4	189.5
2018	28,558,799	4.3	29,389,816	4.4	196.6
2019	30,756,218	7.7	31,611,836	7.6	199.7
2020	31,178,202	1.4	32,353,447	2.3	199.7
2021 Gov. Rec.	31,659,949	1.5	32,429,055	0.2	199.7
2022 Gov. Rec.	37,608,162	18.8	38,214,162	17.8	199.7
Ten-Year Change Dollars/Percent	\$ 14,115,323	60.1 %	\$ 13,924,216	57.3 %	12.2

Summary of Operating Budget FY 2020 - FY 2022

	Agency Estimate				Governor's Recommendation				
	Actual FY 2020	Estimate FY 2021	Request FY 2022	Dollar Change from FY 21	Percent Change from FY 21	Rec. FY 2021	Rec. FY 2022	Dollar Change from FY 21	Percent Change from FY 21
By Program:									
Administration	\$ 1,174,247	\$ 1,277,800	\$ 13,460,885	\$ 12,183,085	953.4 %	\$ 1,309,434	\$ 5,166,214	\$ 3,856,780	294.5 %
Assigned Counsel	15,059,019	17,762,796	21,479,164	3,716,368	20.9	14,762,796	16,510,000	1,747,204	11.8
Legal Services for Prisoners	289,592	289,592	289,592	0	0.0	289,592	289,592	0	0.0
Appellate Defender	2,528,697	2,265,885	2,331,383	65,498	2.9	2,265,885	2,331,383	65,498	2.9
Trial Public Defenders	10,382,674	10,727,765	10,812,859	85,094	0.8	10,727,765	10,812,859	85,094	0.8
Capital Defense	2,919,218	3,073,583	3,104,114	30,531	1.0	3,073,583	3,104,114	30,531	1.0
TOTAL	\$ 32,353,447	\$ 35,397,421	\$ 51,477,997	\$ 16,080,576	45.4 %	\$ 32,429,055	\$ 38,214,162	\$ 5,785,107	17.8 %
By Major Object of Expenditure:									
Salaries and Wages	\$ 13,403,372	\$ 14,238,481	\$ 26,166,410	\$ 11,927,929	83.8 %	\$ 14,238,481	\$ 18,338,880	\$ 4,100,399	28.8 %
Contractual Services	18,492,449	21,079,190	25,030,437	3,951,247	18.7	17,959,190	19,794,132	1,834,942	10.2
Commodities	110,802	67,250	68,650	1,400	2.1	98,884	68,650	(30,234)	(30.6)
Capital Outlay	346,824	12,500	212,500	200,000	1,600.0	132,500	12,500	(120,000)	(90.6)
Debt Service	0	0	0	0	--	0	0	0	--
<i>Subtotal - Operations</i>	<i>\$ 32,353,447</i>	<i>\$ 35,397,421</i>	<i>\$ 51,477,997</i>	<i>\$ 16,080,576</i>	<i>45.4 %</i>	<i>\$ 32,429,055</i>	<i>\$ 38,214,162</i>	<i>\$ 5,785,107</i>	<i>17.8 %</i>
Aid to Local Units	0	0	0	0	--	0	0	0	--
Other Assistance	0	0	0	0	--	0	0	0	--
TOTAL	\$ 32,353,447	\$ 35,397,421	\$ 51,477,997	\$ 16,080,576	45.4 %	\$ 32,429,055	\$ 38,214,162	\$ 5,785,107	17.8 %
Financing:									
State General Fund	\$ 31,178,202	\$ 34,779,949	\$ 50,871,997	\$ 16,092,048	46.3 %	\$ 31,659,949	\$ 37,608,162	\$ 5,948,213	18.8 %
Indigents' Defense Services Fund	885,871	604,006	600,000	(4,006)	(0.7)	604,006	600,000	(4,006)	(0.7)
In-Service Education Workshop Fee Fund	19,888	13,466	6,000	(7,466)	(55.4)	13,466	6,000	(7,466)	(55.4)
Coronavirus Relief Fund	269,486	0	0	0	--	151,634	0	(151,634)	(100.0)
TOTAL	\$ 32,353,447	\$ 35,397,421	\$ 51,477,997	\$ 16,080,576	45.4 %	\$ 32,429,055	\$ 38,214,162	\$ 5,785,107	17.8 %

BUDGET OVERVIEW

A. FY 2021 – Current Year

Adjustments to Approved State General Fund Budget

The 2020 Legislature approved a State General Fund (SGF) budget of \$35.0 million for the Board of Indigents' Defense Services in FY 2021. Several adjustments have been made subsequently to that amount. These adjustments change the current year approved amount without any legislative action required. For this agency, the following adjustments have been made:

- An increase of \$3.4 million, based on the reappropriation of FY 2020 funding that was not spent in FY 2020 and has shifted to FY 2021;
- An increase of \$25,715, based on the reimbursement of SGF expenditures in FY 2020 for Coronavirus related expenditures and reimbursed from the Coronavirus Relief Fund as approved by the State Finance Council on June 16, 2020 resulting in reappropriation of funding that was not spent in FY 2020 and has shifted to FY 2021; and
- A decrease of \$346,854 as the result of the Governor's July 1, 2020, SGF allotment.

These adjustments change the FY 2021 approved SGF amount to \$38.0 million. That amount is reflected in the table below as the currently approved FY 2021 SGF amount.

CHANGE FROM APPROVED BUDGET					
	Legislative Approved FY 2021	Agency Estimate FY 2021	Agency Change from Approved	Governor Rec. FY 2021	Governor Change from Approved
State General Fund	\$ 38,042,566	\$ 34,779,949	\$ (3,262,617)	\$ 31,659,949	\$ (6,382,617)
All Other Funds	606,000	617,472	11,472	769,106	163,106
TOTAL	\$ 38,648,566	\$ 35,397,421	\$ (3,251,145)	\$ 32,429,055	\$ (6,219,511)
FTE Positions	199.7	200.8	1.1	199.7	0.0

The **agency** estimates revised expenditures of \$35.4 million, including \$34.8 million SGF, in FY 2021. This is an all funds decrease of \$3.3 million, or 8.4 percent, and an SGF decrease of \$3.3 million, or 8.6 percent, below the FY 2021 approved amount. The SGF decrease is primarily attributable to the lapse of FY 2020 reappropriated funds in the amount of \$3.4 million. The revised estimate includes a special revenue fund increase of \$11,472, or 1.9 percent, above the FY 2021 approved amount. This increase is attributable to a fee fund carryforward from the Indigents' Defense Services fee fund and the In-Service Education fee fund. The revised estimate includes 200.8 FTE positions, which is 1.1 FTE positions above the FY 2021 approved number. According to the agency, the accounting system included classified temporary positions as FTE positions.

The revised estimate is detailed below by major category of expenditure:

- **Salaries and Wages.** The agency estimates revised expenditures of \$14.2 million, all SGF, in FY 2021. This is a decrease of \$3.2 million, or 18.4 percent, below the FY 2021 approved amount. The decrease is due to the lapse of reappropriated funds from FY 2020;
- **Contractual Services.** The agency estimates revised expenditures of \$21.1 million, including \$20.5 million SGF, in FY 2021. This is an all funds decrease of \$31,461, or 0.1 percent, and an SGF decrease of \$42,933, or 0.2 percent, below the FY 2021 approved amount. The decrease is primarily attributable to decreased expenditures for assigned counsel due to court closures;
- **Commodities.** The agency estimates revised expenditures of \$67,250, all SGF, in FY 2021. This is an increase of \$6,885, or 11.4 percent, above the FY 2021 approved amount. The increase is primarily attributable to increased expenditures for stationery, office supplies, and video services used by attorneys to conduct client meetings due to the COVID-19 pandemic; and
- **Capital Outlay.** The agency estimates revised expenditures of \$12,500, all SGF, in FY 2021. This is a decrease of \$7,500, or 37.5 percent, below the FY 2021 approved amount. The decrease is attributable to decreased expenditures on computers and software.

The **Governor** recommends expenditures of \$32.4 million, including \$31.7 million SGF, in FY 2021. This is an all funds decrease of \$3.0 million, or 8.4 percent, and an SGF decrease of \$3.1 million, or 9.0 percent, below the agency's FY 2021 revised estimate. The decrease is due to the Governor recommending a reduction to the assigned counsel program of \$3.0 million based on the Fall 2020 Assigned Counsel Caseload projection. In addition, the Governor only recommended part of the agency's supplemental requests, including \$147,141, all SGF, for IT security.

The recommendation includes 199.7 FTE positions, which is 1.1 FTE positions below the agency's revised estimate. The reduction in FTE positions is due to the correction of a technical error that counted temporary positions as FTE positions in the agency's revised estimate.

Supplemental Detail

FY 2021 SUPPLEMENTALS						
Supplementals	Agency Estimate			Governor's Recommendation		
	SGF	All Funds	FTE	SGF	All Funds	FTE
IT Security	\$ 147,141	\$ 147,141	0.0	\$ 147,141	\$ 147,141	0.0
Laptop Computers	\$ 120,000	\$ 120,000	0.0	0	0	0.0
TOTAL	\$ 267,141	\$ 267,141	0.0	\$ 147,141	\$ 147,141	0.0

The **agency** requests \$267,141, all SGF, in supplemental funding for IT security and remote working equipment. The supplemental request is detailed below by item expenditure:

- **IT Security.** The agency requests \$147,141 to address issues identified by a May 2019 security audit conducted by the Kansas Legislative Division of Post Audit. The request addresses the items that the agency has deemed to require immediate attention. These items include equipment upgrades, safety equipment, structural changes to offices, and additional security measures. Description of the work is detailed below:
 - \$96,541 for the replacement of 12 servers;
 - \$3,600 for the construction of office walls to provide a lobby for clients to secure and prevent unauthorized access to IT equipment. The offices affected are located in Topeka, Chanute, and Wichita;
 - \$27,000 for the purchase and installation of push button door locks at the Appellate, State *Habeas*, Northeast Kansas Conflict Office, Wichita, Wichita Conflicts, Hutchinson and Garden City offices;
 - \$10,000 for the purchase of a dry fire extinguisher for the data center; and
 - \$10,000 for the purchase of an identifiable entry log access card system for the data center;

- **Laptop Computers.** The agency requests \$120,000 for the procurement of an additional 60 laptop computers in order to maintain remote working capabilities for its employees. The agency states this purchase will allow the employees to continue to perform their work while limiting COVID-19 exposure. Additionally, this equipment will allow employees to maintain contact with incarcerated clients during COVID-19 outbreaks and allow for court appearances during remote court proceedings at both the trial and appellate levels. The additional laptops will replace existing outdated equipment:
 - The agency requested this equipment as part of the Coronavirus Relief Fund (CRF) Operational Expenditures application process through the Office of Recovery and the Department of Administration. Funding approvals are decided after budget submission.

The **Governor** recommends \$147,141, all SGF, for IT security measures.

Governor's Allotments

On June 29, 2020, the Governor announced SGF allotments or reductions for FY 2021 of \$374.5 million. Included in the Governor's allotted budget were \$146.7 million in human services caseload adjustments, \$79.3 million to delay the FY 2021 State Foundation Aid payment for K-12 Education, \$46.7 million in reductions due to a suspension of Kansas Public Employees Retirement System (KPERs) Death and Disability contributions, and \$101.8 million in other adjustments.

Allotments included in this document reduce the FY 2021 approved budget without any required Legislative approval and are included in the approved amounts in the table above. As it relates to this agency, the allotment adjustments totaled \$346,854. The allotments applied to this agency are detailed below:

GOVERNOR'S ALLOTMENTS			
Allotment	SGF	All Funds	FTE
July Allotment			
KPERS Death and Disability	\$ 103,083	\$ 103,083	0.0
Coronavirus Relief Swap	243,771	243,771	0.0
TOTAL	\$ 346,854	\$ 346,854	0.0

B. FY 2022 – Budget Year

FY 2022 OPERATING BUDGET SUMMARY			
	Agency Request	Governor's Recommendation	Difference
Total Request/Recommendation	\$ 51,477,997	\$ 38,214,162	\$ (13,263,835)
FTE Positions	294.8	199.7	(95.1)
Change from FY 2021:			
<i>Dollar Change:</i>			
State General Fund	\$ 16,092,048	\$ 5,948,213	
All Other Funds	(11,472)	(163,106)	
TOTAL	\$ 16,080,576	\$ 5,785,107	
<i>Percent Change:</i>			
State General Fund	46.3 %	18.8 %	
All Other Funds	(1.9)	(21.2)	
TOTAL	45.4 %	17.8 %	
Change in FTE Positions	94.0	0.0	

The **agency** requests \$51.5 million, including \$50.9 million SGF, for FY 2022. This is an all funds increase of \$16.1 million, or 45.4 percent, and an SGF increase of \$16.1 million, or 46.3 percent, above the FY 2021 revised estimate. The increase is primarily due to the agency's enhancement requests for funds to cover upgrading information technology (IT) security measures, an assigned counsel rate increase, implementation of a case management system, and staffing enhancements. The request also includes 294.8 FTE positions, which is an increase of 94.0 FTE positions, above the FY 2021 approved number. This increase is entirely due to the agency's caseload staffing enhancement request.

The request is detailed below by major category of expenditure:

- **Salaries and Wages.** The agency requests \$26.2 million, all SGF, for salaries and wages expenditures, for FY 2022. This is an increase of \$11.9 million, or 83.8 percent, above the FY 2021 revised estimate. This increase is primarily due to the agency's enhancement requests for additional staffing, recruiting, and retention funds;

- **Contractual Services.** The agency requests \$25.0 million for contractual services, including \$24.4 million SGF, for FY 2022. This is an all funds increase of \$4.0 million, or 18.7 percent, and an SGF increase of \$4.0 million, or 19.4 percent, above the FY 2021 revised estimate. The increase is primarily due to an enhancement for assigned counsel rate increase; and
- **Capital Outlay.** The agency requests \$212,000, all SGF, for capital outlay for FY 2022. This is an increase of \$200,000, or 1,600.0 percent, above FY 2021 revised estimate. The increase is due to the enhancement request for the implementation of a case management system.

The **Governor** recommends expenditures of \$38.2 million, including \$37.6 million SGF, for FY 2022. This is an SGF decrease of \$13.3 million, or 26.1 percent, below the agency's request. The decrease is primarily attributable to the Governor only recommending part of the agency's enhancement requests, \$4.1 million, all SGF, for recruiting and retention. The decrease is also attributable to the Governor recommending part of the agency's reduced resources budget. These decreases are partially offset due to an increase of \$342,983 for assigned counsel caseload estimates.

The recommendation includes 199.7 FTE positions, which is 95.1 FTE positions below the agency's request. The decrease in FTE positions is due to the Governor not recommending the enhancements that includes 94.0 FTE positions for staffing and the correction of a technical error that counted temporary positions as 1.1 FTE positions.

Enhancement Detail

FY 2022 ENHANCEMENTS						
Enhancements	Agency Estimate			Governor's Recommendation		
	SGF	All Funds	FTE	SGF	All Funds	FTE
Ethical Caseloads Staffing Enhancement	\$ 7,827,530	\$ 7,827,530	94.0	\$ 0	\$ 0	0.0
Immediate Recruitment & Retention	4,148,500	4,148,500	0.0	4,148,500	4,148,500	0.0
Assigned Counsel Rate Increase	3,569,164	3,569,164	0.0	0	0	0.0
IT Security, Remote Working Equipment, Case Management System	467,141	467,141	0.0	0	0	0.0
TOTAL	\$ 16,012,335	\$ 16,012,335	94.0	\$ 4,148,500	\$ 4,148,500	0.0

The **agency** requests \$16.0 million, all SGF, in enhancement funding for FY 2022. The enhancement requests are detailed below.

- **Ethical Caseloads Staffing.** The agency requests \$7.8 million, all SGF, and 94.0 FTE positions, to address chronic attorney caseload issues and insufficient support staffing. This request is detailed below:
 - \$2.9 million for an additional 25.0 FTE positions for public defenders. The agency used the 1973 National Advisory Commission (NAC) on Criminal

Justice Standards and Goals for the Defense caseload guidelines to determine the number of additional FTE positions needed. NAC guidelines recommend that public defenders should work on no more than 150 felony cases per year, no more than 400 misdemeanor cases per year, and no more than 25 appeals per year. The National Association for Public Defenders (NAPD) considers the NAC standards the "absolute maximum" workload for a public defender;

- \$4.9 million for an additional 59.0 FTE positions for support staff. The number of FTE positions is based on NAPD staffing recommendations for public defender offices. Additional staffing will be as follows:
 - \$1.1 million for 15 legal assistants;
 - \$2.4 million for 35 investigators;
 - \$719,212 for 13 administrative assistants; and
 - \$664,018 for 6 administrative staff positions;
- **Immediate Recruitment and Retention.** The agency requests \$4.1 million, all SGF, to adjust for pay parity with prosecutors and other comparable government employees and to establish an internal formal training program for public defenders and assigned counsel. This request is detailed below:
 - \$4.0 million for pay scale conversion. The agency created a series of internal pay scales for each agency position that more appropriately reflects the level of experience of employees and more appropriately competes with prosecutor pay and other comparable government salaries;
 - \$164,025 for the office space rent, training programs, NAPD membership, and Bar fees for the new Training Division. The 2020 Legislature required the agency to create a report on the current recruitment and retention issues and devise a plan to address those issues long-term. During this time, the agency conducted an agency wide anonymous survey of all employees and identified the key contributors to the agency's high turnover rate were workload and poor pay and lack of raises and promotions, along with lack of training and sufficient resources;
- **Assigned Counsel Rate Increase.** The agency requests \$3.6 million, all SGF, to fund assigned counsel rate increase to \$100 per hour. The agency's Board approved an increase to the hourly rate for assigned counsel of \$100 per hour for FY 2022, dependent upon appropriate funding and statutory amendments. KSA 22-4507(c) caps the current rate at \$80 per hour with exceptions;
- **IT Security, Remote Working Equipment, Case Management System.** The agency requests \$467,141, all SGF. This request is identical to the FY 2021 supplemental request, except for the addition of the case management system request. The requests are detailed below:
 - \$147,141 for IT security and remote working equipment to address issues identified by a May 2019 security audit conducted by Legislative Post Audit. These items included equipment upgrades, safety equipment, structural changes to offices, and additional security measures;

- \$120,000 for the procurement of an additional 60 laptop computers in order to maintain remote working capabilities for its employees. This will allow the employees to continue to perform their work while limiting COVID-19 exposure. Additionally, this will allow employees to maintain contact with incarcerated clients during COVID-19 outbreaks and allow for court appearances during remote court proceedings at both the trial and appellate levels. The additional laptops will replace existing outdated equipment:
 - The agency requested this equipment as part of the CRF Operational Expenditures application process through the Office of Recovery and the Department of Administration. Funding approvals are decided after budget submission; and
- \$200,000 for the purchase and implementation of a case management system. Currently, the agency does not have a case management system and uses various software programs to operate. Implementation of a case management system would allow the agency to better assist agency employees to effectively and efficiently represent their clients. A one-time \$150,000 fee will be used for the custom build of a system, including the integration of the agency's historical data. The estimated yearly fee, based on the number of new cases the agency anticipates entering into the system, would be approximately \$50,000 per year.

The **Governor** recommends \$4.1 million, all SGF, for the agency's enhancement request for retention and recruitment.

FY 2022 Reduced Resources

FY 2022 REDUCED RESOURCES						
Item	Agency Recommendation			Governor's Recommendation		
	SGF	All Funds	FTE	SGF	All Funds	FTE
Salaries and Wages						
Administration	\$ 83,663	83,663	0.0	\$ 0	\$ 0	0.0
Appellate Defender	181,270	181,270	0.0	0	0	0.0
Trial Public Defenders	1,129,453	1,129,453	0.0	0	0	0.0
Capital Defense	348,597	348,597	0.0	0	0	0.0
Assigned Counsel	1,742,983	1,742,983	0.0	1,742,983	1,742,983	0.0
TOTAL	\$ 3,485,966	\$ 3,485,966	0.0	\$ 1,742,983	\$ 1,742,983	0.0

The **agency** submits a reduced resources budget totaling \$3.5 million, all SGF, for FY 2022. The agency makes note that this would result in reduced staff hours (including furloughs, layoffs, and elimination of unfilled positions,) along with the holding of assigned counsel claims.

The **Governor** recommends partially adopting the agency's reduced resources budget and reducing expenditures for assigned counsel.

Governor's Recommended Salary and Wage Adjustments

For FY 2022, the Governor recommends adding \$31.5 million, including \$11.3 million SGF, for a 2.5 percent state employee base pay adjustment. The plan would increase salaries for classified and unclassified employees in the Executive Branch, Legislative Branch, and Judicial Branch. Legislative and elected officials would be excluded from this salary adjustment. The funds would be appropriated to and certified for distribution by the State Finance Council if approved. Employees of state universities are also not included in the proposed pay plan; however, the Governor recommends adding \$10.4 million, all SGF, to the university operating grants. This amount is equivalent to what the pay plan would have provided for university employees, but the funds are included in the Kansas Board of Regents budget for use at their discretion.

Longevity Bonus Payments. In FY 2021 and for FY 2022, the Governor recommends funding longevity bonus payments for eligible state employees at the statutory rate of \$40 per year of service, with a 10-year minimum (\$400) and a 25-year maximum (\$1,000). Classified employees hired after June 15, 2008, are not eligible for longevity bonus payments. The estimated cost for the recommended FY 2021 payment is \$3.0 million, including \$1.1 million SGF. For FY 2022, the estimated cost is \$3.1 million, including \$1.1 million SGF. **For this agency, FY 2021 longevity payments total \$13,120, all SGF, and FY 2022 longevity payments total \$13,520, all SGF.**

Kansas Public Employees Retirement System (KPERs). The employer retirement contribution rate, including Death and Disability contributions, for the KPERs State and School Group is scheduled to be 14.23 percent in FY 2021 and 15.09 percent for FY 2022. The FY 2021 rate excludes the 1.0 percent KPERs Death and Disability contribution that is currently subject to a moratorium described below.

The Governor recommends the KPERs State and School Group be reamortized. The current amortization period was set by the Legislature in 1993 for 40 years. The Governor proposes the new amortization be set for 25 years beginning in FY 2022, an extension of 10 years to the current plan. Reamortization would reduce employer contributions for the KPERs State and School Group in the short term. It is estimated that resetting the amortization period to 25 years could produce budget savings of \$177.3 million, including \$158.7 million SGF, for FY 2022. The Governor's recommendation would also incorporate \$25.8 million in KPERs layering payments into the amortization schedules. **No savings from this policy are currently included in this agency's budget.**

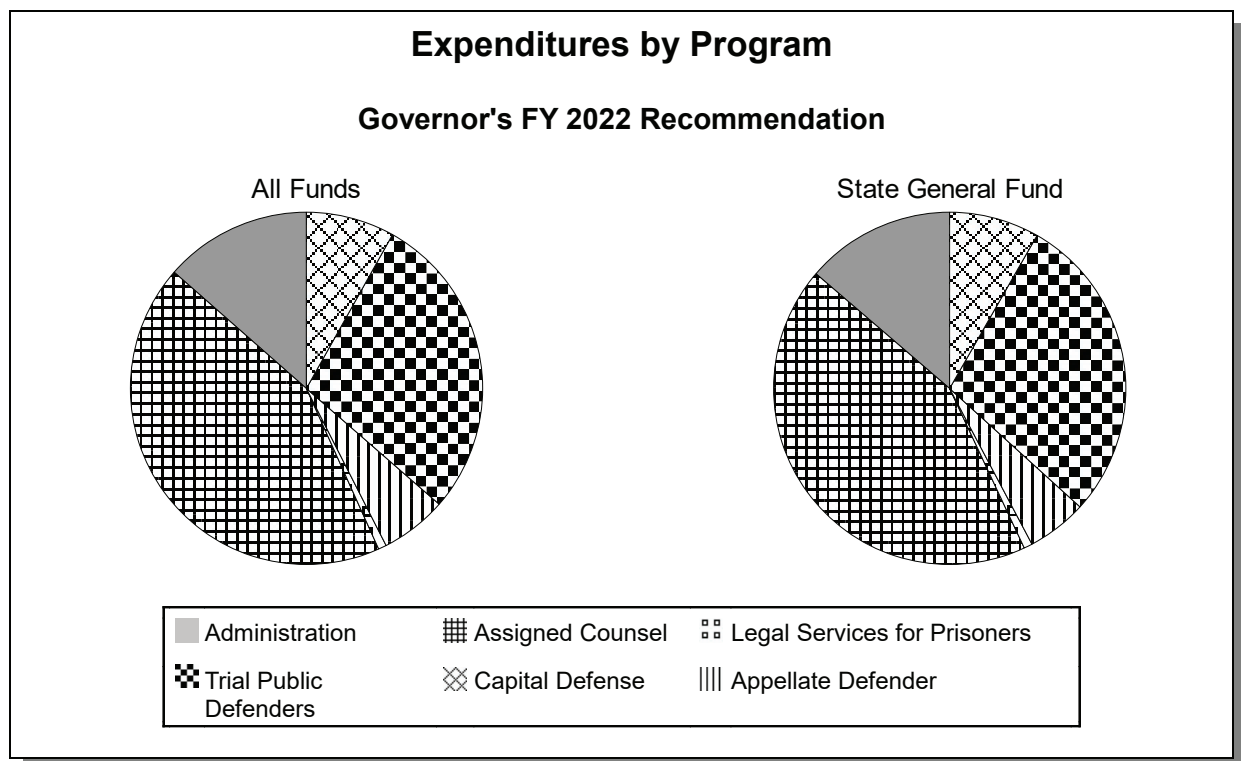
KPERs Death and Disability Group Insurance Fund. During FY 2021, a moratorium on employer contributions to the KPERs Death and Disability Group Insurance Fund was in effect. The fund had a sufficient balance to suspend payments on a temporary basis without affecting employee benefits. The moratorium was implemented *via* the Governor's allotment authority; therefore, the Legislative and Judicial branches are currently excluded from the moratorium. The total savings for the moratorium are estimated at \$46.7 million in contributions from the SGF. Included in this amount were savings of approximately \$40.3 million from KPERs School Group contributions in the Kansas State Department of Education budget. No similar moratorium is proposed for FY 2022, requiring the addition of \$46.7 million to annualize the payments for the full fiscal year.

Funding Sources

Funding Source	Agency Req. Percent of Total FY 2022	Gov. Rec. Percent of Total FY 2022
State General Fund	98.8 %	98.4 %
Indigents' Defense Services Fund	1.2	1.6
In-Service Education Workshop Fee Fund	0.0	0.0
TOTAL	100.0 %	100.0 %

(Note: Totals may not add due to rounding.)

PROGRAM DETAIL



Program	Gov. Rec. All Funds FY 2022	Percent of Total	Gov. Rec. SGF FY 2022	Percent of Total
Administration	\$ 5,166,214	13.5 %	\$ 5,160,214	13.7 %
Assigned Counsel	16,510,000	43.2	16,260,000	43.2
Legal Services for Prisoners	289,592	0.8	289,592	0.8
Appellate Defender	2,331,383	6.1	2,081,383	5.5
Trial Public Defenders	10,812,859	28.3	10,712,859	28.5
Capital Defense	3,104,114	8.1	3,104,114	8.3
TOTAL	\$ 38,214,162	100.0 %	\$ 37,608,162	100.0 %

FTE POSITIONS BY PROGRAM FY 2020 – FY 2022					
Program	Actual FY 2020	Agency Est. FY 2021	Gov. Rec. FY 2021	Agency Req. FY 2022	Gov. Rec. FY 2022
Administration	10.2	13.3	12.2	107.3	12.2
Assigned Counsel	0.0	0.0	0.0	0.0	0.0
Legal Services for Prisoners	0.0	0.0	0.0	0.0	0.0
Appellate Defender	23.0	23.0	23.0	23.0	23.0
Trial Public Defenders	139.5	137.5	137.5	137.5	137.5
Capital Defense	27.0	27.0	27.0	27.0	27.0
TOTAL	199.7	200.8	199.7	294.8	199.7

(Note: For purposes of this analysis, full-time equivalent (FTE) positions include non-FTE permanent unclassified positions but continue to exclude temporary employees. FTE positions reflect permanent state positions equating to a 40-hour work week.)

A. Administration

The Administration program is responsible for overall agency operations and provides support for the statewide delivery of indigents' defense services. Funding is from the State General Fund, except for a small amount that is from the In-service Education Workshop Fee Fund.

PERFORMANCE MEASURES						
Measure	Actual FY 2018	Actual FY 2019	Gov. Rec. FY 2020	Actual FY 2020	Gov. Rec. FY 2021	Gov. Rec. FY 2022
Maintain level of dollars saved by audit procedures*	\$ 262,705	\$ 235,185	\$ N/A	\$ 234,185	\$ 234,185	\$ 234,185
Maintain increase in average cost per case for attorney services to 5% or less*	\$ 885	\$ 941	\$ N/A	\$ 993	\$ 993	\$ 993
Agency Expenditures						
All Funds (Dollars in Thousands)	\$ 791.1	\$ 802.6	\$ 906.8	\$ 899.0	\$ 1,309.4	\$ 5,166.2
FTE Positions	9.1	10.2	10.2	10.2	12.2	12.2

* The Governor's Office does not utilize this measure for evaluation purposes.

ADMINISTRATION					
SUMMARY OF EXPENDITURES FY 2020 – FY 2022					
Item	Actual FY 2020	Agency Est. FY 2021	Gov. Rec. FY 2021	Agency Req. FY 2022	Gov. Rec. FY 2022
Expenditures:					
Salaries and Wages	\$ 673,600	\$ 837,722	\$ 837,722	\$ 12,656,782	\$ 4,829,252
Contractual Services	141,114	414,078	294,078	578,103	310,962
Commodities	5,654	13,500	45,134	13,500	13,500
Capital Outlay	78,642	12,500	132,500	212,500	12,500
Debt Service	0	0	0	0	0
<i>Subtotal - Operations</i>	<u>\$ 899,010</u>	<u>\$ 1,277,800</u>	<u>\$ 1,309,434</u>	<u>\$ 13,460,885</u>	<u>\$ 5,166,214</u>
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
TOTAL	<u>\$ 899,010</u>	<u>\$ 1,277,800</u>	<u>\$ 1,309,434</u>	<u>\$ 13,460,885</u>	<u>\$ 5,166,214</u>
Financing:					
State General Fund	\$ 897,575	\$ 1,271,800	\$ 1,151,800	\$ 13,454,885	\$ 5,160,214
All Other Funds	1,435	6,000	157,634	6,000	6,000
TOTAL	<u>\$ 899,010</u>	<u>\$ 1,277,800</u>	<u>\$ 1,309,434</u>	<u>\$ 13,460,885</u>	<u>\$ 5,166,214</u>
FTE Positions	10.2	13.3	12.2	107.3	12.2

The **agency** estimates revised expenditures of \$1.3 million, including \$1.3 million SGF, in FY 2021 for the Administration program. This is an increase of \$234,773, or 22.5 percent, all SGF, above the approved FY 2021 amount. The increase is primarily due to increased expenditures for salaries and wages and contractual services. The revised estimate includes a special revenue fund amount of \$6,000, which is the same as the FY 2021 approved amount. The revised estimate includes 13.3 FTE positions, which is 3.1 FTE positions above the FY 2021 approved number. The increase is due to the classification of temporary positions as FTE positions.

The agency request is detailed below by major category of expenditure:

- **Salaries and Wages.** The agency requests a revised estimate of \$837,722, all SGF, for salaries and wages expenditures, in FY 2021. This is an all funds increase of \$106,761, or 14.6 percent, above the FY 2021 approved amount. This is primarily due to the agency filling all vacant positions and increased expenditures for fringe benefits; and
- **Contractual Services.** The agency requests a revised estimate of \$414,078, including \$408,078 SGF, for contractual services in FY 2021. This is an increase of \$128,827, or 46.1 percent, all SGF, above the FY 2021 approved amount. The increase is attributable to increased expenditures on services for off-site file storage/retrieval and temporary staffing needs through staff augmentation contracts.

The **Governor** recommends expenditures of \$1.3 million, including \$1.2 million SGF, in FY 2021. This is an all funds increase of \$31,634, or 2.5 percent, and an SGF decrease of \$120,000, or 9.4 percent, from the agency's revised estimate. The all funds increase is due to increased expenditures from the federal Coronavirus Relief Fund for cleaning supplies and laptop computers. The SGF decrease is due to the Governor not recommending the agency's

supplemental request for increased funding for laptop computers due to the agency's receipt of federal Coronavirus Relief Fund moneys. The recommendation includes 12.2 FTE positions, which is a decrease of 1.1 FTE positions below the agency's revised estimate. The decrease is due to the correction of a technical error that classified temporary positions as FTE positions in the agency's revised estimate.

The **agency** requests \$13.5 million, including \$13.5 million SGF, for FY 2022 for the Administration program. This is an increase of \$12.2 million, or 953.4 percent, all SGF, above the FY 2021 revised estimate. The request includes a special revenue fund amount of \$6,000, which is the same as the FY 2021 revised estimate. The request includes 107.3 FTE positions, which is 94.0 FTE positions above the FY 2021 revised estimate. This increase is entirely due to the agency's caseload staffing enhancement request.

The agency request is detailed below by major category of expenditure:

- **Salaries and Wages.** The agency requests \$12.7 million, all SGF, for salaries and wages expenditures, for FY 2022. This is an all funds increase of \$11.8 million, or 1,410.9 percent, above the FY 2021 revised estimate. The increase is primarily attributable to increased expenditures related to the FY 2022 enhancement requests;
- **Contractual Services.** The agency requests \$578,103, including \$573,103 SGF, for contractual services for FY 2022. This is an SGF increase of \$164,025, or 40.2 percent, above the FY 2021 revised estimate. The increase is attributable to increased expenditures on services for off-site file storage/retrieval and temporary staffing needs through staff augmentation contracts; and
- **Capital Outlay.** The agency requests \$212,500, all SGF, for capital outlay for FY 2022. This is an increase of \$200,000 above the FY 2021 revised estimate. The increase is attributable to the FY 2022 enhancement request for the purchase and set up of the case management system.

The **Governor** recommends expenditures of \$5.2 million, including \$5.2 million SGF, for FY 2022. This is an SGF decrease of \$8.3 million, or 61.6 percent, below the agency's request. The SGF decrease is due to the Governor not recommending the agency's enhancement requests for staffing, laptops, and a case management system. The recommendation includes 12.2 FTE positions, which is 95.1 FTE positions below the agency's request. The decrease in FTE positions is due to the Governor not recommending the enhancements that includes 94.0 FTE positions for staffing, and the correction of a technical error that counted part-time positions as 1.1 FTE positions in the agency's request.

B. Assigned Counsel

When public defender offices are unable to handle the volume of cases, or when conflicts prevent public defenders from being involved, private assigned counsel is used. Furthermore, assigned counsel are used in those parts of the state where the agency has determined that the cost of a public defender office would be prohibitive. Attorneys are either selected and assigned to cases by judges or are assigned by judges from a pool of attorneys with whom the agency has negotiated contracts. When contracts are involved, the agency is able to realize a cost savings and has made a concerted effort to expand the number of assigned counsel who serve under contract. The agency believes the assigned counsel system

is the most economical for rural counties and in most conflict cases. The agency supports a mixed system of assigned counsel and public defenders, with a heavier emphasis on the public defender system in serious cases or in heavy caseload areas. Beginning in FY 2006, a separate line item appropriation was made for assigned counsel expenditures to keep expenditures for attorneys separate from the other professional services.

PERFORMANCE MEASURES						
Measure	Actual FY 2018	Actual FY 2019	Gov. Rec. FY 2020	Actual FY 2020	Gov. Rec. FY 2021	Gov. Rec. FY 2022
Cost Per Case: Assigned Counsel, Non-contract	\$ 885	\$ 941	\$ 941	\$ 993	\$ 993	\$ 993
Assigned Counsel Caseload*	16,530	15,310	N/A	14,781	14,781	14,781
Agency Expenditures						
All Funds (Dollars in Millions)	\$ 13.6	\$ 15.1	\$ 17.0	\$ 15.1	\$ 14.8	\$ 16.5
FTE Positions	0.0	0.0	0.0	0.0	0.0	0.0

*The Governor's Office does not utilize this measure for evaluation purposes.

ASSIGNED COUNSEL SUMMARY OF EXPENDITURES FY 2020 – FY 2022					
Item	Actual FY 2020	Agency Est. FY 2021	Gov. Rec. FY 2021	Agency Req. FY 2022	Gov. Rec. FY 2022
Expenditures:					
Salaries and Wages	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Contractual Services	15,059,019	17,762,796	14,762,796	21,479,164	16,510,000
Commodities	0	0	0	0	0
Capital Outlay	0	0	0	0	0
Debt Service	0	0	0	0	0
<i>Subtotal - Operations</i>	<i>\$15,059,019</i>	<i>\$ 17,762,796</i>	<i>\$ 14,762,796</i>	<i>\$ 21,479,164</i>	<i>\$ 16,510,000</i>
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
TOTAL	<u>\$15,059,019</u>	<u>\$ 17,762,796</u>	<u>\$ 14,762,796</u>	<u>\$ 21,479,164</u>	<u>\$ 16,510,000</u>
Financing:					
State General Fund	\$14,656,845	\$ 17,512,796	\$ 14,512,796	\$ 21,229,164	\$ 16,260,000
All Other Funds	402,174	250,000	250,000	250,000	250,000
TOTAL	<u>\$15,059,019</u>	<u>\$ 17,762,796</u>	<u>\$ 14,762,796</u>	<u>\$ 21,479,164</u>	<u>\$ 16,510,000</u>
FTE Positions	0.0	0.0	0.0	0.0	0.0

The **agency** estimates revised expenditures of \$17.8 million, including \$17.5 million SGF, for the Assigned Counsel program in FY 2021. This is an SGF decrease of \$147,204, or 0.8 percent, below the amount approved by the 2020 Legislature. The decrease is attributable to decreased expenditures on expert witness fees and court reporting fees.

The **Governor** recommends expenditures of \$14.8 million, including \$14.5 million SGF, for the Assigned Counsel program in FY 2021. This is a decrease of \$3.0 million, all SGF, or 16.9 percent, below the agency's request. The decrease is attributable to the Governor recommending the adoption of the Fall 2020 Assigned Counsel Caseload estimates. The recommendation does not include any FTE positions, which is the same as the agency's revised estimate.

The **agency** requests \$21.5 million, including \$21.2 million SGF, for the Assigned Counsel program for FY 2022. This is an SGF increase of \$3.7 million, or 21.2 percent, above the FY 2021 revised estimate. The increase is attributable to the FY 2022 enhancement request for an assigned counsel rate increase from \$80 per hour to \$100 per hour.

The **Governor** recommends expenditures of \$16.5 million, including \$16.3 million SGF, for the Assigned Counsel program for FY 2022. This is a decrease of \$5.0 million, all SGF, or 23.1 percent, below the agency's request. The decrease is attributable to the Governor not recommending the agency's enhancement request for assigned counsel expenditures. The decrease is also due to the Governor recommending adoption of the agency's reduced resources budget relating to assigned counsel expenditures. These decreases are partially offset by the Governor recommending an increase of \$342,983 for assigned counsel expenditures. The recommendation does not include any FTE positions, which is the same as the agency's revised estimate.

Consensus Caseload Estimates

In October 2020, the Division of the Budget, Board of Indigents' Defense Services, and the Kansas Legislative Research Department met to revise the estimates for assigned counsel caseload expenditures for FY 2021 and develop estimates for FY 2022. The estimates are calculated by using the agency's current and historical data. This data includes the number of case hours worked, contract fees, and other expenses.

In FY 2009, the agency reduced the hourly rate paid on all cases to \$62 per hour. In FY 2016, the hourly rate was increased to \$65 per hour, which was followed by an additional increase to \$70 per hour in FY 2017. BIDS continued to increase the hourly rate for assigned counsel to \$75 per hour for FY 2019 and to the statutory hourly rate of \$80 per hour for assigned counsel in FY 2020. All professional services are treated as assigned counsel costs, including attorney fees, transcription fees, and expert witness fees.

The caseloads for the Assigned Counsel program were estimated without factoring in overflow cases from Legal Services for Prisoners. The agency is statutorily required to compensate attorneys for work on these cases, regardless of the funding level for Legal Services for Prisoners (KSA 22-4503, Attorney General Opinion 97-71).

Assigned Counsel Caseload Estimates (Dollars in Millions)								
	FY 2020 Actual	FY 2021 Approved	FY 2021 Estimate	FY 2021 Change from Approved	FY 2021 Change from Approved	FY 2022 Estimate	FY 2022 Change from FY 2021 Estimate	FY 2022 Change from FY 2021 Estimate
Caseload Estimate (Dollars in Millions)	\$14.4	\$17.4	\$14.4	(\$3.0)	(17.2%)	\$16.0	\$1.6	11.1%

KLRD Caseload Calculations								
	FY 2020 Actual	FY 2021 Approved	FY 2021 Estimate	FY 2021 Change from Approved	FY 2021 Change from Approved	FY 2022 Estimate	FY 2022 Change from FY 2021 Estimate	FY 2022 Change from FY 2021 Estimate
Hourly Rate	\$75.86	\$80.00	\$72.80	(\$7.20)	(9.0%)	\$80.00	\$7.20	9.9%
Hours	152,840	165,641	153,196	(12,445)	(7.5%)	162,349	9,153	6.0%
Expenses (Dollars in Millions)	\$0.6	\$0.6	\$0.5	(\$0.1)	(14.4%)	\$0.6	\$0.1	17.9%
Contract Fees (Dollars in Millions)	\$2.3	\$2.8	\$2.2	(\$0.6)	(21.4%)	\$2.3	\$0.1	4.5%

The revised caseload estimate for FY 2021 is \$14.4 million, all SGF. This is a decrease of \$3.0 million, or 17.2 percent, below the FY 2021 amount approved by the 2020 Legislature. The decrease is due to the COVID-19 pandemic and its impact on the court's progression of cases. This has resulted in decreased expenditures for claims paid to assigned counsel. Total expenditures decreased by 47.3 percent between April and May of FY 2020, including a 43.7 percent decrease in hours worked by non-contract attorneys. However, in August of FY 2021, there was a 94.0 percent increase in hours worked by non-contract attorneys from the previous month.

The caseload estimate for FY 2022 is \$16.0 million, all SGF. This is an increase of \$1.6 million, or 11.1 percent, above the FY 2021 revised estimate. The increase is due to increased expenditures for claims payments filed by assigned counsel. Barring additional pandemic impact on the courts, it is projected that court operations will continue to progress towards normal operating levels midway through FY 2022.

C. Legal Services for Prisoners

Legal Services for Prisoners, Inc., is a nonprofit corporation organized to provide legal assistance to indigent inmates of Kansas correctional institutions. The Board of Indigents' Defense Services is a pass-through agency for funding purposes and has no administrative or policy control over the corporation. The corporation is governed by a board composed of a representative of each of the Kansas law schools, four representatives of the Kansas Bar Association, one representative of the Kansas Trial Judges Association, and the Judicial Administrator of the Court. Expenditures for the corporation are from the SGF. Legal Services for Prisoners has an office in Topeka and offices in the correctional facilities located in Lansing and El Dorado. These offices also provide assistance to inmates at correctional facilities located in Ellsworth, Larned, Norton, Osawatomie, Wichita, and Winfield.

PERFORMANCE MEASURES						
Measure	Actual FY 2018	Actual FY 2019	Gov. Rec. FY 2020	Actual FY 2020	Gov. Rec. FY 2021	Gov. Rec. FY 2022
There are no performance measures submitted for this program.						
Agency Expenditures						
All Funds (Dollars in Thousands)	\$ 289.6	\$ 289.6	\$ 289.6	\$ 289.6	\$ 289.6	\$ 289.6
FTE Positions	0.0	0.0	0.0	0.0	0.0	0.0

LEGAL SERVICES FOR PRISONERS SUMMARY OF EXPENDITURES FY 2020 – FY 2022					
Item	Actual FY 2020	Agency Est. FY 2021	Gov. Rec. FY 2021	Agency Req. FY 2022	Gov. Rec. FY 2022
Expenditures:					
Salaries and Wages	\$ 0	\$ 0	\$ 0	\$ 0	\$ 0
Contractual Services	289,592	289,592	289,592	289,592	289,592
Commodities	0	0	0	0	0
Capital Outlay	0	0	0	0	0
Debt Service	0	0	0	0	0
<i>Subtotal - Operations</i>	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 289,592</u>
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
TOTAL	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 289,592</u>
Financing:					
State General Fund	\$ 289,592	\$ 289,592	\$ 289,592	\$ 289,592	\$ 2,895,920
All Other Funds	0	0	0	0	0
TOTAL	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 289,592</u>	<u>\$ 2,895,920</u>
FTE Positions	0.0	0.0	0.0	0.0	0.0

The **agency** estimates revised expenditures of \$289,592, all SGF, in FY 2021 for the Legal Services for Prisoners program. The revised estimate is the same as the FY 2021 approved amount. The revised estimate does not include FTE positions, which is the same as the the FY 2020 approved number.

The **Governor** concurs with the agency's revised estimate in FY 2021.

The **agency** requests \$289,592, all SGF, for the Legal Services for Prisoners program, for FY 2022. The request is the same as the FY 2021 revised estimate. The request does not include FTE positions, which is the same as the the FY 2021 revised estimate.

The **Governor** concurs with the agency's request for FY 2022.

D. Appellate Defender Office

The Appellate Defender Office is a statewide office located in Topeka that represents indigent felony defendants on appeal. Funding for death penalty appeals handled by the Appellate Defender Office is included in the budget for the Death Penalty Defense Unit. The Office makes use of paralegals and law school interns.

PERFORMANCE MEASURES						
Measure	Actual FY 2018	Actual FY 2019	Gov. Rec. FY 2020	Actual FY 2020	Gov. Rec. FY 2021	Gov. Rec. FY 2022
Number of Ethics Violations on Case Work*	0	0	0	0	0	0
Agency Expenditures						
All Funds (Dollars in Millions)	\$ 2.4	\$ 2.5	\$ 2.3	\$ 2.5	\$ 2.3	\$ 2.3
FTE Positions	24.0	23.0	23.0	23.0	23.0	23.0

*The Governor's Office does not utilize this measure for evaluation purposes.

APPELLATE DEFENDER OFFICE SUMMARY OF EXPENDITURES FY 2020 – FY 2022					
Item	Actual FY 2020	Agency Est. FY 2021	Gov. Rec. FY 2021	Agency Req. FY 2022	Gov. Rec. FY 2022
Expenditures:					
Salaries and Wages	\$ 1,869,850	\$ 1,764,433	\$ 1,764,433	\$ 1,779,931	\$ 1,779,931
Contractual Services	651,123	495,902	495,902	545,902	545,902
Commodities	6,895	5,550	5,550	5,550	5,550
Capital Outlay	829	0	0	0	0
Debt Service	0	0	0	0	0
Subtotal - Operations	\$ 2,528,697	\$ 2,265,885	\$ 2,265,885	\$ 2,331,383	\$ 2,331,383
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
TOTAL	\$ 2,528,697	\$ 2,265,885	\$ 2,265,885	\$ 2,331,383	\$ 2,331,383
Financing:					
State General Fund	\$ 2,287,109	\$ 2,015,885	\$ 2,015,885	\$ 2,081,383	\$ 2,081,383
All Other Funds	241,588	250,000	250,000	250,000	250,000
TOTAL	\$ 2,528,697	\$ 2,265,885	\$ 2,265,885	\$ 2,331,383	\$ 2,331,383
FTE Positions	23.0	23.0	23.0	23.0	23.0

The **agency** estimates revised expenditures of \$2.3 million, including \$2.0 million SGF, for the Appellate Defender Office in FY 2021. This is a decrease of \$25,051, or 1.1 percent, all SGF, below the FY 2021 approved amount. The decrease is primarily due to decreased expenditures in salaries and wages due to position vacancies. This decrease is partially offset by increased expenditures on services for off-site file storage/retrieval and temporary staffing needs through staff augmentation contracts. The revised estimate includes 23.0 FTE positions, which is the same as the FY 2021 approved number.

The **Governor** concurs with the agency's revised estimate in FY 2021.

The **agency** requests \$2.3 million, including \$2.1 million SGF, for the Appellate Defender Office for FY 2022. This is an increase of \$65,498, or 2.9 percent, all SGF, above the FY 2021 revised estimate. The increase is primarily attributable to increased expenditures on court reporting fees and contributions to KPERs and group health insurance. The request includes 23.0 FTE positions, which is the same number as the the FY 2021 revised estimate.

The **Governor** concurs with the agency's request for FY 2022.

E. Trial Public Defenders

Public defender offices are located around the state and provide services in counties to indigents on a regional basis. Offices are located in Chanute, Garden City, Hutchinson, Johnson County, Junction City, Salina, Topeka, and Wichita. There are two conflict offices: the Northeast Kansas Conflict Office in Topeka and the Sedgwick County Conflicts Office in Wichita. The Conflict Offices become involved in conflicts cases when there are multiple indigent defendants and one of the defendants is already being represented by a public defender or assigned counsel. Former Public Defender Offices that have been closed are the Johnson County Satellite Office in Miami County and the Southwest Public Defender Office in Liberal.

PERFORMANCE MEASURES						
Measure	Actual FY 2018	Actual FY 2019	Gov. Rec. FY 2020	Actual FY 2020	Gov. Rec. FY 2021	Gov. Rec. FY 2022
Cost Per Case: Public Defender	\$ 609	\$ 659	\$ 609	\$ 818	\$ 818	\$ 818
Number of Ethics Violations on Case Work*	0	0	0	0	0	0
Agency Expenditures						
All Funds (Dollars in Millions)	\$ 9.9	\$ 9.9	\$ 11.0	\$ 10.4	\$ 10.7	\$ 10.8
FTE Positions	140.5	139.5	139.5	139.5	137.5	137.5

*The Governor's Office does not utilize this measure for evaluation purposes.

TRIAL PUBLIC DEFENDERS OFFICE SUMMARY OF EXPENDITURES FY 2020 – FY 2022					
Item	Actual FY 2020	Agency Est. FY 2021	Gov. Rec. FY 2021	Agency Req. FY 2022	Gov. Rec. FY 2022
Expenditures:					
Salaries and Wages	\$ 8,941,019	\$ 9,494,740	\$ 9,494,740	\$ 9,569,132	\$ 9,569,132
Contractual Services	1,367,072	1,195,275	1,195,275	1,204,577	1,204,577
Commodities	51,727	37,750	37,750	39,150	39,150
Capital Outlay	22,856	0	0	0	0
Debt Service	0	0	0	0	0
<i>Subtotal - Operations</i>	<i>\$ 10,382,674</i>	<i>\$ 10,727,765</i>	<i>\$ 10,727,765</i>	<i>\$ 10,812,859</i>	<i>\$ 10,812,859</i>
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
TOTAL	\$ 10,382,674	\$ 10,727,765	\$ 10,727,765	\$ 10,812,859	\$ 10,812,859
Financing:					
State General Fund	\$ 10,138,750	\$ 10,616,293	\$ 10,616,293	\$ 10,712,859	\$ 10,712,859
All Other Funds	243,924	111,472	111,472	100,000	100,000
TOTAL	\$ 10,382,674	\$ 10,727,765	\$ 10,727,765	\$ 10,812,859	\$ 10,812,859
FTE Positions	139.5	137.5	137.5	137.5	137.5

The **agency** estimates revised expenditures of \$10.7 million, including \$10.6 million SGF, for the Trial Public Defenders Offices in FY 2021. This is an all funds decrease of \$234,383, or 2.1 percent, below the FY 2021 approved amount. This includes an SGF decrease of \$245,855, or 2.3 percent, below the FY 2021 approved amount. The decrease is primarily due to decreased expenditures in salaries and wages due to position vacancies. This is partially offset by increased expenditures for building space rent . The revised estimate includes 137.5

FTE positions, which is 2.0 FTE positions below FY 2021 approved number. The change in FTE positions is due to the agency reassigning positions between offices as needed to accommodate fluctuating caseloads.

The **Governor** concurs with the agency's revised estimate in FY 2021.

The **agency** requests \$10.8 million, including \$10.7 million SGF, for FY 2022. This is an all funds increase of \$85,094, or 0.8 percent, above the FY 2021 revised estimate. This includes an SGF increase of \$96,566, or 0.9 percent, and a special revenue fund decrease of \$11,472, or 10.3 percent, from the FY 2021 revised estimate. The increase is primarily attributable to increased expenditures for contributions to KPERs and group health insurance and expert witness fees. The request includes 137.5 FTE positions, which is the same number as the the FY 2021 revised estimate.

The **Governor** concurs with the agency's request for FY 2022.

F. Capital Defense

Capital Defense represents individuals charged with capital cases, administers a system by which courts may appoint qualified attorneys to represent indigents charged with capital offenses, serves as a resource for attorneys assigned to capital cases, develops training programs and materials for persons involved in capital cases, maintains statistical records about the use of capital punishment, and provides expert and investigative services to trial counsel in capital cases. Expenditures for the unit include costs of in-house defense, contracts with private attorneys in conflict cases or because of staff overload, and costs associated with capital cases on appeal.

According to the agency, attorneys can only defend capital cases when they meet the standards set by the American Bar Association. Previously, that standard included the requirement that an attorney have previously handled a death penalty case as a second chair. That standard was changed. Currently, attorneys are qualified to defend a capital case when they have 1) experience defending homicide cases to a jury, and 2) taken specific continuing legal education course work on capital defense.

PERFORMANCE MEASURES						
Measure	Actual FY 2018	Actual FY 2019	Gov. Rec. FY 2020	Actual FY 2020	Gov. Rec. FY 2021	Gov. Rec. FY 2022
Number of Ethics Violations on Case Work*	0	0	0	0	0	0
Agency Expenditures						
All Funds (Dollars in Millions)	\$ 2.4	\$ 3.0	\$ 3.7	\$ 2.9	\$ 3.1	\$ 3.1
FTE Positions	26.0	27.0	27.0	27.0	27.0	27.0

*The Governor's Office does not utilize this measure for evaluation purposes.

CAPITAL DEFENSE SUMMARY OF EXPENDITURES FY 2020 – FY 2022					
Item	Actual FY 2020	Agency Est. FY 2021	Gov. Rec. FY 2021	Agency Req. FY 2022	Gov. Rec. FY 2022
Expenditures:					
Salaries and Wages	\$ 1,918,903	\$ 2,141,586	\$ 2,141,586	\$ 2,160,565	\$ 2,160,565
Contractual Services	984,529	921,547	921,547	933,099	933,099
Commodities	12,040	10,450	10,450	10,450	10,450
Capital Outlay	3,746	0	0	0	0
Debt Service	0	0	0	0	0
<i>Subtotal - Operations</i>	<u>\$ 2,919,218</u>	<u>\$ 3,073,583</u>	<u>\$ 3,073,583</u>	<u>\$ 3,104,114</u>	<u>\$ 3,104,114</u>
Aid to Local Units	0	0	0	0	0
Other Assistance	0	0	0	0	0
TOTAL	<u>\$ 2,919,218</u>	<u>\$ 3,073,583</u>	<u>\$ 3,073,583</u>	<u>\$ 3,104,114</u>	<u>\$ 3,104,114</u>
Financing:					
State General Fund	\$ 2,902,580	\$ 3,073,583	\$ 3,073,583	\$ 3,104,114	\$ 3,104,114
All Other Funds	16,638	0	0	0	0
TOTAL	<u>\$ 2,919,218</u>	<u>\$ 3,073,583</u>	<u>\$ 3,073,583</u>	<u>\$ 3,104,114</u>	<u>\$ 3,104,114</u>
FTE Positions	27.0	27.0	27.0	27.0	27.0

The **agency** estimates revised expenditures of \$3.1 million, all SGF, for the Capital Defense program in FY 2021. This is a decrease of \$30,531, or 1.0 percent, below the FY 2021 approved amount. The decrease is primarily due to decreased expenditures for contractual services for assigned counsel contract attorneys, partially offset by increased expenditures for expert witnesses. The revised estimate includes 27.0 FTE positions, which is the same FY 2021 approved number.

The **Governor** concurs with the agency's revised estimate in FY 2021.

The **agency** requests \$3.1 million, all SGF, for the Capital Defense program for FY 2022. This is an increase of \$30,531, or 1.0 percent, above the FY 2021 revised estimate. The increase is primarily attributable to increased expenditures for staffing and expert witness fees. The request includes 137.5 FTE positions, which is the same number as the the FY 2021 revised estimate.

The **Governor** concurs with the agency's request for FY 2022.