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Board of Public Defense

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<https://www.pubdef.state.mn.us/>

AT A GLANCE

- Largest user of Minnesota courts - provides mandated criminal defense services at the trial and appellate court level
- 140,000 trial court cases opened annually
- 4,000 appellate cases opened annually

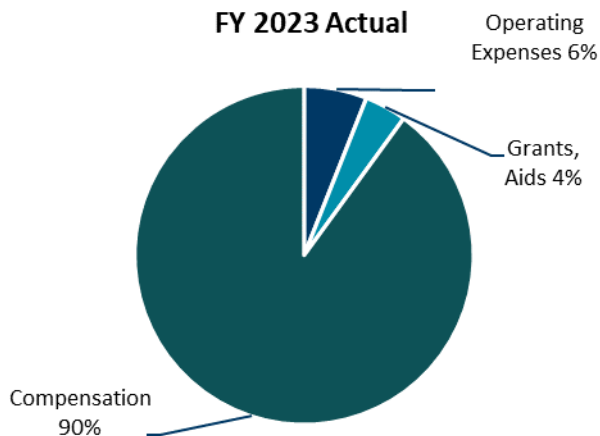
PURPOSE

The Board of Public Defense is a judicial branch agency, but not subject to the oversight of the Minnesota Supreme Court, whose purpose is to provide legal services mandated by the Constitution and statute. The board's mission is to protect the liberty of, and engage in, transformational criminal justice reform on behalf of those individuals served by the board by respecting the whole individual, being culturally responsive and providing a well-resourced and trained defense team.

The board is committed to five major goals: client centered representation, creative advocacy, continual training for all staff, recruitment and retention of excellent staff, and being a full partner in the justice system. A functioning public defender system ensures that the constitutional rights of the indigent are protected. This helps to protect the rights of all Minnesota's citizens. It also helps to make sure that the work of the court system continues uninterrupted, which helps to ensure that people in Minnesota are safe. Public defender services are financed by the general fund.

BUDGET

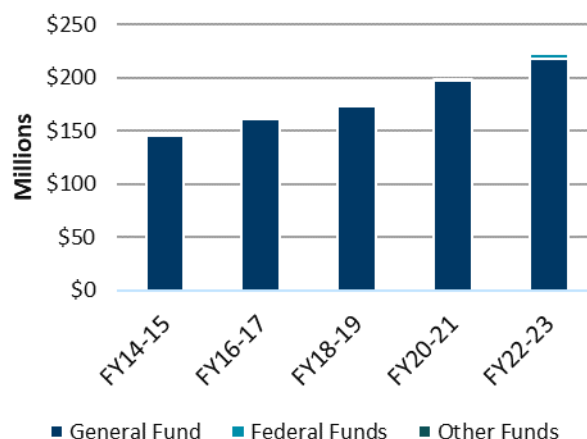
**Spending by Category
FY 2023 Actual**



Source: Board of Public Defense

Compensation includes funding of county employees in the 2nd and 4th Judicial Districts; however, this is included in the grants, aids, and subsidies funding category on the fiscal reports.

Historical Spending



Source: Consolidated Fund Statement

STRATEGIES

The board has developed various tools to further its mission and goals and to provide effective and efficient service delivery. These include:

- Implementation of quality representation guidelines on the trial and appellate levels
- Accommodation of audio and video in electronic content management system
- Commitment to vertical representation
- Commitment to team defense
- Commitment to continual training of all staff
- Using a cost-effective model of representation that combines full and part time defenders
- Development of an internal resource allocation policy to better target attorney resources

M.S. 611 (<https://www.revisor.mn.gov/statutes/cite/611>) provides the legal authority for the Board of Public Defense.

Public Defense Board

Agency Expenditure Overview

(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base	
					FY26	FY27
<u>Expenditures by Fund</u>						
1000 - General	102,347	115,860	152,885	167,352	164,860	164,860
2000 - Restrict Misc Special Revenue	420	228	293	462		
2403 - Gift	414	63	232	624	100	100
3015 - ARP-State Fiscal Recovery	674	3,286				
Total	103,855	119,437	153,409	168,438	164,960	164,960
Biennial Change				98,555		8,073
Biennial % Change				44		3

Expenditures by Program

Appellate Office	7,299	7,625	10,093	11,926	10,866	10,866
Administrative Services Office	2,686	2,894	4,082	4,959	4,690	4,690
District Public Defense	93,870	108,918	139,234	151,553	149,404	149,404
Total	103,855	119,437	153,409	168,438	164,960	164,960

Expenditures by Category

Compensation	84,439	92,379	129,619	146,879	145,737	145,737
Operating Expenses	12,215	15,376	14,905	13,257	12,682	12,682
Grants, Aids and Subsidies	6,567	11,095	8,651	6,240	5,240	5,240
Capital Outlay-Real Property	3	(132)				
Other Financial Transaction	632	719	234	2,062	1,301	1,301
Total	103,855	119,437	153,409	168,438	164,960	164,960

Full-Time Equivalents

791.49	869.70	903.20	903.16	903.16	903.16
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Public Defense Board

Agency Financing by Fund

(Dollars in Thousands)

	Actual	Actual	Actual	Estimate	Forecast Base	
	FY22	FY23	FY24	FY25	FY26	FY27
1000 - General						
Balance Forward In		4,478		2,492		
Direct Appropriation	106,381	111,409	154,884	164,360	164,360	164,360
Transfers In	880	1,165	620	500	500	500
Transfers Out	380	665	120			
Cancellations	199	527	8			
Balance Forward Out	4,335		2,492			
Expenditures	102,347	115,860	152,885	167,352	164,860	164,860
Biennial Change in Expenditures				102,030		9,483
Biennial % Change in Expenditures				47		3
Full-Time Equivalents	790.74	840.63	899.46	899.46	899.46	899.46

2000 - Restrict Misc Special Revenue

Balance Forward In	452	362	472	462		
Transfers In	329	338	283			
Balance Forward Out	362	472	462			
Expenditures	420	228	293	462		
Biennial Change in Expenditures				107		(755)
Biennial % Change in Expenditures				16		(100)
Full-Time Equivalents	0.04	0.04	0.04	0.04	0.04	0.04

2403 - Gift

Balance Forward In	303	324	654	524		
Receipts	434	370	102	100	100	100
Balance Forward Out	324	631	524			
Expenditures	414	63	232	624	100	100
Biennial Change in Expenditures				379		(656)
Biennial % Change in Expenditures				80		(77)
Full-Time Equivalents	0.09	0.22	3.66	3.66	3.66	3.66

3015 - ARP-State Fiscal Recovery

Balance Forward In		3,288				
Direct Appropriation	3,945					
Cancellations		2				

Public Defense Board

Agency Financing by Fund

(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base FY26 FY27	
Balance Forward Out	3,271					
Expenditures	674	3,286				
Biennial Change in Expenditures				(3,960)		0
Biennial % Change in Expenditures				(100)		
Full-Time Equivalents	0.62	28.81	0.04			

(Dollars in Thousands)

	FY25	FY26	FY27	Biennium 2026-27
Direct				
Fund: 1000 - General				
FY2025 Appropriations	164,360	164,360	164,360	328,720
Forecast Base	164,360	164,360	164,360	328,720
Dedicated				
Fund: 2000 - Restrict Misc Special Revenue				
Planned Spending	462			
Forecast Base	462			
Fund: 2403 - Gift				
Planned Spending	624	100	100	200
Forecast Base	624	100	100	200
Revenue Change Summary				
Dedicated				
Fund: 2403 - Gift				
Forecast Revenues	100	100	100	200

Program: Appellate Office

<https://www.pubdef.state.mn.us/>

AT A GLANCE

- More than 1,000 appellate files
- 2,500 parole revocation hearings
- Largest user of Minnesota Appellate Courts and Minnesota Supreme Court

PURPOSE AND CONTEXT

The Board of Public Defense's Appellate Office provides services to indigent clients in criminal appeals, post-conviction proceedings in the Minnesota District Courts, and supervised release/parole revocation proceedings.

The goal for the Appellate Office is to provide excellent, client-centered representation to clients in criminal appeals, post-conviction proceedings in the district courts, and supervised release (parole) revocation hearings. The Appellate Office is dedicated to the principle that all clients are entitled to equal access to justice and quality representation.

By providing quality representation, the Appellate Office helps to ensure that legislation and court decisions are based on sound constitutional and legal principles, thereby ensuring that the rights of all citizens are protected.

With the district courts reducing service during the COVID-19 pandemic, the number of cases declined during 2020. These cases are now increasing as the courts have returned to full operations. With the several thousand case backlog being addressed, the case numbers will increase dramatically.

SERVICES PROVIDED

The Appellate Office provides mandated services to indigent prisoners who appeal their criminal cases to the Minnesota Court of Appeals and Supreme Court, or who pursue post-conviction proceedings in the district courts throughout the state, as well as to defendants in supervised release/parole revocation proceedings.

RESULTS

The Appellate Office has incorporated quality representation guidelines into its attorney practices. During the COVID-19 pandemic, there were fewer trials and appeals. With the courts now addressing the case backlog, these numbers are now increasing. With short timelines for post-conviction relief cases, there is even greater pressure to get these cases resolved.

Measure name	Measure type	Measure data source	Historical trend	Most recent data
Appeals Opened	Quantity	Files opened in case management system	955 in fiscal year (FY) 2021, 1,076 in FY 2024	1,076 in FY 2024
Oral Arguments	Quantity	Files opened in case management system	93 in FY 2021, 123 in FY 2024	123 in FY 2024

M.S. 611 (<https://www.revisor.mn.gov/statutes/cite/611>) provides the legal authority for the program.

(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base	
					FY26	FY27

Expenditures by Fund

1000 - General	7,299	7,625	10,093	11,926	10,866	10,866
Total	7,299	7,625	10,093	11,926	10,866	10,866
Biennial Change				7,094		(287)
Biennial % Change				48		(1)

Expenditures by Activity

State Public Defender	7,299	7,625	10,093	11,926	10,866	10,866
Total	7,299	7,625	10,093	11,926	10,866	10,866

Expenditures by Category

Compensation	5,970	6,394	8,831	9,701	9,580	9,580
Operating Expenses	1,329	1,231	1,262	2,225	1,286	1,286
Total	7,299	7,625	10,093	11,926	10,866	10,866

Full-Time Equivalents

	50.67	54.25	55.89	55.89	55.89	55.89
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(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base FY26 FY27	
1000 - General						
Balance Forward In		152		1,060		
Direct Appropriation	6,937	7,200	11,033	10,866	10,866	10,866
Transfers In	380	538	120			
Transfers Out		81				
Cancellations		183				
Balance Forward Out	18		1,060			
Expenditures	7,299	7,625	10,093	11,926	10,866	10,866
Biennial Change in Expenditures				7,094		(287)
Biennial % Change in Expenditures				48		(1)
Full-Time Equivalents	50.67	54.25	55.89	55.89	55.89	55.89

Program: Administrative Services Office
<https://www.pubdef.state.mn.us>
AT A GLANCE

- More than 900 board employees receive training at statewide or district events
- Office provides human resources, payroll, technology, and administrative functions for more than 900 employees of the Board of Public Defense

PURPOSE AND CONTEXT

The Administrative Services Office of the Board of Public Defense provides district and appellate public defenders and staff with the resources they need to be successful in providing high quality legal assistance to indigent Minnesotans, and to do so in a cost-effective manner.

The office implements board policies and provides staff support and training for all public defense functions statewide. In addition, the office has developed and manages agency systems in the areas of caseloads, budget, personnel, and agency assets.

Over 900 people in the board's 29 offices, part-time lawyers' offices, and Public Defense Corporation offices rely on the board's technology staff for hardware and software assistance and the management of accounts used to access agency systems that are needed in the representation of clients.

The office has developed an electronic content management system (ECM). The ECM allows for the transmission, review, and storage of electronic records that flow to and from the board's justice partners.

SERVICES PROVIDED

- Developed and implemented policies covering personnel, compensation, budgeting, training, conflict cases, internal controls, and management information systems
- Implemented quality representation guidelines and an internal resource allocation policy to better target attorney resources
- Developed and implemented a new class of full-time attorneys to provide more flexibility in the provision of services and to address the coming retirements of part time public defenders
- Implemented a model and training for handling cases involving DNA and other scientific evidence
- Developed an upgraded "defender dashboard" on the case management system to allow public defenders to more effectively use additional features of the case management system
- Worked with the courts to provide automatic scheduling and scheduling updates

RESULTS

Measure name	Measure type	Measure data source	Historical trend	Most recent data
Recruitment of diverse workforce	Quantity	Administrative services office	Calendar year (CY) 2022 Office is made up of 45 percent women, 11 percent Black, Indigenous, People of Color (BIPOC)	CY 2024 Office is made up of 56 percent women, 12 percent BIPOC

Measure name	Measure type	Measure data source	Historical trend	Most recent data
Laptop/server maintenance	Quantity	Administrative services-technology office- fixed asset inventory system	CY 2022 Maintained and provided maintenance for 894 laptops, 385 servers	CY 2024 Maintained and provided maintenance for 1,033 laptops, 402 servers
Phone management	Quantity	Administrative services-technology office – fixed asset inventory system	None, recently switched to Voice over Zoom	729 office phones
Statewide trainings	Quantity	Administrative services office	CY 2022-2023 nine training events	Fiscal year (FY) 2024 28 training events

M.S. 611.27 (<https://www.revisor.mn.gov/statutes/cite/611.27>) provides the authority for this program.

Administrative Services Office

Program Expenditure Overview

(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base	
					FY26	FY27

Expenditures by Fund

1000 - General	2,686	2,894	4,082	4,959	4,690	4,690
Total	2,686	2,894	4,082	4,959	4,690	4,690
Biennial Change				3,461		339
Biennial % Change				62		4

Expenditures by Activity

Administrative Services Office	2,686	2,894	4,082	4,959	4,690	4,690
Total	2,686	2,894	4,082	4,959	4,690	4,690

Expenditures by Category

Compensation	2,342	2,520	3,554	3,887	3,852	3,852
Operating Expenses	327	374	524	1,072	838	838
Other Financial Transaction	17	0	4			
Total	2,686	2,894	4,082	4,959	4,690	4,690

Full-Time Equivalents

15.00	15.83	17.73	17.73	17.73	17.73
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Administrative Services Office

Program Financing by Fund

(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base FY26 FY27	
1000 - General						
Balance Forward In		37		269		
Direct Appropriation	2,723	2,823	4,471	4,690	4,690	4,690
Transfers In		46				
Transfers Out			120			
Cancellations		12				
Balance Forward Out	37		269			
Expenditures	2,686	2,894	4,082	4,959	4,690	4,690
Biennial Change in Expenditures				3,461		339
Biennial % Change in Expenditures				62		4
Full-Time Equivalents	15.00	15.83	17.73	17.73	17.73	17.73

Program: District Public Defense

<https://www.pubdef.state.mn.us/>

AT A GLANCE

- More than 140,000 cases opened annually
- Largest user of Minnesota's trial court system
- Increased time commitments with expansion of video discovery
- Increased complexity of cases with scientific evidence and collateral consequences.

PURPOSE AND CONTEXT

The District Public Defense Program provides legal services required by the Minnesota State Constitution and statutes to indigent persons in Minnesota's trial courts. This is accomplished through a system that relies on a mix of full-time and part-time attorneys, as well as support staff. Trial level public defenders provide service in approximately 140,000 cases per year (80 to 90 percent of all criminal cases). This program also includes statutory (M.S. 611.215 (<https://www.revisor.mn.gov/statutes/cite/611.215>) funding for four nonprofit public defense corporations. The corporations provide criminal and juvenile defense services primarily to minority indigent defendants who otherwise would need public defense services.

SERVICES PROVIDED

Under Minnesota law, all individuals accused of a felony, gross misdemeanor, misdemeanor or juvenile crime are entitled to be represented by an attorney. The District Defense Program provides quality mandated criminal defense services to indigent persons in these cases. The program also provides representation to children ten years of age and older in Children in Need of Protective Services (CHIPS) cases.

The public defense corporations are nonprofit corporations that provide criminal and juvenile defense services, primarily to minority indigent defendants, who otherwise would need public defense services. The four corporations are the Neighborhood Justice Center (St. Paul), Legal Rights Center (Minneapolis), Duluth Indian Legal, and the Regional Native Public Defense Corporation (serving Leech Lake and White Earth).

RESULTS

The increased use of scientific evidence has made the practice of law much more complicated over the last several years. Such evidence must be analyzed for its validity, and the ways in which this evidence is collected, processed, analyzed, and reported. This includes computer forensics, drug analysis, fingerprint analysis, DNA, ballistics, arson reports, and other forensic evidence.

Measure name	Measure type	Measure data source	Historical trend	Most recent data
DNA/Forensic Referrals to DNA/Forensic Team	Quantity	Board case management systems	CY 2022- 132	CY 2024 (to date) 217
Attorney staffing versus 1991 caseload standard	Quantity	Cases opened in the board's case management system	75 percent in 2023, 99 percent in 2024	100 percent in fiscal year (FY) 2024

Measure name	Measure type	Measure data source	Historical trend	Most recent data
Video discovery transmitted	Quantity	Collected from prosecutors via electronic content management system	61 Terabytes in 2021, 280 in 2023	On pace for more than 400 terabytes in FY 2024
Counties with public defender at first appearance (out of custody)	Quality	Reported by district chief public defenders	60 percent in 2018, 85 percent in 2024	85 percent in FY 2024

M.S. 611 (<https://www.revisor.mn.gov/statutes/cite/611>) provides the legal authority for District Public Defense.

District Public Defense

Program Expenditure Overview

(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base	
					FY26	FY27
<u>Expenditures by Fund</u>						
1000 - General	92,362	105,341	138,710	150,467	149,304	149,304
2000 - Restrict Misc Special Revenue	420	228	293	462		
2403 - Gift	414	63	232	624	100	100
3015 - ARP-State Fiscal Recovery	674	3,286				
Total	93,870	108,918	139,234	151,553	149,404	149,404
Biennial Change				88,000		8,021
Biennial % Change				43		3

Expenditures by Activity

District Public Defense	93,870	108,918	139,234	151,553	149,404	149,404
Total	93,870	108,918	139,234	151,553	149,404	149,404

Expenditures by Category

Compensation	76,127	83,465	117,233	133,291	132,305	132,305
Operating Expenses	10,559	13,771	13,119	9,960	10,558	10,558
Grants, Aids and Subsidies	6,567	11,095	8,651	6,240	5,240	5,240
Capital Outlay-Real Property	3	(132)				
Other Financial Transaction	615	719	231	2,062	1,301	1,301
Total	93,870	108,918	139,234	151,553	149,404	149,404

Full-Time Equivalents

725.82	799.62	829.58	829.54	829.54	829.54
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District Public Defense

Program Financing by Fund

(Dollars in Thousands)

	Actual	Actual	Actual	Estimate	Forecast Base	
	FY22	FY23	FY24	FY25	FY26	FY27
1000 - General						
Balance Forward In		4,289		1,163		
Direct Appropriation	96,721	101,386	139,380	148,804	148,804	148,804
Transfers In	500	581	500	500	500	500
Transfers Out	380	584				
Cancellations	199	332	8			
Balance Forward Out	4,280		1,163			
Expenditures	92,362	105,341	138,710	150,467	149,304	149,304
Biennial Change in Expenditures				91,474		9,431
Biennial % Change in Expenditures				46		3
Full-Time Equivalents	725.07	770.55	825.84	825.84	825.84	825.84

2000 - Restrict Misc Special Revenue

Balance Forward In	452	362	472	462		
Transfers In	329	338	283			
Balance Forward Out	362	472	462			
Expenditures	420	228	293	462		
Biennial Change in Expenditures				107		(755)
Biennial % Change in Expenditures				16		(100)
Full-Time Equivalents	0.04	0.04	0.04	0.04	0.04	0.04

2403 - Gift

Balance Forward In	303	324	654	524		
Receipts	434	370	102	100	100	100
Balance Forward Out	324	631	524			
Expenditures	414	63	232	624	100	100
Biennial Change in Expenditures				379		(656)
Biennial % Change in Expenditures				80		(77)
Full-Time Equivalents	0.09	0.22	3.66	3.66	3.66	3.66

3015 - ARP-State Fiscal Recovery

Balance Forward In		3,288				
Direct Appropriation	3,945					
Cancellations		2				

District Public Defense

Program Financing by Fund

(Dollars in Thousands)

	Actual FY22	Actual FY23	Actual FY24	Estimate FY25	Forecast Base FY26 FY27	
Balance Forward Out	3,271					
Expenditures	674	3,286				
Biennial Change in Expenditures				(3,960)		0
Biennial % Change in Expenditures				(100)		
Full-Time Equivalents	0.62	28.81	0.04			

Board of Public Defense

FY 2026-27 Biennial Budget Change Item

Change Item Title: Building on Success

Fiscal Impact (\$000s)	FY 2026	FY 2027	FY 2028	FY 2029
General Fund				
Expenditures	11,900	24,300	24,300	24,300
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	11,900	24,300	24,300	24,300
FTEs	130	130	130	130

Request:

The budget request is an attempt to build on the recent success in achieving salary parity with prosecutors. The request provides funding necessary to maintain salary parity with prosecutors, address the increased costs of employee insurance and to continue to support the public defense corporations that provide services to indigent clients. The request represents an approximate 11% increase.

Rationale/Background:

Improvements to the salary structures have allowed the board to improve its retention efforts and assist in recruiting experienced attorneys to public defense work. Improvements to the salary structures mirrored those of prosecution offices in the largest counties in the state. Increases to the overall salary ranges were made, and steps were taken out of each range. However, with these improvements comes a larger commitment to maintain these improvements into the future. The board is seeking the funding to provide for salary and benefit increases over the next biennium to maintain parity with prosecutor offices.

Proposal:

In order to maintain salary parity with prosecutors and recruit and retain staff, the request includes funding to provide progression increases (60% of the staff) 4% cost of living adjustments in each year of the biennium as well as address the increased costs of employee insurance.

Ninety (90%) percent of the board's budget is personnel with another six (6%) percent being fixed costs. Public defenders are not able to refuse cases and must represent those clients assigned to them (*Dzubiak v Mott* [486 N.W.2d 837](#)). Failure to fund salary and benefit increases will mean a reduction in staffing and negate the gains made in this area over the last few years.

Impact on Children and Families:

Public defenders represent clients in 140,000 cases annually. Many of these clients have families with children. The board has the resources to have public defenders at first appearances in almost all counties in the state. Many times, the first appearance includes arguments on reducing or eliminating bail for clients. For every client that is not kept in jail due to failure to afford bail, a job can be saved, and children provided for.

Along with protecting the constitutional rights of clients, in many of these cases public defenders work hard to find alternatives to incarceration. These alternatives include drug and alcohol treatment and mental health care. For every person that is not incarcerated, not only is there a savings to the county or state, but many times clients can remain employed or can seek employment.

Public defenders represent almost 9,000 juveniles in juvenile court, and 1,500 children, 10 and over, in child protection proceedings. In these cases, the work of public defenders often means a second chance for juvenile offenders, and, in the child protection area, an opportunity to keep families together.

Equity and Inclusion:

Public defenders represent the poorest segment of society. Clients are living in poverty, many are homeless, and a high percentage suffer from mental health issues, chemical dependency issues, as well as traumatic brain injuries. Estimates of the number of individuals in county jails who suffer from mental illness range anywhere from 30-50%. It is estimated that 90% of Minnesota’s criminal cases involve alcohol or other chemical dependency issues.

People of People of color make up a significant portion of public defender clients. African Americans make up nearly 28% of the individuals charged with felonies in the state, and 35% of the state’s prisoners. Native Americans make up about 10% of the state’s prison population and about 7% of the adults charged with felonies.

Tribal Consultation:

Does this proposal have a substantial direct effect on one or more of the Minnesota Tribal governments?

☐ Yes
☒ No

Results:

Workloads and caseloads continue to hamper the ability of public defenders to communicate and develop relationships with clients, both of which are necessary for acceptance of case outcomes, and to be a functioning partner in the criminal justice system. A reduction in staffing to fund salary and benefit increases would only serve to exacerbate this challenge.

Measure	Measure type	Measure data source	Most recent data	Projected change
	Quantity	Case Units per FTE Attorney	400	w/o increase sought- 600
	Quantity	Attorney Resignation Rate	5%	w/o increase sought 12%-14%

Statutory Change(s): n/a

Board of Public Defense

FY 2026-27 Biennial Budget Change Item

Change Item Title: Addressing Challenges

Fiscal Impact (\$000s)	FY 2026	FY 2027	FY 2028	FY 2029
General Fund				
Expenditures	14,800	25,400	25,400	25,400
Revenues	0	0	0	0
Other Funds				
Expenditures	0	0	0	0
Revenues	0	0	0	0
Net Fiscal Impact = (Expenditures – Revenues)	14,800	25,400	25,400	25,400
FTEs	151	151	151	151

Request:

The budget request is an attempt to meet the workload challenges that public defenders continue to face. The budget request provides the staffing necessary to begin reducing workloads more in line with national and other state standards. The change is a general fund change that represents approximately 13% of the biennial budget.

Rationale/Background:

During the last biennial budget process, the board received additional funding to address salary disparities that had persisted for 25 years and to begin to address high public defender workloads. Statewide the caseload average (with current staffing) has been reduced by approximately 25% over the beginning of the 2022-2023 biennium. While improvements have been made in reducing caseloads, workloads continue to grow. In 2023 the Rand Corporation in collaboration with the National Center for State Courts (NCSC) and the American Bar Association (ABA) released the "National Public Defense Workload Study". The study updates the 50-year-old national standards on which many state standards including Minnesota's Weighted Caseload Standard were based on. The study's approach is based on time estimates for eight activity types for eleven case types and accounted for parts of modern practice that were not required in 1973. These include review of digital evidence, scientific and technology related evidence, recent court decisions, problem-solving courts, and more extensive preparation for sentencing due to higher penalties. The national standards are significantly lower than the board's Weighted Caseload Standards (WCLS). For example, the recommended case load for even the lowest felony case is 59 cases as opposed to the WCLS of 150 cases for all felony types. The lowest misdemeanor standard is 150 cases per attorney while the WCLS is 400 for all misdemeanor types. The National Public Defense Workload Study confirms much of what our own Office of the Legislative Auditor (OLA) found more than a decade ago, and which is still true, that "High public defender workloads have created significant challenges for Minnesota's criminal justice system."¹

Several factors have contributed to the increased workload and lowering of caseload standards around the country. The increased use of video (body, dashboard, business, and government) in criminal proceedings has been and will continue to be a major demand on attorney time and resources. The video must be viewed by the attorneys and must be stored. In 2023 the board received 280.5 terabytes of data from counties and 212 terabytes in the first 6 months of 2024 (excluding Hennepin County). To put this in perspective, 280 terabytes is the equivalent of more than 70,00 2-hour movies.

¹ Office of Legislative Auditor 2010 Program Evaluation Public Defender System.

The increased use of scientific evidence has made the practice of law much more complicated over the last several years. Such evidence must be analyzed for its validity, and the ways in which this evidence is collected, processed, analyzed, and reported. This includes computer forensics, drug analysis, fingerprint analysis, DNA, ballistics, arson reports, and other forensic evidence.

Additionally, U.S. Supreme Court decisions (Missouri v. Frye and Lafler v. Cooper-, criminal defendants have a Sixth Amendment right to effective assistance of counsel during plea negotiations, and Padilla v Kentucky- immigration consequences of a guilty plea are an integral part of a criminal conviction and thus are within the scope of the Sixth Amendment’s right to counsel) have made the practice of criminal law and the settlement of cases much more complex.

Finally, the criminal justice system as a whole has also had to serve an increased number of defendants who suffer from mental illness and/or drug and alcohol addiction. It is estimated that approximately 50% of inmates in county jails suffer from some form of mental illness, and alcohol/drug abuse is a factor in 80%-90% of Minnesota’s criminal cases. These factors have become more acute since the onset of the COVID-19 pandemic.

The board is reviewing its Weighted Caseload Standards (WCLS) using the national standard and the 17 state studies that the standard is based on, with the goal of updating the 33year old WCLS. The review is just beginning however, given the significant changes in the practice of criminal law since the standards were adopted, there is no doubt that the existing WCLS are too high. While ultimately the board’s revised standards may be higher than what the Rand Study recommends, the standards will no doubt be considerably lower than the WCLS. The board is seeking the funding for additional staff to begin the process of reducing caseloads at the trial and appellate levels to be more in line with the national standard and other state standards.

Proposal:

The Board is requesting funding to begin reducing workloads to better align with other state standards and the 2023 Randy Study standards. The goal is to reduce workloads by approximately 15% by the end of the biennium. Increases in support staff are based on the board adopted standards for each category of employee. The request would fund the new positions at the middle of the salary range of each of the positions.

Attorneys	88
Dispositional Advisors	11
Investigators	13
Paralegals	10
Managing Attorneys	8

Finally, the request includes funding for the four public defense corporations that provide legal defense services primarily to the state’s minority communities. The cases handled (3,300 annually) by the corporations would otherwise be public defender cases. The four public defense corporations Minneapolis Legal Rights Center, Neighbor Justice Center, Duluth Indian Legal, and Regional Native Public Defense Corporation currently receive approximately \$2.6 million annually. The request includes an increase of approximately \$1.1 million over the biennium for the corporations to address salary increases and to expand services.

Impact on Children and Families:

The budget request is an attempt to meet the challenges and build on the successes of the public defender system. Public defenders represent clients in 140,000 cases annually. Many of these clients have families with children. The board has the resources to have public defenders at first appearances in almost all counties in the state. Many times, the first appearance includes arguments on reducing or eliminating bail for clients. For every client that is not kept in jail due to failure to afford bail, a job can be saved, and children provided for.

Along with protecting the constitutional rights of clients, in many of these cases public defenders work hard to find alternatives to incarceration. These alternatives include drug and alcohol treatment and mental health care. For every person that is not incarcerated, not only is there a savings to the county or state, but many times clients can remain employed or can seek employment.

Public defenders represent almost 9,000 juveniles in juvenile court, and 1,500 children, 10 and over, in child protection proceedings. In these cases, the work of public defenders often means a second chance for juvenile offenders, and, in the child protection area, an opportunity to keep families together.

Equity and Inclusion:

Public defenders represent the poorest segment of society. Clients are living in poverty, many are homeless, and a high percentage suffer from mental health issues, chemical dependency issues, as well as traumatic brain injuries. Estimates of the number of individuals in county jails who suffer from mental illness range anywhere from 30-50%. It is estimated that 90% of Minnesota’s criminal cases involve alcohol or other chemical dependency issues.

People of People of color make up a significant portion of public defender clients. African Americans make up nearly 28% of the individuals charged with felonies in the state, and 35% of the state’s prisoners. Native Americans make up about 10% of the state’s prison population and about 7% of the adults charged with felonies.

Tribal Consultation:

Does this proposal have a substantial direct effect on one or more of the Minnesota Tribal governments?

- ☐ Yes
- ☒ No

Results:

High workloads, and court imposed timelines continue to make it difficult to recruit new staff particularly in Greater Minnesota. Workloads and caseloads continue to hamper the ability of public defenders to communicate and develop relationships with clients, both of which are necessary for acceptance of case outcomes, and to be a functioning partner in the criminal justice system.

Measure	Measure type	Measure data source	Most recent data	Projected change
Weighted Case Unit Per Attorney	Quality and Quantity	Board’s Case Management System	400	340

Statutory Change(s): n/a