

BOARD OF INDIGENTS' DEFENSE SERVICES

FY 2022 – FY 2024 BUDGET ANALYSIS

FIGURE 1
BUDGET OVERVIEW, FY 2022 – FY 2024

	Actual FY 2022	Agency FY 2023	Governor FY 2023	Agency FY 2024	Governor FY 2024
Operating Expenditures:					
State General Fund	\$ 34,801,607	\$ 50,054,516	\$ 51,353,700	\$ 69,153,881	\$ 49,678,130
Federal Funds	-	-	-	-	-
All Other Funds	988,376	612,243	612,243	606,000	606,000
<i>Subtotal</i>	<u>\$ 35,789,983</u>	<u>\$ 50,666,759</u>	<u>\$ 51,965,943</u>	<u>\$ 69,759,881</u>	<u>\$ 50,284,130</u>
Capital Improvements:					
State General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Federal Funds	-	-	-	-	-
All Other Funds	-	-	-	-	-
<i>Subtotal</i>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>	<u>\$ -</u>
TOTAL	<u>\$ 35,789,983</u>	<u>\$ 50,666,759</u>	<u>\$ 51,965,943</u>	<u>\$ 69,759,881</u>	<u>\$ 50,284,130</u>
Percentage Change:					
State General Fund	17.1 %	43.8 %	47.6 %	38.2 %	(3.3) %
All Funds	16.5 %	41.6 %	45.2 %	37.7 %	(3.2) %
FTE Positions	243.2	243.2	243.2	404.2	243.2

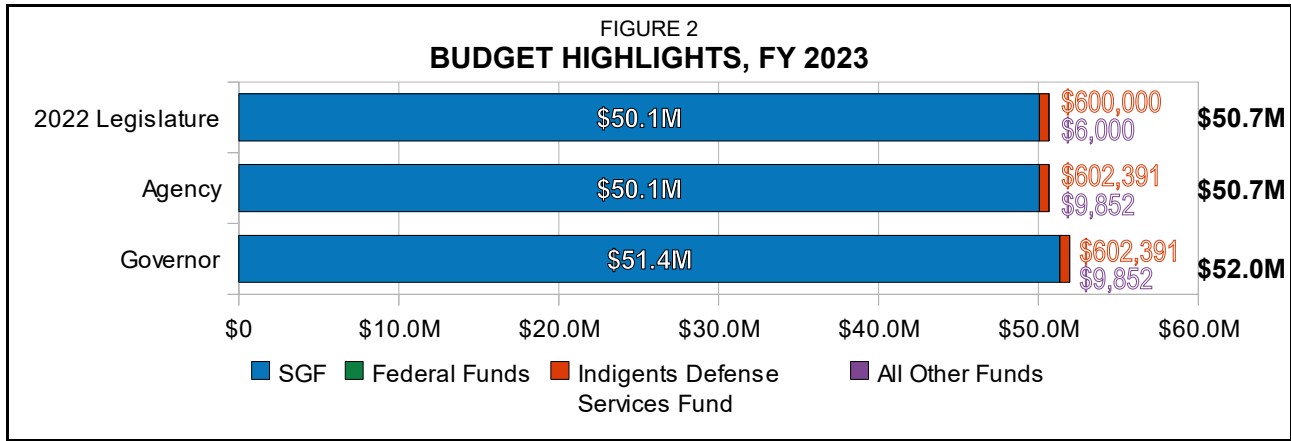
For purposes of this analysis, full-time equivalent (FTE) positions include non-FTE permanent unclassified positions but continue to exclude temporary employees. FTE positions reflect permanent state positions equating to a 40-hour work week.

The Board of Indigents' Defense Services (BIDS) is 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.

EXECUTIVE SUMMARY

The 2022 Legislature approved a budget of \$50.7 million, including \$50.1 million from the State General Fund (SGF), for the Board of Indigents' Defense Services for FY 2023. One adjustment has been made subsequently to that amount, which changes the current year approved amount without any legislative action required. The adjustment for this agency includes:

- **SGF REAPPROPRIATION.** The agency received approximately \$3.7 million SGF in reappropriated funds from FY 2022. This amount includes Capital Defense Operations (\$217,555), Litigation Support (\$131,652), and Operations (\$3.3 million).

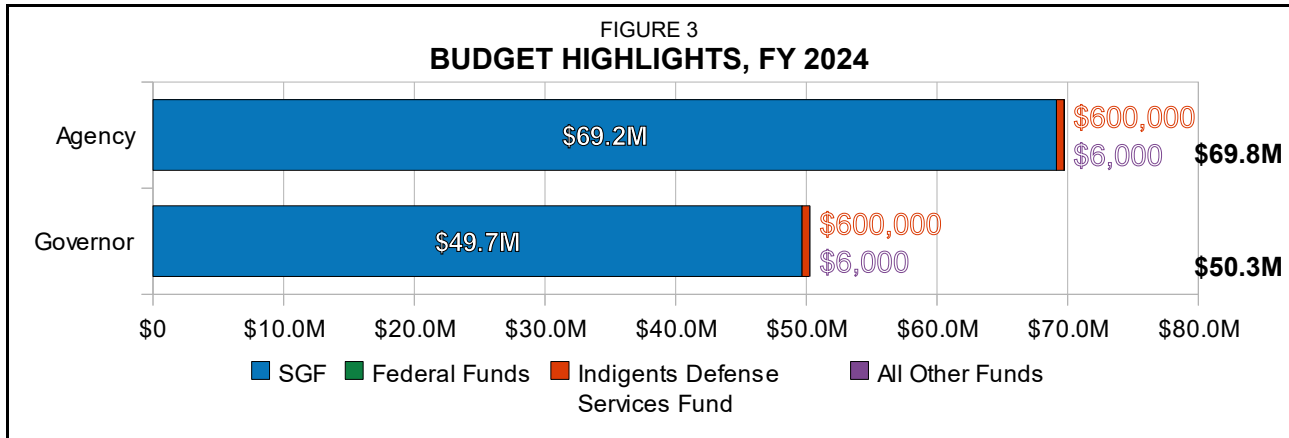


The **agency** submits a revised estimate of \$50.7 million, including \$50.1 million SGF, in FY 2023. This is an all funds increase of \$6,243, or less than 0.1 percent, above the FY 2023 approved amount, and no change in the amount of SGF moneys. Of this amount, \$6,243 is for increased expenditures related to the Indigents Defense Services Fund (\$2,391) and the Inservice Education Workshop Fee Fund (\$3,852). These are the carry forward balances of the funds and will be used for expert witness services and within the agency's training program.

The agency estimate also includes 243.2 FTE positions, which is 1.1 FTE positions below the approved amount. The change is due to a technical adjustment.

The **Governor** recommends expenditures of \$52.0 million, including \$51.4 million SGF, in FY 2023. This is an SGF increase of \$1.3 million, or 2.6 percent, above the agency's FY 2023 revised estimate. The increase is due to an increase of \$1.3 million SGF for the fall 2022 assigned counsel caseloads adjustment.

The Governor's recommendation also includes 243.2 FTE positions, which is the same as the agency's FY 2023 revised estimate number.



The **agency** requests \$69.8 million, including \$69.2 million SGF, in expenditures and 404.2 FTE positions for FY 2024. This is an all funds increase of \$19.1 million, or 37.7 percent, and an SGF increase of \$19.1 million, or 38.2 percent, above the FY 2023 revised estimate.

The agency request includes the following notable adjustments:

- **ENHANCEMENT—RECRUITMENT AND RETENTION.** The agency requests \$601,490 SGF to address pay parity with prosecutors and other government employees.
- **ENHANCEMENT—ETHICAL CASELOAD STAFFING.** The agency requests \$13.2 million SGF and 131.0 FTE positions to address chronic attorney caseload issues and insufficient support staffing in its public defender offices.
- **ENHANCEMENT—PUBLIC DEFENDER OFFICE SERVICE OF UNDERSERVED COMMUNITIES.** The agency requests \$3.8 million SGF and 30.0 FTE positions for first-year start-up costs to establish a public defender offices in the 29th Judicial District (Wyandotte County) and the 11th Judicial District (Crawford, Cherokee, and Labette counties).
- **ENHANCEMENT—BASIC INFRASTRUCTURE UPGRADES.** The agency requests \$784,586 SGF for additional leased space for current employees, software licensing, and agency employee training.
- **ENHANCEMENT—ASSIGNED COUNSEL RATE INCREASE.** The agency requests \$3.6 million SGF to fund an assigned counsel rate increase up to \$140 per hour.

The **Governor** recommends \$50.3 million, including \$49.7 million SGF, for FY 2024. This is an SGF decrease of \$19.5 million, or 28.2 percent, below the agency's FY 2024 request. The SGF decrease is primarily due to the Governor not recommending the enhancement requests for Recruitment and Retention, Ethical Caseload Staffing, Public Defender Office Service, Assigned Counsel Rate Increase, Legal Services for Prisoners, Inc. Salary Adjustment, and Capital Casework. The recommendation includes partial funding for the agency's Basic Infrastructure Upgrade enhancement request, and funding to continue the assigned counsel hourly rate of \$120 for FY 2024.

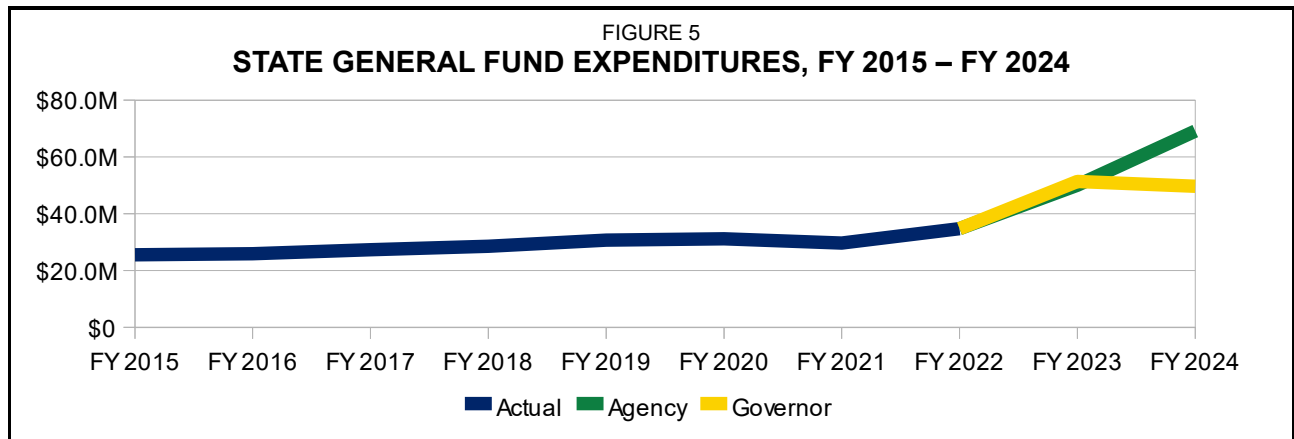
The Governor's recommendation also includes 243.2 FTE positions, which is 161.0 FTE positions below the agency's FY 2024 request. This is due to the Governor not recommending the agency's enhancement requests for ethical caseload staffing and the expansion of the public defender offices.

EXPENDITURES AND FINANCING

FIGURE 4
BUDGET SUMMARY BY CATEGORY OF EXPENDITURE, FY 2022 – FY 2024

Category of Expenditure:	Actual FY 2022	Agency FY 2023	Governor FY 2023	Agency FY 2024	Governor FY 2024
Salaries and Wages	\$ 13,968,187	\$ 22,496,562	\$ 22,496,562	\$ 39,833,065	\$ 22,614,282
Contractual Services	21,339,246	26,436,976	27,736,160	29,113,056	27,169,266
Commodities	157,738	203,444	203,444	110,694	110,694
Capital Outlay	324,812	1,529,777	1,529,777	703,066	389,888
Debt Service Interest	-	-	-	-	-
<i>Subtotal</i>	<u>\$ 35,789,983</u>	<u>\$ 50,666,759</u>	<u>\$ 51,965,943</u>	<u>\$ 69,759,881</u>	<u>\$ 50,284,130</u>
Aid to Local Units	-	-	-	-	-
Other Assistance	-	-	-	-	-
<i>Subtotal—Operating</i>	<u>\$ 35,789,983</u>	<u>\$ 50,666,759</u>	<u>\$ 51,965,943</u>	<u>\$ 69,759,881</u>	<u>\$ 50,284,130</u>
Capital Improvements	-	-	-	-	-
Debt Service Principal	-	-	-	-	-
TOTAL	<u>\$ 35,789,983</u>	<u>\$ 50,666,759</u>	<u>\$ 51,965,943</u>	<u>\$ 69,759,881</u>	<u>\$ 50,284,130</u>
Financing:					
State General Fund	\$ 34,801,607	\$ 50,054,516	\$ 51,353,700	\$ 69,153,881	\$ 49,678,130
Indigents' Defense Services Fund	974,003	602,391	602,391	600,000	600,000
Inservice Education Workshop Fee Fund	14,373	9,852	9,852	6,000	6,000
Federal Funds	-	-	-	-	-
All Other Funds	-	-	-	-	-
TOTAL	<u>\$ 35,789,983</u>	<u>\$ 50,666,759</u>	<u>\$ 51,965,943</u>	<u>\$ 69,759,881</u>	<u>\$ 50,284,130</u>
FTE Positions	243.2	243.2	243.2	404.2	243.2

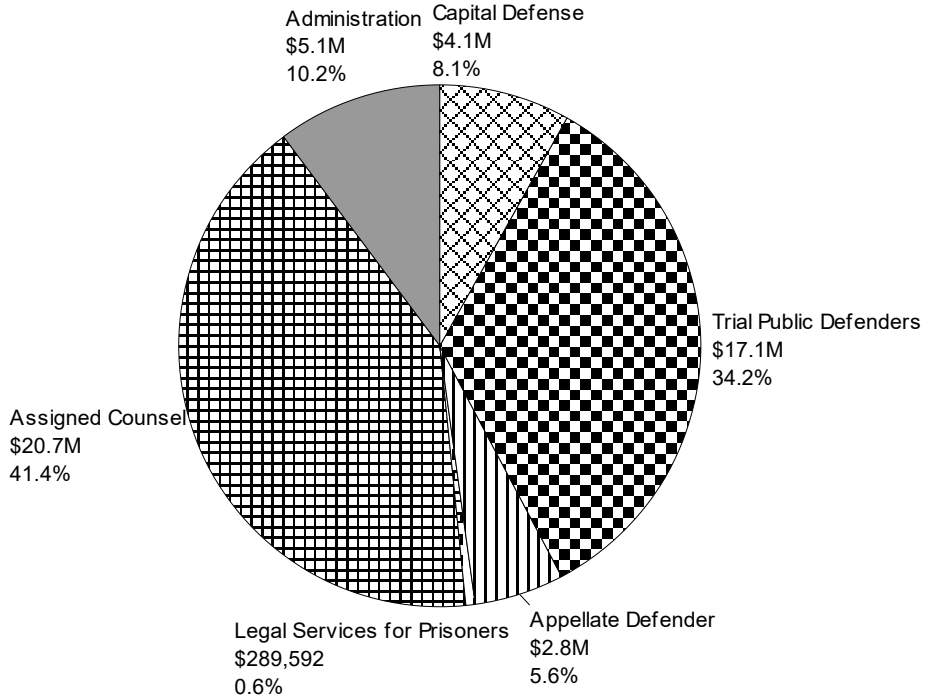
STATE GENERAL FUND



For the Board of Indigents' Defense Services, SGF moneys are the primary source of funding. FY 2023, the SGF expenditure increase is primarily due to the statewide 5.0 percent salary increase and \$4.1 million to address recruitment and retention issues through a pay scale adjustment. Additionally, the 2022 Legislature added language and \$3.6 million to the appropriations bill to fund the assigned counsel rate at \$120 per hour for FY 2023.

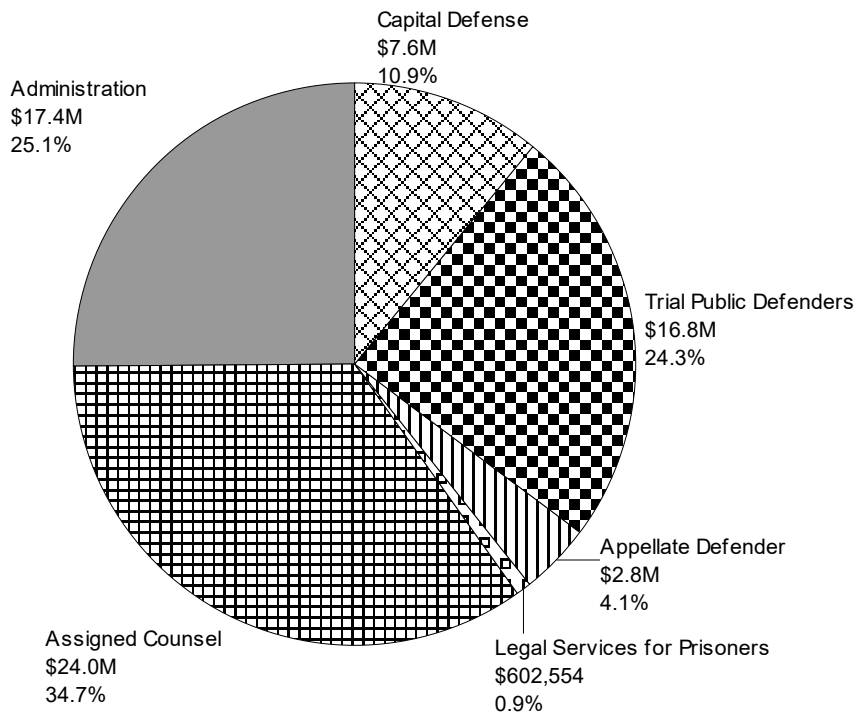
Agency FY 2023 SGF Expenditures

By Program

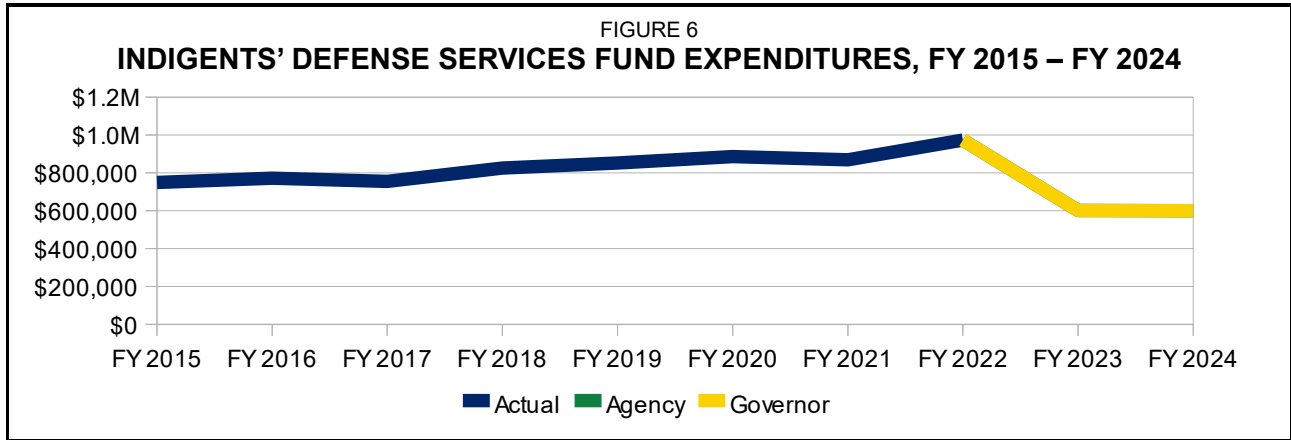


Agency FY 2024 SGF Expenditures

By Program



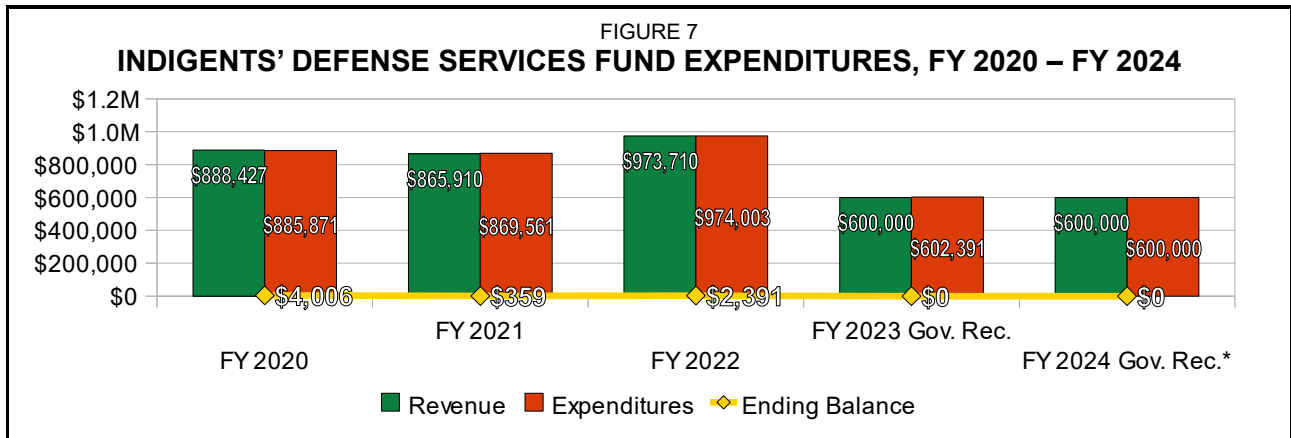
INDIGENTS' DEFENSE SERVICES FUND



The Indigents' Defense Services Fund, per KSA 22-4526, receives revenues from application fees and the bond forfeiture program. Defendants seeking legal counsel through the agency pay a \$100 application fee.

Since FY 2006, this fund has been used to pay expert service and transcriptionist costs, supplemented by SGF moneys. In FY 2022, the fund received \$672,953 from application fees and \$301,757 from the bond forfeiture program.

INDIGENTS' DEFENSE SERVICES FUND



* For FY 2024, the lowest month ending balance for the Indigents' Defense Services Fund will occur in June, with a balance of \$0.

Indigent's Defense Services Fund moneys are deposited directly to the Treasury each month as they become available. According to the agency, these monthly deposits are not always sufficient to fully cover the expert services expenses typically exhausted each month. Whenever the agency experiences a balance forward into the next month (or fiscal year), it is usually due to the timing of new funds being deposited to the Treasury.

FY 2023 ANALYSIS

FIGURE 8
SUMMARY OF BUDGET REQUEST, FY 2023

	SGF	Special Revenue Funds	All Funds	FTE
Legislative Approved:				
Amount Approved by 2022 Legislature	\$ 46,365,555	\$ 606,000	\$ 46,971,555	244.3
1. SGF Reappropriation	3,688,960	-	3,688,960	--
<i>Subtotal—Legislative Approved</i>	<i>\$ 50,054,515</i>	<i>\$ 606,000</i>	<i>\$ 50,660,515</i>	<i>244.3</i>
Agency Revised Estimate:				
2. Miscellaneous Adjustments	1	6,243	6,244	(1.1)
<i>Subtotal—Agency Revised Estimate</i>	<i>\$ 50,054,516</i>	<i>\$ 612,243</i>	<i>\$ 50,666,759</i>	<i>243.2</i>
Governor's Recommendation:				
3. Assigned Counsel Caseload Adjustment	1,299,184	-	1,299,184	--
TOTAL	\$ 51,353,700	\$ 612,243	\$ 51,965,943	243.2

LEGISLATIVE APPROVED

Subsequent to the 2022 Session, one adjustment was made to the \$47.0 million appropriated to the Board of Indigents' Defense Services for FY 2023. This adjustment changes the current year approved amount without any legislative action and includes the following:

1. **SGF REAPPROPRIATION.** The agency received approximately \$3.7 million SGF in reappropriated funds from FY 2022. This amount includes Capital Defense Operations (\$217,555), Litigation Support (\$131,652), and Operations (\$3.3 million). The operations funding are the funds designated to fill vacant positions within the agency. The agency notes that much of this is related to the timing of when new hires graduate and pass the bar examination.

AGENCY ESTIMATE

The **agency** submits a revised estimate of \$50.7 million, including \$50.1 million SGF, in FY 2023. This is an all funds increase of \$6,244, or less than 0.1 percent, above the FY 2023 approved amount, and no change in the amount of SGF moneys.

The **agency** estimate includes the following adjustments:

2. **MISCELLANEOUS ADJUSTMENTS.** The agency requests \$6,243 for increased expenditures related to the Indigents Defense Services Fund (\$2,391) and Inservice Education Workshop Fee Fund (\$3,852). These are the carry forward balances of the funds and will be used for expert witness services and the agency's training program.

The **agency** estimate also includes 243.2 FTE positions, which is 1.1 FTE positions below the FY 2023 approved amount. The change is a technical adjustment.

GOVERNOR'S RECOMMENDATION

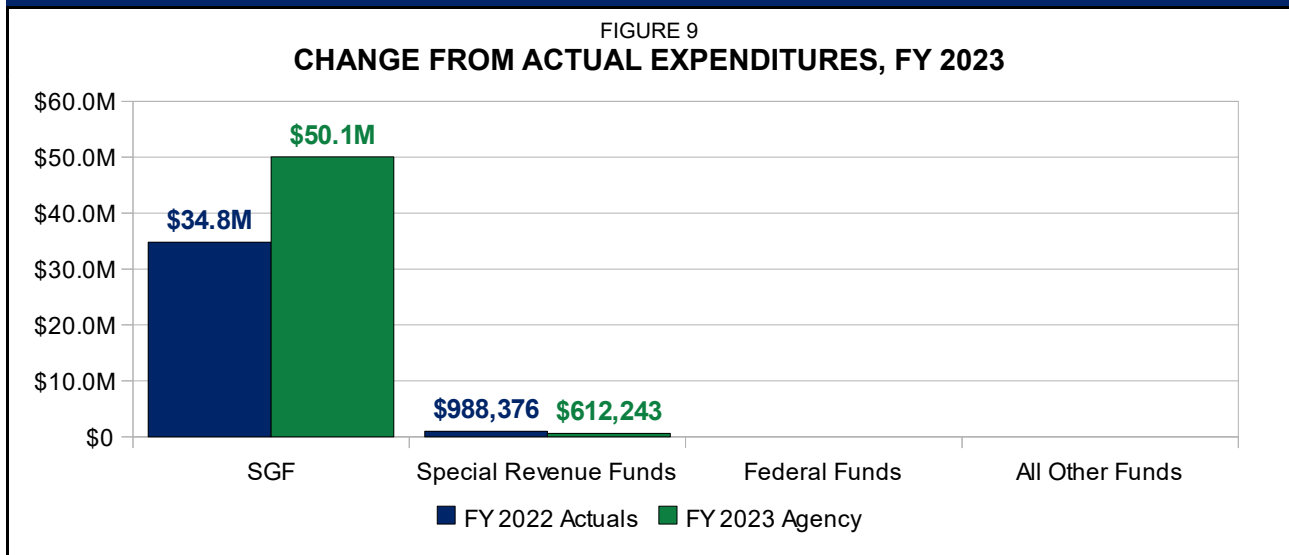
The **Governor** recommends \$52.0 million, including \$51.4 million SGF, in FY 2023. This is an SGF increase of \$1.3 million, or 2.6 percent, above the agency's FY 2023 revised estimate.

The **Governor's** recommendation includes the following adjustment:

3. **ASSIGNED COUNSEL CASELOAD ADJUSTMENT.** The recommendation includes an increase of \$1.3 million SGF for the fall 2022 consensus assigned counsel caseload adjustment.

The **Governor's** recommendation also includes 243.2 FTE positions, which is the same as the agency's FY 2023 revised estimate number.

FY 2023 CHANGE FROM ACTUAL EXPENDITURES



The **agency** estimates revised expenditures of \$50.7 million, including \$50.1 million SGF, in FY 2023. This is an all funds increase of \$14.9 million, or 41.6 percent, including \$15.3 million SGF, or 43.8 percent, above the FY 2022 actual expenditures. The increase is primarily due to \$3.7 million of reappropriated funds from FY 2022 into FY 2023, including Capital Defense Operations (\$217,555), Litigation Support (\$131,652), and Operations (\$3.3 million), as well as the agency's FY 2023 enhancements awarded by the 2022 Legislature, including \$4.1 million for a pay scale adjustment to address pay parity, \$3.6 million to fund assigned counsel rates up to \$120 per hour, and \$638,178 for a 5.0 percent statewide salary increase.

FY 2024 ANALYSIS

FIGURE 10
SUMMARY OF BUDGET REQUEST, FY 2024

	SGF	Special Revenue Funds	All Funds	FTE
Agency Revised Estimate, FY 2023	\$ 50,054,516	\$ 612,243	\$ 50,666,759	243.2
Agency Request:				
1. Enhancement—Recruitment and Retention	\$ 601,490	\$ -	\$ 601,490	--
2. Enhancement—Ethical Caseload Staffing	13,156,105	-	13,156,105	131.0
3. Enhancement—Public Defender Office Service	3,774,366	-	3,774,366	30.0
4. Enhancement—Basic Infrastructure Upgrades	784,586	-	784,586	--
5. Enhancement—Assigned Counsel Rate Increase to \$140 per hour	3,569,164	-	3,569,164	--
6. Enhancement—Legal Services for Prisoners, Inc. Salary Increase	312,962	-	312,962	--
7. Enhancement—Capital Casework	700,000	-	700,000	--
8. All Other Adjustments	(3,799,308)	(6,243)	(3,805,551)	--
<i>Subtotal—Agency Estimate</i>	\$ 69,153,881	\$ 606,000	\$ 69,759,881	404.2
Governor’s Recommendation:				
9. Enhancements Not Recommended	\$ (22,114,087)	\$ -	\$ (22,114,087)	(161.0)
10. Enhancement—Basic Infrastructure Upgrades (Partial)	(292,500)	-	(292,500)	--
11. Assigned Counsel Caseload Adjustment to \$120 per hour	2,930,836	-	2,930,836	--
TOTAL	\$ 49,678,130	\$ 606,000	\$ 50,284,130	243.2

AGENCY REQUEST

The **agency** requests \$69.8 million, including \$69.2 million SGF, for FY 2024. This is an all funds increase of \$19.1 million, or 37.7 percent, and an SGF increase of \$19.1 million, or 38.2 percent, above the FY 2023 revised estimate.

The **agency** request includes the following adjustments; additional detail on the enhancements can be found in the enhancements section below:

1. **ENHANCEMENT—RECRUITMENT AND RETENTION.** Add \$601,490 SGF to address pay parity with prosecutors and other government employees.
2. **ENHANCEMENT—ETHICAL CASELOAD STAFFING.** Add \$13.2 million SGF and 131.0 FTE positions to address chronic attorney caseload issues and insufficient support staffing in public defender offices.
3. **ENHANCEMENT—PUBLIC DEFENDER OFFICE SERVICE OF UNDERSERVED COMMUNITIES.** Add \$3.8 million SGF and 30.0 FTE positions to cover first-year start-up costs and staffing to establish public defender offices in the 29th Judicial District (Wyandotte County) and the 11th Judicial District (Crawford, Cherokee, and Labette counties). This is an ongoing expenditure.

4. **ENHANCEMENT—BASIC INFRASTRUCTURE UPGRADES.** Add \$784,586 SGF for additional leased space for current employees, software licensing, and agency employee training.
5. **ENHANCEMENT—ASSIGNED COUNSEL RATE INCREASE.** Add \$3.6 million SGF to fund an assigned counsel rate increase from \$120 up to \$140 per hour.
6. **ENHANCEMENT—LEGAL SERVICES FOR PRISONERS, INC. SALARY INCREASES.** Add \$312,962 SGF for salary increases, according to experience, so that the employees are in line with the FY 2023 statewide salary increase passed by the 2022 Legislature.
7. **ENHANCEMENT—CAPITAL CASEWORK.** Add \$700,000 SGF for casework expenses related to capital cases.
8. **ALL OTHER ADJUSTMENTS.** The agency requests various adjustments for FY 2024, including \$3.7 million SGF that reappropriated in FY 2023 that does not carry forward into FY 2024. Additional decreases reflect the lack of carry forward balances in FY 2023 from from the Indigents' Defense Services Fund (\$2,391) and Inservice Education Workshop Fee Fund (\$3,852) that are not carried over into FY 2024.

The **agency** request also includes 404.2 FTE positions. This is an increase of 161.0 FTE positions above the FY 2023 revised estimate. The increase is due to the agency's enhancement requests.

GOVERNOR'S RECOMMENDATION

The **Governor** recommends \$50.3 million, including \$49.7 million SGF, for FY 2024. This is an SGF decrease of \$19.5 million, or 28.2 percent, below the agency's FY 2024 request.

The **Governor's** recommendation includes the following adjustments; additional detail on the enhancements can be found in the enhancements section below:

9. **ENHANCEMENTS NOT RECOMMENDED.** Delete \$22.1 million SGF and 161.0 FTE positions to not recommend the agency's enhancement requests for recruitment and retention, ethical caseload staffing, public defender offices, assigned counsel rate increase up to \$140 per hour, Legal Services for Prisoners, Inc. salary increase, and capital casework (Items 1-3 and 5-7).
10. **ENHANCEMENT—BASIC INFRASTRUCTURE UPGRADES.** Add \$492,086 SGF for partial recommendation of the agency's request for Infrastructure upgrades. This amount includes \$25,376 for Adobe Licensing, \$180,000 for video evidence software licenses, \$70,512 for investigative software expansion of background check licensing, and \$216,198 for the Training Division budget (Item 4).
11. **ASSIGNED COUNSEL CASELOAD ADJUSTMENT.** The recommendation includes \$2.9 million SGF above the fall 2022 consensus assigned counsel caseload adjustment of \$21.5 million. This sets the assigned counsel caseload expenditures at \$23.0 million for FY 2024.

Current law (KSA 22-4507) limits assigned counsel expenditures at \$80 per hour in FY 2024. The recommendation is based on current language in 2022 SB 267 that set the maximum rate of compensation of assigned counsel in FY 2023 at \$120 per hour.

Staff note: Legislative action would be required for the agency to be able to pay a rate higher than the one in current law. HB 2363 (2022) would have set the maximum hourly rate at \$120 on July 1, 2023. The bill died on the calendar.

The **Governor's** recommendation includes 243.2 FTE positions, which is 161.0 FTE positions below the agency's FY 2024 request. This is entirely due to the Governor not recommending the agency's enhancement requests for ethical caseload staffing and the expansion of the public defender offices.

ENHANCEMENT REQUESTS

FY 2024 ENHANCEMENT REQUESTS					
Request	Agency		Governor		
	SGF	FTE	SGF	FTE	
Recruitment & Retention	\$ 601,490	--	\$ -	--	--
Ethical Caseload Staffing	13,156,105	131.0	-	--	--
Service of Underserved Communities	3,774,366	30.0	-	--	--
Basic Infrastructure Upgrades	784,586	--	492,086	--	--
Assigned Counsel Rate Increase	3,569,164	--	2,930,836	--	--
LSP Salary Increase	312,962	--	-	--	--
Capital Casework	700,000	--	-	--	--
TOTAL	\$ 22,898,673	161.0	\$ 3,422,922	--	--

REQUEST 1 RECRUITMENT AND RETENTION

The **agency** requests \$601,490 SGF to address pay parity with prosecutors and other government employees for FY 2024. This amount would give all filled positions an approximately 3.0 percent base salary increase.

The agency conducted an internal review of all current employees and developed a pay scale adjustment for employees that are anticipated to receive pay increases within the next year. These adjustments would be based on (1) employee years of service, (2) employee skills developments, including transitions into different pay ranges (such as moving from a Public Defender I to a Public Defender II) and (3) additional job duties. The agency anticipates needing the additional funds to cover the total costs of adjustments for each of its current employees, including the expected adjustments to base pay as well as the anticipated impacts those adjustments will have on agency fringe costs.

The 2022 Legislature approved \$4.0 million SGF for a previous enhancement request for a pay scale adjustment in FY 2023. The agency has created a series of internal pay scales for each position that reflect the level of experience of employees and compete with prosecutor pay and other comparable government salaries. The agency indicates that the FY 2024 request is the next step in their pay progression plan for those at the top of the current pay scale.

The Governor does not recommend adoption of this request.

REQUEST 2 ETHICAL CASELOAD STAFFING

The **agency** requests \$13.2 million SGF and 131.0 FTE positions to address current and projected caseloads in an effort to mitigate current assigned counsel panel shortages. The staffing plan includes new trial public defenders (11.0 FTE positions), new trial-level support staff (45.5 FTE positions), New appellate-level public defenders (14.0 FTE positions), new appellate-level support staff (25.0 FTE positions), new capital public defenders (5.0 FTE positions), new capital-level support staff (25.0 FTE positions), new administrative office attorneys (1.5 FTE positions), and new administrative office staff (4.0 FTE positions).

The 2020 Legislature required the agency to submit a report detailing the status of staff vacancies and retention including a detailed strategy to address the findings. The agency submitted a detailed report titled "A Report on the Status of Public Defense in Kansas" that utilized

a multi-phased approach on how to address numerous issues identified by the agency. The industry standard for the workload of a defense attorney was set by the 1973 National Advisory Commission on Criminal Justice Standards and Goals for the Defense to be no more than 150 felony cases per year, no more than 400 misdemeanor cases per year, and no more than 25 appeal cases per year.

The agency notes that the average caseload per active trial attorney in FY 2022 was 183 cases. At 40 hours per week, 52 weeks per year, that equates to approximately 11 hours per case. These cases range from probation violations to premeditated first degree murder.

The 2021 Legislature partially funded the agency's staffing enhancement request in the amount of \$3.9 million SGF to fund approximately 45.0 FTE positions for FY 2022. In FY 2022, the agency requested an additional \$8.1 million SGF and 88.0 FTE positions, but the Governor did not recommend the adoption of the request, and the 2022 Legislature subsequently did not provide the funding or FTE positions.

The Governor does not recommend adoption of this request.

REQUEST 3 PUBLIC DEFENDER OFFICE SERVICE OF UNDERSERVED COMMUNITIES

The **agency** requests \$3.8 million SGF and 30.0 FTE positions to cover first-year start-up costs and staffing to establish public defender offices in the 29th Judicial District (Wyandotte County) and the 11th Judicial District (Crawford, Cherokee, and Labette counties).

- The agency estimates that first-year total start-up costs and staffing for the establishment of a 29th Judicial District Public Defender Office are approximately \$2.4 million SGF and 19.0 FTE positions. This amount includes new equipment and furniture costs, a full-service lease for approximately 7,500 square feet of office space, and training for each FTE position. Staffing includes public defenders (10.0 FTE positions), investigators (3.0 FTE positions), legal assistants (3.0 FTE positions), and administrative specialists (3.0 FTE positions).

The estimated ongoing costs of maintaining the office would be \$2.3 million per year.

- The agency estimates that first-year total start-up costs and staffing for the establishment of a 11th Judicial District Public Defender Office are approximately \$1.4 million SGF and 11.0 FTE positions. This amount includes new equipment and furniture costs, a full-service lease for approximately 3,300 square feet of office space, and training for each FTE position. Staffing includes public defenders (5.0 FTE positions), investigators (2.0 FTE positions), legal assistants (3.0 FTE positions), and an administrative specialist (1.0 FTE position).

The estimated ongoing costs of maintaining the office would be \$1.2 million per year.

The Governor does not recommend adoption of this request.

REQUEST 4
BASIC INFRASTRUCTURE UPGRADES

The **agency** requests \$784,586 SGF for additional leased space for current employees, software licensing, and agency employee training. The agency notes that many of the items in this request were funded by the 2022 Legislature, but the funding for those items was not expended. Expenditures include:

- **\$292,500 FOR ADDITIONAL LEASED SPACE FOR CURRENT EMPLOYEE NEEDS.** Due to the increase in FTE positions, and a decrease in remote work, the agency estimates that seven offices require new or additional leased space. This may require new short-term leases to supplement long term leases. The agency estimates space is needed for 39 employees across 7 offices. The request is based on 300 square feet per employee, at an anticipated cost of \$25 per square foot per year. This would be an ongoing expense.
- **\$25,376 FOR EXPANDED AND UPGRADED ADOBE LICENSING.** The agency conducted an internal needs assessment of tools used by employees, which indicated that an agency-wide expansion and upgrade of Adobe licensing was necessary to aid employees with discovery redactions, exhibits, and document production. The amount requested is based on the current state contract with Adobe and expanding the licensing for approximately 244 employees.
- **\$216,198 FOR AN AGENCY-WIDE TRAINING BUDGET.** The agency has been funding their current Training Division programming from existing resources. Established in October 2021, there have been 24 individual continuing learning education (CLE) and skill training events provided to agency staff. For FY 2024, the agency's training plans include capital trainings; new attorney trainings; leadership trainings; an all agency, in-person conference for public defenders and assigned counsel from across the state; investigator trainings; appellate trainings; and other items to consistently and thoroughly train all attorneys and staff handling criminal cases in the most up-to-date criminal defense methods and standards.
- **\$180,000 FOR NEW LICENSING FOR VIDEO EVIDENCE SOFTWARE.** The agency requests funding to license a program called JusticeText, which is a video evidence management software that creates key cited transcripts of video evidence to allow for review of evidence. JusticeText can be used during motions preparation, motions hearings, plea negotiations, and trial. Based on the demonstrations and information gathered, the agency believes that this will assist in the review of vehicle dash camera, body camera, and interrogation video evidence, allowing public defenders and investigators to work more efficiently. The agency received a quote of \$150 per month, per software license. It is anticipated that approximately 150 user licenses will be needed for attorneys and investigators. This would be an ongoing annual expenditure.
- **\$70,512 FOR A WESTLAW CLEAR INVESTIGATION SOFTWARE EXPANSION.** The agency indicates CLEAR investigation software allows public defender office investigators to conduct necessary detailed background investigations for public defender offices cases so that public defenders are prepared for their client's defense. The agency states it needs an additional 13 licenses for their trial offices, and currently, only 2 employees have software licenses.

The **Governor** recommends \$492,086 to partially adopt the Basic Infrastructure Upgrades enhancement request. This amount includes funding for Adobe licensing (\$25,376), video evidence software licenses (\$180,000), investigative software expansion of background check licensing (\$70,512), and for the Training Division (\$216,198).

REQUEST 5
ASSIGNED COUNSEL RATE INCREASE

The **agency** requests \$3.6 million SGF to fund an assigned counsel rate increase up to \$140 per hour for FY 2024. Current statutory rate for assigned counsel is \$80 per hour of work (KSA 22-407(c)). The 2022 Legislature gave the agency funding to raise that rate up to \$120 per hour, along with a special budget proviso to allow temporary pay at the rate as of July 1, 2022, if legislation did not pass raising that statutory rate. No legislation was passed, and the hourly rate for FY 2024 reverts to statutory limits.

The agency indicates it has had success recruiting new criminal defense attorneys to the assigned counsel panels and believes that there are a number of private counsel who could be recruited into accepting appointments at the rate of \$140 per hour, in an attempt to reach parity with the current federal Criminal Justice Act panel rate of approximately \$158 per hour.

The Board has tentatively approved an increase to the hourly rate for assigned counsel of \$140 per hour for FY 2024, dependent upon appropriate funding and statutory amendments to allow for this increase.

The **Governor** recommends \$2.9 million SGF to partially fund the agency's assigned counsel rate increase enhancement request. This is \$638,328 below the agency's request, and \$2.9 million above the fall 2022 consensus assigned counsel caseload adjustment of \$21.5 million. The Governor's recommendation will continue funding the agency's FY 2023 rate of \$120 per hour.

REQUEST 6
LEGAL SERVICES FOR PRISONERS, INC. SALARY INCREASE

The **agency** requests \$312,962 SGF in contractual services expenditures for salary increases, according to experience, so that Legal Services for Prisoners, Inc. (LSP) employee salaries are in line with the FY 2023 statewide salary increase passed by the 2022 Legislature. The salary adjustment would cover the base salary adjustments, fringe costs, and overhead for all four current LSP employees, adjusted for their levels of experience in line with the recent salary scales approved by the Governor and the Department of Administration for BIDS.

The agency notes current LSP attorneys have over 30 years of experience, and the LSP director has over 25 years of experience in his position. The LSP director runs the organization and helps coordinate services across 9 separate Kansas Department of Corrections facilities and is available to serve approximately 10,000 inmates.

The Governor does not recommend adoption of this request.

REQUEST 7
CAPITAL CASEWORK

The **agency** requests \$700,000 SGF to address casework expenses related to capital cases. These expenditures include all expenses that accompany the handling of a case, including those for attorneys, expert witnesses, evidentiary hearings, and forensic work.

The agency has noticed a steady increase in capital casework expenditures over the past five years and has indicated that this is due in part to a recognition of updated national standards and

expectations for capital case work in general, as well as the increased use of experts for more extensive hearings on mitigation and analysis of forensic work in evidentiary hearings. The agency has seen an increase in the number of capital cases charged by prosecutors across the state, and current cases continue to move through the network of trials, appeals, and now capital *habeas* proceedings.

Historically, the agency has been able to cover expenses in past years with reappropriated funds or by using its operating funds to cover its capital expenditures, but the agency indicates that this is no longer a sustainable solution. The agency notes that since January 2020, its Death Penalty Defense Unit has been appointed to 11 new capital cases across Kansas while still having capital cases that originated in the late 1990s and early 2000s currently cycling through its capital *habeas* office.

The Governor does not recommend adoption of this request.

PROGRAM AND PERFORMANCE MEASURES OVERVIEW

FIGURE 11
EXPENDITURES AND FTE POSITIONS BY PROGRAM, FY 2022 – FY 2024

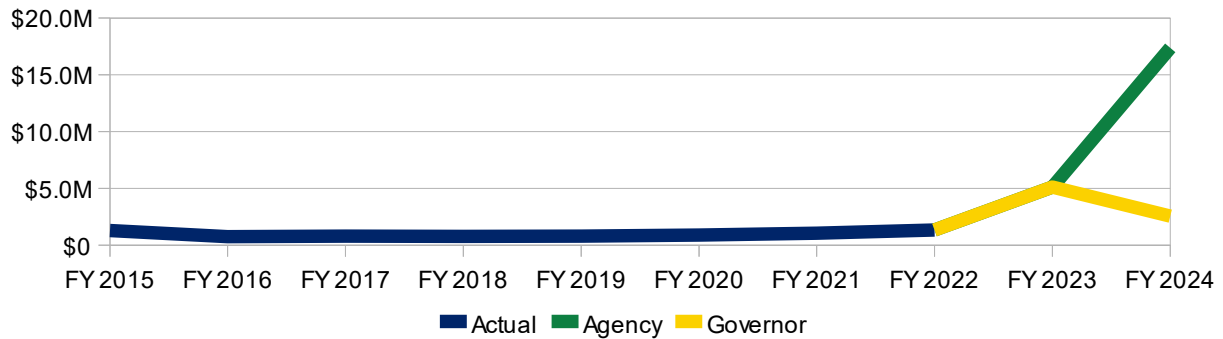
Programs	Actual FY 2022	Agency FY 2023	Governor FY 2023	Agency FY 2024	Governor FY 2024
Expenditures:					
Administration	\$ 1,341,052	\$ 5,124,860	\$ 5,124,860	\$ 17,375,799	\$ 2,559,776
Appellate Defender	2,284,430	3,032,446	3,032,446	3,084,507	3,084,507
Assigned Counsel	17,489,919	20,960,816	22,260,000	24,248,328	23,610,000
Capital Defense	3,517,845	4,053,237	4,053,237	7,562,693	3,854,255
Legal Services for Prisoners	289,592	289,592	289,592	602,554	289,592
Trial Public Defenders	10,867,145	17,205,808	17,205,808	16,886,000	16,886,000
TOTAL	\$ 35,789,983	\$ 50,666,759	\$ 51,965,943	\$ 69,759,881	\$ 50,284,130
FTE Positions:					
Administration	19.2	19.2	19.2	150.2	19.2
Appellate Defender	25.0	25.0	25.0	25.0	25.0
Assigned Counsel	--	--	--	--	--
Capital Defense	34.0	34.0	34.0	64.0	34.0
Legal Services for Prisoners	--	--	--	--	--
Trial Public Defenders	165.0	165.0	165.0	165.0	165.0
TOTAL	243.2	243.2	243.2	404.2	243.2

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.

ADMINISTRATION

FIGURE 12
ADMINISTRATION EXPENDITURES, FY 2015 – FY 2024



STATUTORY BASIS: • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4519 through KSA 22-4523

PROGRAM GOALS:

- Maintain statewide costs per case while maintaining quality service to clients.
- Monitor caseload and performance of public defenders in all divisions.
- Minimize the increase in cost of expert services.

The Administration program is responsible for support of the statewide delivery of indigents' defense services. Funding is from the SGF,

except for a small amount that is from the Inservice Education Workshop Fee Fund.

FIGURE 13
ADMINISTRATION, PERFORMANCE MEASURES

	Actual FY 2021	Actual FY 2022	Actual 3-Year Avg.	Target FY 2023	Target FY 2024
Outcome Measure:					
1. Maintain level of dollars saved by audit procedures.*	\$ 291,488	\$ 404,353	\$ 310,009	\$ 505,441	\$ 631,802
2. Maintain increase in average cost per case for private attorney	\$ 898	\$ 1,062	\$ 984	\$ 1,115	\$ 1,171
3. Prevent ineffective assistance of counsel due to case overload.*	All Offices	All Offices	All Offices	All Offices	All Offices
4. Maintain standard of excellence in public defender legal services with a zero tolerance for ethics violations on case work.*	No Violations	No Violations	No Violations	No Violations	No Violations
5. Number of experts agreeing to work at reduced rates.*	65	67	65	68	70
Output Measure:					
6. Number of Judicial Districts reviewed for cost effective delivery of defense services.*	31	31	31	31	31
7. Number of counties covered by assigned counsel contracts/agreements.*	19	17	18	18	20
8. Number of agency CLE** programs offered to appointed panel attorneys.	2	10	5	12	15
9. Number of agency CLE programs offered to public defenders.*	3	24	10	25	30
10. Number of contacts with Chief Defenders regarding caseloads.*	33	48	39	50	45
11. Number of contacts with Court regarding assignment of public defenders to other jurisdictions.*	18	10	16	12	14
12. Estimated Number of contacts/communications with assigned counsel/court regarding expert services approval and clarifications.*	1,300	1,500	1,270	1,700	2,000
Financing	Actual FY 2021	Actual FY 2022		Governor FY 2023	Governor FY 2024
SGF	\$ 1,064,133	\$ 1,338,912		\$ 5,115,008	\$ 2,553,776
Federal Funds	131,144	-		9,852	6,000
All Other Funds	625	2,140		-	-
TOTAL	<u>\$ 1,195,902</u>	<u>\$ 1,341,052</u>		<u>\$ 5,124,860</u>	<u>\$ 2,559,776</u>
Percentage Change:					
SGF	17.9 %	25.8 %		282.0 %	(50.1) %
All Funds	1.9 %	12.1 %		282.2 %	(50.1) %
FTE Positions	12.8	19.2		19.2	19.2

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

** Continuing Legal Education

BUDGET ANALYSIS

The **agency** requests Administration program million SGF, for FY 2024. This is an all funds expenditures of \$17.4 million, including \$17.4 increase of \$12.3 million, or 239.0 percent,

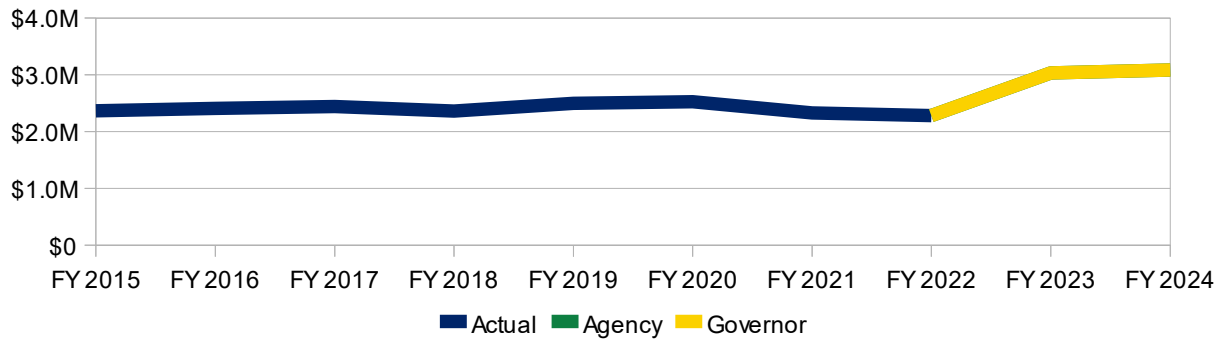
above the FY 2023 revised estimate. The increase is primarily due to the agency's FY 2024 enhancement requests for recruitment and retention, ethical caseload staffing, expansion of public defenders offices, and infrastructure upgrades.

The request includes 150.2 FTE positions, which is 131.0 FTE positions above the FY 2022 revised estimate number. This increase is entirely due to the agency's enhancement requests.

The **Governor** recommends \$2.6 million, including \$2.6 million SGF, and 19.2 FTE positions for FY 2024. This is an SGF decrease of \$14.8 million, or 85.3 percent, and 131.0 FTE positions below the agency's FY 2024 request. The decreases are due to the Governor not recommending the agency's enhancement request for caseload staffing and the expansion of the public defender offices.

APPELLATE DEFENDER

FIGURE 14
APPELLATE DEFENDER EXPENDITURES, FY 2015 – FY 2024



STATUTORY BASIS: • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4522b; KSA 22-4505b

PROGRAM GOALS: • Provide high quality and economically efficient constitutionally required defense services at the appellate level to clients.
 • Monitor caseloads of public defenders to ensure compliance with professional ethical rules.

The Appellate Defender Office is a statewide office located in Topeka that included in the budget for the Death Penalty represents indigent felony defendants on Defense Unit.

The Office makes use of appeal. Funding for death penalty appeals paralegals and law school interns.

FIGURE 15
APPELLATE DEFENDER, PERFORMANCE MEASURES

	Actual FY 2021	Actual FY 2022	Actual 3-Year Avg.	Target FY 2023	Target FY 2024
Outcome Measure:					
1.Prevent ineffective assistance of counsel due to case overload.*	All Offices	All Offices	-	All Offices	All Offices
2.Monitor average case units per attorney to avoid caseload overload.*	29	25	31.7	25	25
3.Maintain standard of excellence in legal services with a zero tolerance for ethics violations on case work.*	No Violations	No Violations	-	No Violations	No Violations
Output Measure:					
4.Number of in-house attorney training CLEs for public defenders.*	3	24	10	25	30
5.Number of Appeals Docketed *	704	731	728	850	760
6.Number of Appeals Completed *	981	843	935	950	900
Financing	Actual FY 2021	Actual FY 2022		Governor FY 2023	Governor FY 2024
SGF	\$ 2,113,378	\$ 2,113,925		\$ 2,782,446	\$ 2,834,507
Federal Funds	-	-		-	-
All Other Funds	215,981	170,505		250,000	250,000
TOTAL	<u>\$ 2,329,359</u>	<u>\$ 2,284,430</u>		<u>\$ 3,032,446</u>	<u>\$ 3,084,507</u>
Percentage Change:					
SGF	(7.6) %	0.0 %		31.6 %	1.9 %
All Funds	(7.9) %	(1.9) %		32.7 %	1.7 %
FTE Positions	23.0	25.0		25.0	25.0

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

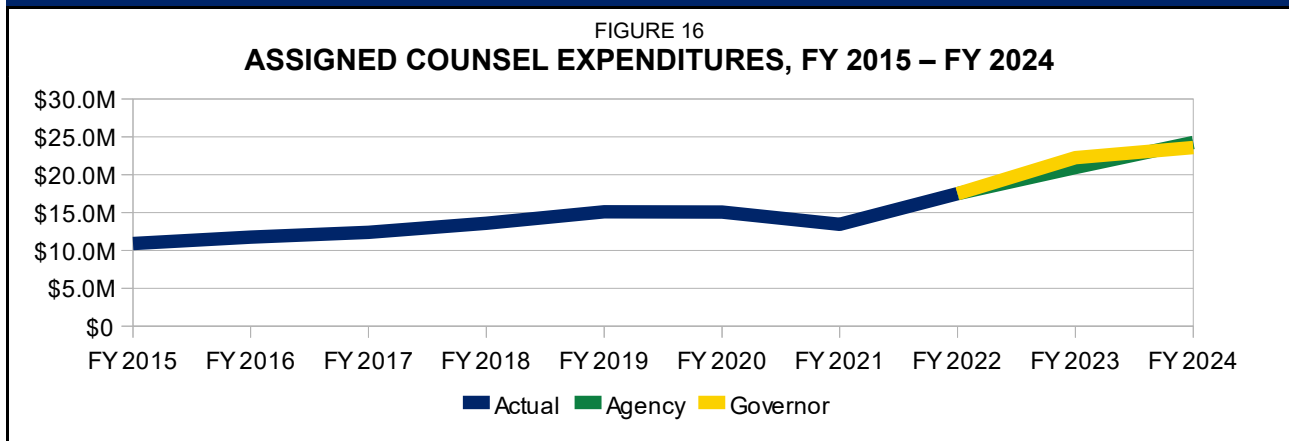
BUDGET ANALYSIS

The **agency** requests Appellate Defender program expenditures of \$3.1 million, including \$2.8 million SGF, for FY 2024. This is an all funds increase of \$52,061, or 1.0 percent, above the FY 2023 revised estimate. The increase is primarily attributable to reimbursement for personal vehicle usage, rental vehicles, office rent, and software licensing.

The request includes 25.0 FTE positions, which is the same as the FY 2023 revised estimate number.

The **Governor** concurs with the agency's request for FY 2024.

ASSIGNED COUNSEL



STATUTORY BASIS: • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4501; KSA 22-4503c.

PROGRAM GOALS: • Manage the average annual cost of assigned counsel expenditures while maintaining quality defense services.

The Assigned Counsel system of providing indigent felony defense is used in geographic areas where it is not cost-effective to open a public defender office and in cases where the public defenders have a conflict of interest and are therefore unable to provide defense services. 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.

FIGURE 17
ASSIGNED COUNSEL, PERFORMANCE MEASURES

	Actual FY 2021	Actual FY 2022	Actual 3-Year Avg.	Target FY 2023	Target FY 2024
Outcome Measure:					
1. Maintain level of dollars saved by audit procedures on assigned counsel vouchers.*	\$ 291,488	\$ 404,353	\$ 310,008.7	\$ 505,441	\$ 631,802
2. Maintain increase in average cost per case for private attorney services to 5% or less.	898	1,062	984	1,115	1,171
Output Measure:					
3. Number of Judicial Districts reviewed for cost effective delivery of defense services.*	31	31	31	31	31
4. Number of counties covered by assigned counsel contracts/agreements. *	19	17	18	18	20
5. Number of agency CLE programs offered to appointed panel attorneys.*	2	10	5	12	15
Financing	Actual FY 2021	Actual FY 2022		Governor FY 2023	Governor FY 2024
SGF	\$ 13,062,084	\$ 16,903,545		\$ 22,010,000	\$ 23,360,000
Federal Funds	-	-		-	-
All Other Funds	391,935	586,374		250,000	250,000
TOTAL	<u>\$ 13,454,019</u>	<u>\$ 17,489,919</u>		<u>\$ 22,260,000</u>	<u>\$ 23,610,000</u>
Percentage Change:					
SGF	(10.9) %	29.4 %		30.2 %	6.1 %
All Funds	(10.7) %	30.0 %		27.3 %	6.1 %
FTE Positions	--	--		--	--

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

The Division of the Budget, the Board of Indigents' Defense Services, and the Kansas Legislative Research Department review actual and historical data to develop independent estimates prior to the consensus meeting. At the meeting, each agency provides an explanation of its estimate to the team. This is followed by a group discussion, and a consensus for total funding is reached. The following cost drivers are considered:

- **NON-CONTRACT ATTORNEYS.** The total number of hours worked and the average hourly rate, in addition to the amount of incurred expenses by the attorney during representation; and
- **CONTRACT ATTORNEYS.** Total fees and expenses. These rates are negotiated between the attorneys and BIDS.

ASSIGNED COUNSEL FEES

For many years, the assigned counsel hourly rate has been below the statutory limit. In FY 2009, BIDS reduced the hourly rate paid on all cases to \$62 per hour. In FY 2016, the hourly rate was increased to \$65 per hour, 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 maximum hourly rate of \$80 per hour for assigned counsel in FY 2020 per KSA 22-4507 and KAR 105-5-2. In the FY 2022 budget, the Legislature funded a rate increase up from \$80 to \$100 per hour and increased that rate again in FY 2023 from \$100 to \$120 an hour.

BUDGET ANALYSIS

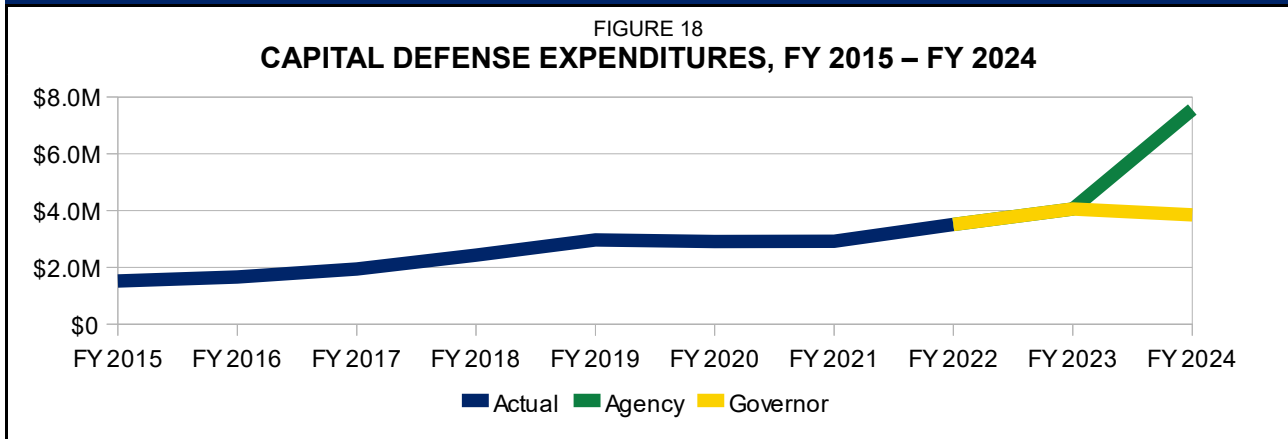
The **agency** requests Assigned Counsel program expenditures of \$24.2 million, including \$24.0 million SGF, for FY 2024. This is an SGF increase of \$3.3 million, or 15.9 percent, above the FY 2023 revised estimate. The increase is primarily attributable to the agency's enhancement request to fund an assigned counsel rate increase up to \$140 per hour.

The **Governor** recommends \$23.6 million, including \$23.4 million SGF, for FY 2024.

This is an SGF decrease of \$638,328, or 2.7 percent, below the agency's FY 2024 request. The decrease is due to the Governor partially recommending the agency's enhancement request for assigned counsel expenditures to fund the hourly rate up down from \$140 to \$120.

This amount is \$2.9 million SGF above the fall 2022 consensus assigned counsel caseload adjustment of \$21.5 million which used the current statutory rate of \$80 per hour for FY 2024.

CAPITAL DEFENSE



STATUTORY BASIS: • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4522b; KSA 22-4506d

PROGRAM GOALS: • Provide high quality and economically efficient constitutionally required defense services to capital clients.
• Monitor caseloads of public defenders to ensure compliance with professional ethical rules.

The Capital Defense program 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.

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. 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 coursework on capital defense.

FIGURE 19
CAPITAL DEFENSE, PERFORMANCE MEASURES

	Actual FY 2021	Actual FY 2022	Actual 3-Year Avg.	Target FY 2023	Target FY 2024
Outcome Measure:					
1.Prevent ineffective assistance of counsel due to case overload.*	All Offices	All Offices	-	All Offices	All Offices
2.Maintain standard of excellence in legal services with a zero tolerance for ethics violations on case work.*	No Violations	No Violations	-	No Violations	No Violations
Output Measure:					
3.Number of new cases filed with a potential sentence of death.*	3	2	4	4	6
4.Number of cases tried or pled during the fiscal year.*	1	4	2	2	3
5.Number of in-house attorney training CLEs available for capital public defenders.*	3	24	10	25	30
Financing	Actual FY 2021	Actual FY 2022		Governor FY 2023	Governor FY 2024
SGF	\$ 2,917,892	\$ 3,512,714		\$ 4,053,237	\$ 3,854,255
Federal Funds	201	-		-	-
All Other Funds	5,175	5,131		-	-
TOTAL	\$ 2,923,268	\$ 3,517,845		\$ 4,053,237	\$ 3,854,255
Percentage Change:					
SGF	0.5 %	20.4 %		15.4 %	(4.9) %
All Funds	0.1 %	20.3 %		15.2 %	(4.9) %
FTE Positions	27.0	34.0		34.0	34.0

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

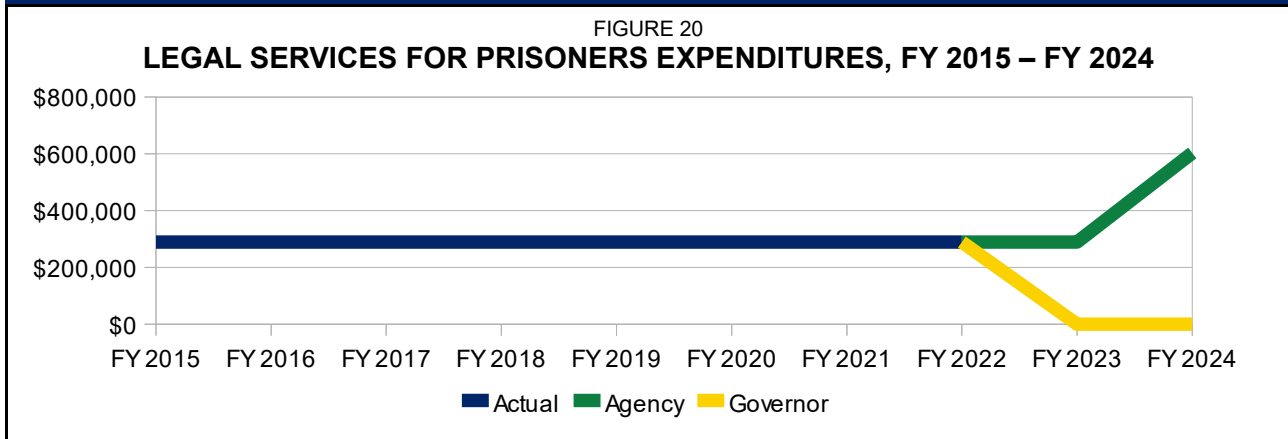
BUDGET ANALYSIS

The **agency** requests Capital Defense program expenditures of \$7.6 million SGF for FY 2024. This is an increase of \$3.5 million, or 86.6 percent, above the FY 2023 revised estimate. The increase is primarily attributable to the agency's enhancement requests to address casework expenses related to capital cases and Public Defender Office Service of Underserved Communities.

The **Governor** recommends \$3.9 million SGF, and 34.0 FTE positions, for FY 2024. This is an SGF decrease of \$3.7 million, or 49.0 percent, and 30.0 FTE positions below the agency's FY 2024 request. The decreases are due to the Governor not recommending the agency's enhancement request for caseload staffing and capital casework.

The request includes 64.0 FTE positions, which is an increase of 30.0 FTE positions above the FY 2023 revised estimate number.

LEGAL SERVICES FOR PRISONERS



STATUTORY BASIS: • KSA 22-4514a

- PROGRAM GOALS:**
- Provide individuals incarcerated in the Kansas Department of Corrections with constitutionally required meaningful access to the courts.
 - Identify and assist those incarcerated residents with real legal problems concerning the validity of convictions and sentences, civil rights, and conditions of confinement.
 - Discourage frivolous and unsubstantial litigation.
 - Assist state courts and the Board of Indigents' Defense Services meet their program goals.
 - Assist incarcerated residents in successfully completing their sentences, parole, and post-release supervision. Those whose legal problems are taken care of prior to their release are more apt to successfully complete their term of parole or post release supervision.

The 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.

FIGURE 21
LEGAL SERVICES FOR PRISONERS, PERFORMANCE MEASURES

	Actual FY 2021	Actual FY 2022	Actual 3-Year Avg.	Target FY 2023	Target FY 2024
Outcome Measure:					
1. Cases administratively resolved *	1,058	1,039	1,046	1,039	1,039
2. Cases judicially resolved *	1	2	3	2	2
3. Cases rejected by LSP *	467	522	455	522	522
4. Cases still open at the end of the fiscal year.*	4	-	1	-	-
Output Measure:					
5. Total Cases Handled by LSP*	1,530	1,582	1,525	1,582	1,582
6. Total Hours spent on cases *	2,013	1,943	1,905	1,943	1,943
Financing	Actual FY 2021	Actual FY 2022		Governor FY 2023	Governor FY 2024
SGF	\$ 289,592	\$ 289,592		\$ 289,592	\$ 289,592
Federal Funds	-	-		-	-
All Other Funds	-	-		-	-
TOTAL	\$ 289,592	\$ 289,592		\$ 289,592	\$ 289,592
Percentage Change:					
SGF	-- %	-- %		-- %	-- %
All Funds	-- %	-- %		-- %	-- %
FTE Positions	--	--		--	--

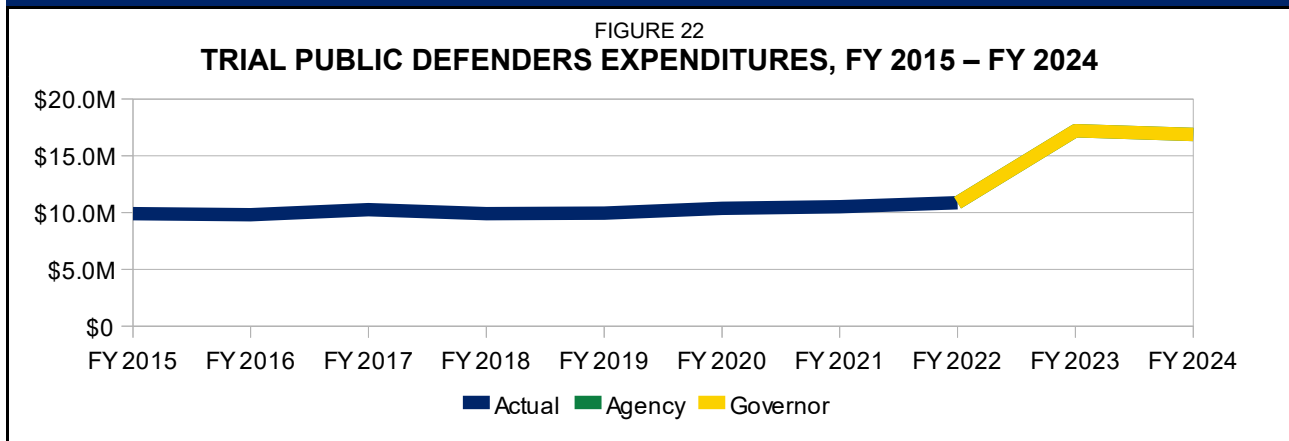
* The Governor's Office does not utilize this measure for evaluation purposes.

BUDGET ANALYSIS

The **agency** requests Legal Services for Prisoners, Inc. program expenditures of \$602,554 SGF for FY 2024. This is an increase of \$312,962, or 108.1 percent, above the FY 2023 revised estimate. The increase is entirely due to the agency's enhancement request for salary increases.

The **Governor** recommends \$289,592 SGF for FY 2024. This is an SGF decrease of \$312,962, or 51.9 percent, below the agency's FY 2024 request. The decreases are entirely due to the Governor not recommending the agency's enhancement request for salary increases.

TRIAL PUBLIC DEFENDERS



STATUTORY BASIS: • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4522b

PROGRAM GOALS: • Maintain statewide costs per case while maintaining quality service to clients.
• Monitor caseloads and performance of public defenders for quality services.

The Trial Public Defenders 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 Conflict 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.

FIGURE 23
TRIAL PUBLIC DEFENDERS, PERFORMANCE MEASURES

	Actual FY 2021	Actual FY 2022	Actual 3-Year Avg.	Target FY 2023	Target FY 2024
Outcome Measure:					
1.Prevent ineffective assistance of counsel due to case overload.*	All Offices	All Offices	-	All Offices	All Offices
2.Maintain increase in average cost per case for public defender services to 5% or less.	\$ 1,032	\$ 1,120	\$ 990	\$ 1,120	\$ 1,120
3.Maintain standard of excellence in legal services with a zero tolerance for ethics violations on case work.*	No Violations	No Violations	-	No Violations	No Violations
Output Measure:					
4.Number of in-house attorney training CLEs for public defenders.*	3	24	10	25	30
5.Number of Judicial Districts reviewed for cost effective delivery of defense services.*	31	31	31	31	31
6.Number of contacts with Chief Defenders regarding caseloads.*	33	48	39	50	45
7.Number of contacts with Court regarding assignment of public defenders to other jurisdictions.*	18	10	16	12	14
Financing	Actual FY 2021	Actual FY 2022		Governor FY 2023	Governor FY 2024
SGF	\$ 10,260,120	\$ 10,642,919		\$ 17,103,417	\$ 16,786,000
Federal Funds	159	-		-	-
All Other Funds	260,322	224,226		102,391	100,000
TOTAL	<u>\$ 10,520,601</u>	<u>\$ 10,867,145</u>		<u>\$ 17,205,808</u>	<u>\$ 16,886,000</u>
Percentage Change:					
SGF	1.2 %	3.7 %		60.7 %	(1.9) %
All Funds	1.3 %	3.3 %		58.3 %	(1.9) %
FTE Positions	139.0	165.0		165.0	165.0

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

BUDGET ANALYSIS

The **agency** requests Trial Public Defenders program expenditures of \$16.9 million, including \$16.8 million SGF, for FY 2024. This is an all funds decrease of \$319,808, or 1.9 percent, and an SGF decrease of \$317,417, or 1.9 percent, below the FY 2023 revised estimate. The decrease is primarily attributable to reduced commodities expenditures due to the increase of electronic communications, as well as decreased expenditures for expert witnesses and court reporter services. The request also

reduces contractual services by \$197,616, largely related to travel, and for computer and other equipment replacements by \$158,000.

The request includes 165.0 FTE positions, which is the same as the FY 2023 revised estimate number.

The **Governor** concurs with the agency's request for FY 2024.