

OFFICE OF PUBLIC DEFENDER

Section D

JOINT SUBCOMMITTEE OF HOUSE APPROPRIATIONS AND SENATE FINANCE AND CLAIMS COMMITTEES

-----Agencies-----

Judicial Branch
Dept. of Justice
Public Service Commission

Office of Public Defender
Dept. of Corrections

-----Committee Members-----

House

Representative Fiona Nave (Chair)
Representative Thedis Crowe
Representative Donavon Hawk
Representative Anthony Nicastrò

Senate

Senator Shelley Vance (Vice Chair)
Senator Tom McGillvray
Senator Shane Morigeau

-----Fiscal Division Staff-----

Walker Hopkins
Barb Wagner

Agency Base Budget Comparison

The following table compares the base budget with the requested expenditures for the upcoming biennium by type of expenditure and source of funding.

Agency Base Budget Comparison					
Budget Item	Base Budget	Requested Budget		Biennium Change from Base	
	FY 2025	FY 2026	FY 2027	Amount	Percent
PB	310.44	343.50	351.50	41.06	6.6%
General Fund	48,317,060	64,356,568	65,748,059	33,470,507	34.6%
Total Funds	48,317,060	64,356,568	65,748,059	33,470,507	34.6%
Personal Services	34,558,672	39,228,249	40,462,811	10,573,716	15.3%
Operating Expenses	13,758,388	24,859,866	25,075,456	22,418,546	81.5%
Equipment & Intangible Assets		186,000	42,000	228,000	0.0%
Debt Service		82,453	167,792	250,245	0.0%
Total Expenditures	48,317,060	64,356,568	65,748,059	33,470,507	34.6%
Total Ongoing	48,317,060	63,909,968	65,441,859	32,717,707	33.9%
Total One-Time-Only	1,050,000	446,600	306,200	(1,347,200)	(64.2%)

Agency Highlights

Office of Public Defender Major Budget Highlights
<p>The 2027 biennium request for the Office of Public Defender is \$33.5 million or 34.6% higher than FY 2025 base appropriations. Significant changes include:</p> <ul style="list-style-type: none"> • \$13.1 million general fund including \$12.5 million to cover the department's upcoming FY 2025 supplemental request and \$600,000 to fund OTO contracted attorney costs provided for the 2025 biennium • \$8.6 million for 33.06 new PB in FY 2026 and 41.06 new PB in FY 2027 • \$6.2 million general fund to increase the contracted attorney pay rate from \$71.00 to \$90.00 per hour • \$1.5 million to continue OTO funding in Yellowstone County • \$980,000 in statewide present law adjustments to personal services and fixed costs

Executive Request

The following table shows the total executive request with the base budget and the statewide present law adjustments, present law adjustments, and new proposals by source of funding.

Office of State Public Defender 2027 Biennium Base Budget and Requested Adjustments										
	FY 2026					FY 2027				
	General Fund	State Special	Federal Special	Total Funds	% of Budget Request	General Fund	State Special	Federal Special	Total Funds	% of Budget Request
Base Budget	48,317,060	0	0	48,317,060	75.1%	48,317,060	0	0	48,317,060	73.5%
Statewide PL										
Personal Services	183,118	0	0	183,118	0.3%	333,932	0	0	333,932	0.5%
Fixed Costs	226,516	0	0	226,516	0.4%	237,988	0	0	237,988	0.4%
Inflation Deflation	0	0	0	0	0.0%	0	0	0	0	0.0%
Total Statewide PL	409,634	0	0	409,634	0.6%	571,920	0	0	571,920	0.9%
Present Law (PL)	15,429,874	0	0	15,429,874	24.0%	16,659,079	0	0	16,659,079	25.3%
New Proposals	200,000	0	0	200,000	0.3%	200,000	0	0	200,000	0.3%
Total HB 2 Adjustments	16,039,508	0	0	16,039,508	24.9%	17,430,999	0	0	17,430,999	26.5%
Total Requested Budget	64,356,568	0	0	64,356,568		65,748,059	0	0	65,748,059	

Statewide Present Law Adjustment for Personal Services

In order to explain the factors influencing personal services changes, the proposed statewide personal services present law adjustment (DP1) has been broken down into three categories, as follows:

- Legislative changes - This category includes adjustments explicitly approved by the legislature, such as, changes to benefit rates, longevity adjustments required by statute, and changes in rates for workers' compensation and unemployment insurance
- Management changes - This category includes agency management decisions that adjust personal services related to changes in pay. This includes changes such as hiring positions budgeted (PB) at a lower rate to replace senior staff and broadband pay adjustments for recruitment and retention
- Budget modifications - This category includes other modifications to the FY 2025 personal services base budget such as management decisions to transfer personal services funding between programs within an agency or movement of personal services funding to or from another expenditure category (e.g. moving funding from operating expenses to personal services)

The figure below shows the analysis of the executive budget for personal services for each program.

Office of Public Defender FY 2026 Statewide Present Law Adjustment for Personal Services - DP1				
Program	Legislative Changes	Management Decisions	Budget Modifications	Total DP1
01 Public Defender Division	\$149,553	\$50,558	\$36,088	\$236,199
02 Appellate Defender Division	12,845	(31,551)	-	(18,706)
03 Conflict Defender Division	21,719	(129,525)	(3,558)	(111,363)
04 Central Services Division	59,431	57,943	(40,386)	76,988
Total	\$243,549	(\$52,575)	(\$7,856)	\$183,118

Personal services requested for the 2027 biennium are \$79.7 million which is an increase of \$10.6 million or 15.3% when compared to base appropriations. Nearly all this increase is attributed to requests for new positions for the 2027 biennium, which equal 33.06 PB in FY 2026 and 41.06 PB in FY 2027. As seen in the table above, a small portion of this increase can be attributed to statewide present law adjustments to personal services.

This increase primarily results from career ladder pay changes and adjustments to market rates and through additional legislative changes such as retirement and social security benefits. In some instances, negative management changes can be attributed to not fully utilizing all personal service appropriations.

Present Law Adjustments

In addition to statewide present law adjustments to personal services, inflation/deflation, and fixed costs, an additional request that is common to all programs in the Office of Public Defender (OPD) is a request for 22.06 additional PB. The OPD utilized these as modified positions and is asking they be made permanent. However, the OPD is requesting full personal service appropriations for these positions without reducing any existing resources. This would free up resources currently used to pay these positions for other functions. The executive has expressed their ability to hire these positions during the interim was due to its exemption from vacancy savings. These positions are as follows:

- Public Defender Division – 13.00 PB
 - 10.00 public defenders
 - 2.00 legal support staff
 - 1.00 office manager
- Appellate Defender Division – 1.00 PB legal support staff
- Conflict Defender Division – 3.00 PB public defenders
- Central Services Division – 5.06 PB
 - 1.00 bureau chief
 - 1.00 contracts program officer
 - 1.00 program planner
 - 2.00 public defenders

New Proposals

The executive is requesting one item that is common among all divisions in the OPD. This request looks to consolidate all funding for contracted attorneys and other operations into one area of the agency (Central Services Division). This request nets to zero dollars at the agency level but moves approximately \$22.5 million from the Public Defender, Appellate Defender, and Conflict Defender Division to the Central Services Division.

Funding

The following table shows proposed agency funding for all sources of authority.

Total Office of State Public Defender Funding by Source of Authority 2027 Biennium Budget Request						
Funds	HB2 Ongoing	HB2 OTO	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds
01100 General Fund	129,351,827	752,800			130,104,627	100.0%
State Special Revenue Total	-	-	-	-	-	0.0%
Federal Special Revenue Total	-	-	-	-	-	0.0%
Proprietary Fund Total	-	-	-	-	-	0.0%
Total of All Funds	129,351,827	752,800	-	-	130,104,627	
Percent of All Sources of Authority	99.4%	0.6%	0.0%	0.0%		

The OPD budget is funded exclusively with general fund and does not contain any non-budgeted proprietary programs or statutory appropriations.

Agency Actuals and Budget Comparison

The following table compares FY 2024 actual expenditures, FY 2024 and FY 2025 appropriations, and the expenditures requested for FY 2026 and FY 2027 by type of expenditure and source of funding.

Agency Actuals and Budget Comparison					
Budget Item	Actuals Fiscal 2024	Approp. Fiscal 2024	Approp. Fiscal 2025	Request Fiscal 2026	Request Fiscal 2027
PB	0.00	310.44	310.44	343.50	351.50
Personal Services	32,366,522	33,720,311	35,308,672	39,228,249	40,462,811
Operating Expenses	16,925,321	17,024,901	14,008,388	24,859,866	25,075,456
Equipment & Intangible Assets	50,000	50,000	50,000	186,000	42,000
Debt Service	2,097,158	2,178,493	0	82,453	167,792
Total Expenditures	\$51,439,001	\$52,973,705	\$49,367,060	\$64,356,568	\$65,748,059
General Fund	51,439,001	52,973,705	49,367,060	64,356,568	65,748,059
Total Funds	\$51,439,001	\$52,973,705	\$49,367,060	\$64,356,568	\$65,748,059
Total Ongoing	\$49,867,600	\$51,323,705	\$48,317,060	\$63,909,968	\$65,441,859
Total OTO	\$1,571,401	\$1,650,000	\$1,050,000	\$446,600	\$306,200

Agency Description

The mission of the statewide public defender system is to provide effective professional legal services with equal access to quality client-centered representation. Please refer to the agency profile at [Office of Public Defender - Montana Legislature](#) for additional information about the agency’s organization structure, historical expenditures, and goals and objectives.

FY 2024 Appropriation Compared to FY 2024 Actual Expenditures

In FY 2024, the OPD expended approximately \$51.4 million or 97.1% of its modified HB 2 budget. During FY 2024, the budget was increased due to the agency transferring \$5.3 million in operating expense authority from FY 2025 to cover shortfalls in paying contracted attorneys. More on this topic will be discussed within the Agency Discussion section of this report.

After accounting for modifications, the HB 2 budget for personal services totaled \$33.7 million and was expended at 96.0%, while operating expenses totaled \$17.0 million and were expended at 99.4%. Due to the OPD being biennially appropriated for the 2025 biennium, unexpended balanced of \$1.5 million can be continued into FY 2025 to help cover the deficit resulting from the original fiscal transfer. Had the fiscal transfer of authority not been performed, the OPD would have over expended total FY 2024 appropriations by 7.7%.

FY 2024 Appropriations Compared to FY 2025 Appropriations

When compared to FY 2024, appropriations in FY 2025 reflect a decrease of nearly \$3.6 million or approximately 6.8%. This is primarily the result of the fiscal transfer moving \$5.3 million to FY 2024 to cover contracted attorney shortfalls. This transfer effectively increased FY 2024 above FY 2025 levels.

The structure of appropriations between the two years changes as well. Personal services increase by \$1.6 million in FY 2025 as a result of an additional 4.0% for the pay plan, and operating expenses reflect a decrease of \$3.0 million as a result of the fiscal transfer of authority. Additionally, debt service authority is normally not budgeted, but rather, the department transferred authority to debt service during the fiscal year to record lease expenses per guidance from the Department of Administration.

LFD COMMENT	The Legislature may wish to establish debt service authority for the biennium eliminating the need to perform a budget modification during the interim.
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Comparison of FY 2025 Legislative Budget to FY 2025 Base

The figure below illustrates the beginning FY 2025 budget as adopted by the 2023 Legislature compared to the FY 2025 base budget, which includes modifications as approved by the approving authority (as authorized in statute) during the interim. The FY 2025 base budget was agreed upon by the Office of Budget and Program Planning and the Fiscal Division to be the point from which any changes would be recorded for the 2027 biennium budgeting process.

Office of Public Defender				
Comparison of the FY 2025 Legislative Budget to the FY 2025 Base Budget				
	Legislative Budget	Executive Modifications	Base Budget	% Change
01 PUBLIC DEFENDER DIVISION				
61000 Personal Services	26,486,137	(1,304,087)	25,182,050	-4.9%
62000 Operating Expenses	3,887,268		3,887,268	0.0%
Total	30,373,405	(1,304,087)	29,069,318	-4.3%
02 APPELLATE DEFENDER DIVISION				
61000 Personal Services	2,045,749	257,115	2,302,864	12.6%
62000 Operating Expenses	769,778		769,778	0.0%
Total	2,815,527	257,115	3,072,642	9.1%
03 CONFLICT DEFENDER DIVISION				
61000 Personal Services	3,472,136	120,372	3,592,508	3.5%
62000 Operating Expenses	6,701,118		6,701,118	0.0%
Total	10,173,254	120,372	10,293,626	1.2%
04 CENTRAL SERVICES DIVISION				
61000 Personal Services	2,554,650	926,600	3,481,250	36.3%
62000 Operating Expenses	2,400,223		2,400,223	0.0%
Total	4,954,873	926,600	5,881,473	18.7%
Agency Total	48,317,059	-	48,317,059	0.0%

The base budget in the 2027 biennium for the OPD is \$48.3 million. From the budget approved by the 2023 Legislature, the executive performed two program transfers which moved 12.00 total PB and associated personal service funding between different divisions in the agency. All these positions were transferred out of the Public Defender Division with the following distribution being made to other programs:

- The Appellate Defender Division received 2.00 PB
- The Conflict Defender Division received 1.00 PB
- The Central Services Division received 9.00 PB primarily due to the centralization of eligibility and contracting

Attorney Caseloads

Over the last few biennia, the OPD faced difficulties with backlogs in assigned cases. This began to show as the court system worked to clear their Covid related backlogs. This was aggravated by excessive vacancies in attorney positions in the OPD which reached 17.5% at its highest point. During the 2023 interim, the OPD worked with the executive to develop a new public defender pay scale. This initiative, along with new hiring and retention practices, has resulted in much lower position vacancies during the 2025 biennium.

The OPD received 8.00 additional attorney positions for the 2025 biennium and was able to fully staff these. While vacancies have fallen, the OPD still estimates a shortfall in terms of the number of PB that are needed to cover all newly received cases and cases that have ben open for an extended period of time. Their current estimate sits at 45.00 PB. This shortfall is estimated by keeping the contracted attorney levels constant and viewing the resulting number of case hours and how many attorneys would be needed to cover these case hours.

Workload in the OPD, based on its ethical case management standards, considers 125 new case hours per month to an attorney as standard. The amount of matter weight hours (both newly assigned and existing cases) that could not be assigned to an in-house attorney based on these standards or assigned to the contracted market, are what drive this estimated shortfall. The OPD has received additional PB over the last few biennia, and has been able to fill these positions, but increasing caseloads and issues with assigning cases in the private attorney market drive requests for additional PB.

The contracted private attorney market has increased over the last few fiscal years. Currently, the state utilizes a pay rate to contracted attorneys of \$71.00 an hour. This rate was established in May of 2020, but was based off FY 2019 analyses. The private market for contracted attorneys increased substantially during Covid and has continued to rise since. These increases are the primary driver of the agency's upcoming supplemental request.

HB 2 Language -

All appropriations in the Office of State Public Defender are biennial.

Program Base Budget Comparison

The following table compares the base budget with the requested expenditures for the upcoming biennium by type of expenditure and source of funding.

Program Base Budget Comparison					
Budget Item	Base Budget	Requested Budget		Biennium Change from Base	
	FY 2025	FY 2026	FY 2027	Amount	Percent
PB	229.00	242.00	242.00	13.00	2.8%
General Fund	29,069,317	27,748,354	27,902,519	(2,487,761)	(4.3%)
Total Funds	29,069,317	27,748,354	27,902,519	(2,487,761)	(4.3%)
Personal Services	25,182,050	27,598,354	27,752,519	4,986,773	9.9%
Operating Expenses	3,887,267	150,000	150,000	(7,474,534)	(96.1%)
Total Expenditures	29,069,317	27,748,354	27,902,519	(2,487,761)	(4.3%)
Total Ongoing	29,069,317	27,748,354	27,902,519	(2,487,761)	(4.3%)
Total One-Time-Only	925,000			(1,850,000)	(100.0%)

Program Highlights

Public Defender Division Major Budget Highlights
<p>The Public Defender Division's 2027 biennium budget request is 4.3% or \$2.5 million lower than the FY 2025 base. Significant differences include:</p> <ul style="list-style-type: none"> • \$2.9 million additional general fund for 13.00 PB to meet a need they have been covering through other budget resources • \$1.5 million to continue OTO funding in Yellowstone County • Nearly \$600,000 for statewide present law adjustments to personal services • A decrease of \$7.4 million due to the consolidation of all contracted attorney costs under the Central Services Division

Executive Request

The following table shows the total executive request with the base budget and the statewide present law adjustments, present law adjustments, and new proposals by source of funding.

Public Defender Division 2027 Biennium HB 2 Base Budget and Requested Adjustments										
	FY 2026					FY 2027				
	General Fund	State Special	Federal Special	Total Funds	% of Budget Request	General Fund	State Special	Federal Special	Total Funds	% of Budget Request
Base Budget	29,069,317	0	0	29,069,317	104.8%	29,069,317	0	0	29,069,317	104.2%
Statewide PL										
Personal Services	236,198	0	0	236,198	0.9%	346,849	0	0	346,849	1.2%
Fixed Costs	0	0	0	0	0.0%	0	0	0	0	0.0%
Inflation Deflation	0	0	0	0	0.0%	0	0	0	0	0.0%
Total Statewide PL	236,198	0	0	236,198	0.9%	346,849	0	0	346,849	1.2%
Present Law (PL)	2,180,106	0	0	2,180,106	7.9%	2,223,620	0	0	2,223,620	8.0%
New Proposals	(3,737,267)	0	0	(3,737,267)	(13.5%)	(3,737,267)	0	0	(3,737,267)	(13.4%)
Total HB 2 Adjustments	(1,320,963)	0	0	(1,320,963)	(4.8%)	(1,166,798)	0	0	(1,166,798)	(4.2%)
Total Requested Budget	27,748,354	0	0	27,748,354		27,902,519	0	0	27,902,519	

Funding

The following table shows proposed program funding for all sources of authority.

Office of State Public Defender, 01-Public Defender Division Funding by Source of Authority							
Funds	HB2 Ongoing	HB2 OTO	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds	
01100 General Fund	55,650,873	0	0	0	55,650,873	100.0%	
State Special Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Federal Special Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Proprietary Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Total All Funds	\$55,650,873	\$0	\$0	\$0	\$55,650,873		

The Public Defender Division is funded exclusively with general fund.

Program Actuals and Budget Comparison

The following table compares FY 2024 actual expenditures, FY 2024 and FY 2025 appropriations, and the expenditures requested for FY 2026 and FY 2027 by type of expenditure and source of funding.

Program Actuals and Budget Comparison					
Budget Item	Actuals Fiscal 2024	Approp. Fiscal 2024	Approp. Fiscal 2025	Request Fiscal 2026	Request Fiscal 2027
PB	0.00	229.00	229.00	242.00	242.00
Personal Services	24,444,335	25,093,230	25,932,050	27,598,354	27,752,519
Operating Expenses	6,205,028	6,181,261	4,062,267	150,000	150,000
Debt Service	1,480,587	1,496,857	0	0	0
Total Expenditures	\$32,129,950	\$32,771,348	\$29,994,317	\$27,748,354	\$27,902,519
General Fund	32,129,950	32,771,348	29,994,317	27,748,354	27,902,519
Total Funds	\$32,129,950	\$32,771,348	\$29,994,317	\$27,748,354	\$27,902,519
Total Ongoing	\$30,904,950	\$31,546,348	\$29,069,317	\$27,748,354	\$27,902,519
Total OTO	\$1,225,000	\$1,225,000	\$925,000	\$0	\$0

Program Description

The Public Defender Division oversees services to qualifying clients by providing effective assistance of counsel to indigent criminal defendants and other persons in certain civil cases who are entitled by law to assistance of counsel.

FY 2024 Appropriation Compared to FY 2024 Actual Expenditures

The Public Defender Division expended 98.0% of its \$32.7 million HB 2 modified budget in FY 2024. Personal services were 97.4% expended and operating expenses were 100.4% expended. The division’s FY 2024 budget was increased by nearly \$2.3 million through a fiscal transfer of FY 2025 authority. This funding was allocated to operating expenses to cover shortfalls in paying contracted attorneys. Without the transfer of authority, the division’s budget would have been 105.4% expended.

Unexpended HB 2 authority of \$550,000 will carry into FY 2025 as the OPD is biennially appropriated. In addition to the HB 2 budget, the Public Defender Division also received and expended \$300,000 in authority provided through HB 16. This authority was split between personal services and operating expenses.

FY 2024 Appropriations Compared to FY 2025 Appropriations

Appropriations of \$30.0 million in FY 2025 reflect a decrease of approximately \$2.8 million or 8.5% when compared to FY 2024 appropriations. When disregarding the fiscal transfer which is included in both years of the table below to provide for direct comparisons to the FY 2025 base budget, the FY 2025 appropriation would have been only \$0.5 million lower than FY 2024. Personal services increases are a result of additional HB 13 pay plan authority. Additionally, debt service authority has not been budgeted and is normally established through an operating plan change during the interim to record lease expenses. This change generally moves operating expense authority to debt services.

Program Personal Services

Personal services requested for the 2027 biennium in the Public Defender Division are nearly \$55.4 million or \$5.0 million higher than the 2025 biennium. This reflects an increase of 9.9%. This is mainly attributed to requests for 13.00 PB for additional support staff and attorney positions costing \$2.9 million, a request for \$1.5 million personal services to continue one-time-only appropriations in Yellowstone County, and increases in statewide present statewide adjustments to personal services totaling \$580,000.

These adjustments in statewide present law are mainly caused by career ladder and market pay increases provided to employees by agency management. Additionally, some increases relate to position benefits for retirement and social security.

Present Law Adjustments

The "Present Law" Adjustments table shows the changes from the base appropriation to the proposed budget. "Statewide Present Law" adjustments (DP 1, DP 2, DP 3) are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies.

	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 1 - Personal Services	0.00	236,198	0	0	236,198	0.00	346,849	0	0	346,849
DP 101 - Sustain Exst Pub Def Svcs - PDD Current Modifieds	13.00	1,430,106	0	0	1,430,106	13.00	1,473,620	0	0	1,473,620
DP 601 - Sustain Exst Pub Def Svcs - YC Funding Shift	0.00	750,000	0	0	750,000	0.00	750,000	0	0	750,000
Grand Total All Present Law Adjustments	13.00	\$2,416,304	\$0	\$0	\$2,416,304	13.00	\$2,570,469	\$0	\$0	\$2,570,469

**Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 1 - Personal Services -

The executive requests adjustments to the present law personal services budget. This request has been broken into the following categories, and further detail is shown in the agency summary:

- Legislatively approved changes
- Management decisions
- Budget modifications made to the personal services budget in the 2025 biennium

Office of Public Defender Public Defender Division FY 2026 Statewide Present Law Adjustment for Personal Services	
Legislative Changes	\$149,553
Management Decisions	50,558
Budget Modifications	36,088
Total	\$236,199

DP 101 - Sustain Exst Pub Def Svcs - PDD Current Modifieds -

The executive is requesting funding for 13.00 total PB.

LFD COMMENT	The Public Defender Division is currently utilizing 13.00 modified PB positions including ten public defenders, two legal support staff, and one office manager. During the 2025 interim, the OPD has been paying these positions out of existing resources. This request looks to fund those positions within the agency's HB 2 budget which should free up the resources currently used to pay these modified positions.
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DP 601 - Sustain Exst Pub Def Svcs - YC Funding Shift -

The executive requests additional general fund to remedy case backlogs in Yellowstone County.

LFD COMMENT The Public Defender Division received ARPA grant funding to combat case buildup in Yellowstone County. As the funding expired, the 2023 Legislature provided this funding as OTO for the 2025 biennium, and this funding was utilized as personal services to pay modified positions. This request asks to continue that funding in an ongoing manner beginning in the 2027 biennium but does not request new PB.

New Proposals

The "New Proposals" table shows new proposals for spending.

New Proposals	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 2204 - Centralize External Pub Def Costs	0.00	(3,737,267)	0	0	(3,737,267)	0.00	(3,737,267)	0	0	(3,737,267)
Total	0.00	(\$3,737,267)	\$0	\$0	(\$3,737,267)	0.00	(\$3,737,267)	\$0	\$0	(\$3,737,267)

*"Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 2204 - Centralize External Pub Def Costs -

The executive requests moving all authority for contracting and operations into the Central Services Division.

LFD COMMENT This consolidation nets to \$0 across all programs.

Program Base Budget Comparison

The following table compares the base budget with the requested expenditures for the upcoming biennium by type of expenditure and source of funding.

Program Base Budget Comparison						
Budget Item	Base Budget	Requested Budget		Biennium Change from Base		
	FY 2025	FY 2026	FY 2027	Amount	Percent	
PB	18.50	19.50	19.50	1.00	2.7%	
General Fund	3,072,642	2,356,785	2,376,179	(1,412,320)	(23.0%)	
Total Funds	3,072,642	2,356,785	2,376,179	(1,412,320)	(23.0%)	
Personal Services	2,302,864	2,356,785	2,376,179	127,236	2.8%	
Operating Expenses	769,778			(1,539,556)	(100.0%)	
Total Expenditures	3,072,642	2,356,785	2,376,179	(1,412,320)	(23.0%)	
Total Ongoing	3,072,642	2,356,785	2,376,179	(1,412,320)	(23.0%)	
Total One-Time-Only					0.0%	

Program Highlights

<p>Appellate Defender Division Major Budget Highlights</p>
<p>The Appellate Defender Division’s 2027 biennium budget request is 2.8% or 1.4 million lower than the 2025 base budget. Significant changes include:</p> <ul style="list-style-type: none"> • \$147,000 for 1.00 PB legal staff supporter • Decrease of \$19,000 related to statewide present law adjustments to personal services • A decrease of \$1.5 million due to the consolidation of all contracted attorney costs under the Central Services Division

Executive Request

The following table shows the total executive request with the base budget and the statewide present law adjustments, present law adjustments, and new proposals by source of funding.

Appellate Defender Division 2027 Biennium HB 2 Base Budget and Requested Adjustments										
	FY 2026					FY 2027				
	General Fund	State Special	Federal Special	Total Funds	% of Budget Request	General Fund	State Special	Federal Special	Total Funds	% of Budget Request
Base Budget	3,072,642	0	0	3,072,642	130.4%	3,072,642	0	0	3,072,642	129.3%
Statewide PL										
Personal Services	(18,705)	0	0	(18,705)	(0.8%)	(1,148)	0	0	(1,148)	(0.0%)
Fixed Costs	0	0	0	0	0.0%	0	0	0	0	0.0%
Inflation Deflation	0	0	0	0	0.0%	0	0	0	0	0.0%
Total Statewide PL	(18,705)	0	0	(18,705)	(0.8%)	(1,148)	0	0	(1,148)	(0.0%)
Present Law (PL)	72,626	0	0	72,626	3.1%	74,463	0	0	74,463	3.1%
New Proposals	(769,778)	0	0	(769,778)	(32.7%)	(769,778)	0	0	(769,778)	(32.4%)
Total HB 2 Adjustments	(715,857)	0	0	(715,857)	(30.4%)	(696,463)	0	0	(696,463)	(29.3%)
Total Requested Budget	2,356,785	0	0	2,356,785		2,376,179	0	0	2,376,179	

Funding

The following table shows proposed program funding for all sources of authority.

Office of State Public Defender, 02-Appellate Defender Division Funding by Source of Authority							
Funds	HB2 Ongoing	HB2 OTO	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds	
01100 General Fund	4,732,964	0	0	0	4,732,964	100.0%	
State Special Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Federal Special Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Proprietary Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Total All Funds	\$4,732,964	\$0	\$0	\$0	\$4,732,964		

The Appellate Defender Division is funded exclusively with general fund.

Program Actuals and Budget Comparison

The following table compares FY 2024 actual expenditures, FY 2024 and FY 2025 appropriations, and the expenditures requested for FY 2026 and FY 2027 by type of expenditure and source of funding.

Program Actuals and Budget Comparison					
Budget Item	Actuals Fiscal 2024	Approp. Fiscal 2024	Approp. Fiscal 2025	Request Fiscal 2026	Request Fiscal 2027
PB	0.00	18.50	18.50	19.50	19.50
Personal Services	1,901,914	2,193,102	2,302,864	2,356,785	2,376,179
Operating Expenses	836,658	852,283	769,778	0	0
Debt Service	107,737	110,504	0	0	0
Total Expenditures	\$2,846,309	\$3,155,889	\$3,072,642	\$2,356,785	\$2,376,179
General Fund	2,846,309	3,155,889	3,072,642	2,356,785	2,376,179
Total Funds	\$2,846,309	\$3,155,889	\$3,072,642	\$2,356,785	\$2,376,179
Total Ongoing	\$2,846,309	\$3,155,889	\$3,072,642	\$2,356,785	\$2,376,179
Total OTO	\$0	\$0	\$0	\$0	\$0

Program Description

The Appellate Defender Division provides appellate services to qualifying clients and practices, almost exclusively, before the Montana Supreme Court and the United States Supreme Court. Most of the workforce is comprised of attorneys providing legal services. Legal assistants comprise the remaining portion of the workforce.

FY 2024 Appropriations Compared to FY 2024 Actual Expenditures

The Appellate Defender Division expended 90.2% of its \$3.2 million HB 2 modified budget in FY 2024. Personal services were 86.7% expended, and operating expenses were 98.2% expended. The budget in the division was increased by \$200,000 in FY 2024 through a fiscal transfer, and after this increase, total allocations within the division were 69.5% for personal services, 27.0% for operating expenses, and the remaining authority was for lease expenses recorded as debt service. Unexpended HB 2 authority of just over \$300,000 will carry into FY 2025 as the OPD is biennially appropriated.

FY 2024 Appropriations Compared to FY 2025 Appropriations

FY 2025 appropriations are very similar to FY 2024 reflecting a decrease of approximately \$80,000 or 2.7%. These numbers, however, include the transfer of \$200,000 authority from FY 2025 in both years of the table which does not accurately represent remaining authority for FY 2025. Actual remaining authority is approximately \$2.9 million reflecting an overall decrease of just over \$250,000 when compared to the FY 2024 modified budget.

Program Personal Services

Personal services requested for the 2027 biennium in the Appellate Defender Division are \$4.7 million or \$127,000 higher than the 2025 base budget. This reflects an increase of 2.8%. This is mainly attributed to requests for 1.00 additional support staff position costing \$140,000 which is partially offset by statewide present law reductions to personal services totaling \$20,000. These reductions are mainly caused by the executive not fully utilizing the full amount provided within the 2025 biennium’s personal service budgets in a way that is captured in the snapshot and through rehiring vacant positions at lower rates than when the positions became vacant.

Present Law Adjustments

The "Present Law" Adjustments table shows the changes from the base appropriation to the proposed budget. "Statewide Present Law" adjustments (DP 1, DP 2, DP 3) are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies.

	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 1 - Personal Services	0.00	(18,705)	0	0	(18,705)	0.00	(1,148)	0	0	(1,148)
DP 202 - Sustain Exst Pub Def Svcs - ADD Current Modifieds	1.00	72,626	0	0	72,626	1.00	74,463	0	0	74,463
Grand Total All Present Law Adjustments	1.00	\$53,921	\$0	\$0	\$53,921	1.00	\$73,315	\$0	\$0	\$73,315

**"Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 1 - Personal Services -

The executive requests adjustments to the present law personal services budget. This request has been broken into the following categories, and further detail is shown in the agency summary:

- Legislatively approved changes
- Management decisions
- Budget modifications made to the personal services budget in the 2025 biennium

Office of Public Defender Appellate Defender Division FY 2026 Statewide Present Law Adjustment for Personal Services	
Legislative Changes	\$12,845
Management Decisions	(31,551)
Budget Modifications	-
Total	(\$18,706)

DP 202 - Sustain Exst Pub Def Svcs - ADD Current Modifieds -

The executive requests funding for 1.00 additional PB pertaining to a legal support staff.

LFD COMMENT	The Appellate Defender Division is currently utilizing 1.00 modified legal support staff position. During the 2025 interim, the OPD has been paying this position out of existing resources. This request looks to fund this PB within the agency's HB 2 budget which should free up the resources currently used to pay the position.
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New Proposals

The "New Proposals" table shows new proposals for spending.

New Proposals	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 2204 - Centralize External Pub Def Costs	0.00	(769,778)	0	0	(769,778)	0.00	(769,778)	0	0	(769,778)
Total	0.00	(\$769,778)	\$0	\$0	(\$769,778)	0.00	(\$769,778)	\$0	\$0	(\$769,778)

*"Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 2204 - Centralize External Pub Def Costs -

The executive requests moving all authority for contracting and operations into the Central Services Division.

LFD COMMENT	This consolidation nets to \$0 across all programs.
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Program Base Budget Comparison

The following table compares the base budget with the requested expenditures for the upcoming biennium by type of expenditure and source of funding.

Program Base Budget Comparison					
Budget Item	Base Budget	Requested Budget		Biennium Change from Base	
	FY 2025	FY 2026	FY 2027	Amount	Percent
PB	30.00	33.00	33.00	3.00	5.0%
General Fund	10,293,627	3,855,478	3,869,997	(12,861,779)	(62.5%)
Total Funds	10,293,627	3,855,478	3,869,997	(12,861,779)	(62.5%)
Personal Services	3,592,508	3,855,478	3,869,997	540,459	7.5%
Operating Expenses	6,701,119			(13,402,238)	(100.0%)
Total Expenditures	10,293,627	3,855,478	3,869,997	(12,861,779)	(62.5%)
Total Ongoing	10,293,627	3,855,478	3,869,997	(12,861,779)	(62.5%)
Total One-Time-Only					0.0%

Program Highlights

Conflict Defender Division Major Budget Highlights
<p>The Conflict Defender Division’s 2027 biennium budget request is 62.5% or \$12.9 million lower than the FY 2025 base budget. Significant changes include the following:</p> <ul style="list-style-type: none"> • \$750,000 for the biennium for 3.00 PB • A decrease of \$210,000 related to statewide present law adjustments to personal services • A decrease of \$13.4 million for the biennium related to consolidating all external public defender costs to the Central Services Division

Executive Request

The following table shows the total executive request with the base budget and the statewide present law adjustments, present law adjustments, and new proposals by source of funding.

Conflict Defender Division 2027 Biennium HB 2 Base Budget and Requested Adjustments										
	FY 2026					FY 2027				
	General Fund	State Special	Federal Special	Total Funds	% of Budget Request	General Fund	State Special	Federal Special	Total Funds	% of Budget Request
Base Budget	10,293,627	0	0	10,293,627	267.0%	10,293,627	0	0	10,293,627	266.0%
Statewide PL										
Personal Services	(111,363)	0	0	(111,363)	(2.9%)	(102,297)	0	0	(102,297)	(2.6%)
Fixed Costs	0	0	0	0	0.0%	0	0	0	0	0.0%
Inflation Deflation	0	0	0	0	0.0%	0	0	0	0	0.0%
Total Statewide PL	(111,363)	0	0	(111,363)	(2.9%)	(102,297)	0	0	(102,297)	(2.6%)
Present Law (PL)	374,333	0	0	374,333	9.7%	379,786	0	0	379,786	9.8%
New Proposals	(6,701,119)	0	0	(6,701,119)	(173.8%)	(6,701,119)	0	0	(6,701,119)	(173.2%)
Total HB 2 Adjustments	(6,438,149)	0	0	(6,438,149)	(167.0%)	(6,423,630)	0	0	(6,423,630)	(166.0%)
Total Requested Budget	3,855,478	0	0	3,855,478		3,869,997	0	0	3,869,997	

Funding

The following table shows proposed program funding for all sources of authority.

Office of State Public Defender, 03-Conflict Defender Division Funding by Source of Authority						
Funds	HB2 Ongoing	HB2 OTO	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds
01100 General Fund	7,725,475	0	0	0	7,725,475	100.0%
State Special Total	\$0	\$0	\$0	\$0	\$0	0.0%
Federal Special Total	\$0	\$0	\$0	\$0	\$0	0.0%
Proprietary Total	\$0	\$0	\$0	\$0	\$0	0.0%
Total All Funds	\$7,725,475	\$0	\$0	\$0	\$7,725,475	

The Conflict Defender Division is funded exclusively with general fund.

Program Actuals and Budget Comparison

The following table compares FY 2024 actual expenditures, FY 2024 and FY 2025 appropriations, and the expenditures requested for FY 2026 and FY 2027 by type of expenditure and source of funding.

Program Actuals and Budget Comparison					
Budget Item	Actuals Fiscal 2024	Approp. Fiscal 2024	Approp. Fiscal 2025	Request Fiscal 2026	Request Fiscal 2027
PB	0.00	30.00	30.00	33.00	33.00
Personal Services	2,951,550	3,317,578	3,592,508	3,855,478	3,869,997
Operating Expenses	7,511,794	7,606,301	6,701,119	0	0
Debt Service	331,206	339,959	0	0	0
Total Expenditures	\$10,794,550	\$11,263,838	\$10,293,627	\$3,855,478	\$3,869,997
General Fund	10,794,550	11,263,838	10,293,627	3,855,478	3,869,997
Total Funds	\$10,794,550	\$11,263,838	\$10,293,627	\$3,855,478	\$3,869,997
Total Ongoing	\$10,573,149	\$10,963,838	\$10,293,627	\$3,855,478	\$3,869,997
Total OTO	\$221,401	\$300,000	\$0	\$0	\$0

Program Description

The Conflict Defender Division oversees services to qualifying clients by providing effective assistance of counsel to indigent criminal defendants and other persons in certain civil cases. This division represents only those clients, in circumstances where, because of a conflict of interest, the public defender division is unable to provide representation.

FY 2024 Appropriations Compared to FY 2024 Actual Expenditures

The Conflict Defender Division expended 95.8% of its FY 2024 modified HB 2 budget. Total appropriations for FY 2024 were increased by just under \$2.6 million through the fiscal transfer. After modifications, personal service budgets were spent at 89.0%, while operating expenses were expended at 98.8%. Without the transfer of authority from FY 2025, budgets would have been 23.9% over expended. Unexpended HB 2 authority of approximately \$470,000 (primarily in personal services) will be transferred back to FY 2025 as the OPD is biennially appropriated.

FY 2024 Appropriations Compared to FY 2025 Appropriations

FY 2025 appropriations reflect being approximately \$1.0 million or 8.6% lower than FY 2024. These numbers include about \$2.6 million of authority that was transferred to FY 2024 to cover shortfalls. This division is one of the greater drivers for the upcoming FY 2025 supplemental request. The agency has not yet transferred authority to debt service as seen in the table above. Personal service authority increased slightly due to the extra HB 13 pay plan authority.

Program Personal Services

Personal services requested for the 2027 biennium are \$7.7 million or \$540,000 higher than the 2025 base budget. This reflects an increase of 7.5%. This is mainly attributed to requests for 3.00 additional defender positions costing \$760,000 which is offset by statewide present law reductions to personal services totaling \$213,000. These reductions are mainly seen in legislative changes and are the primary result of how the snapshot calculates pay plan funding by position in addition to rehiring vacant positions at slightly lower rates.

Present Law Adjustments

The "Present Law" Adjustments table shows the changes from the base appropriation to the proposed budget. "Statewide Present Law" adjustments (DP 1, DP 2, DP 3) are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies.

	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 1 - Personal Services	0.00	(111,363)	0	0	(111,363)	0.00	(102,297)	0	0	(102,297)
DP 303 - Sustain Exst Pub Def Svcs - CDD Current Modifieds	3.00	374,333	0	0	374,333	3.00	379,786	0	0	379,786
Grand Total All Present Law Adjustments	3.00	\$262,970	\$0	\$0	\$262,970	3.00	\$277,489	\$0	\$0	\$277,489

**Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 1 - Personal Services -

The executive requests adjustments to the present law personal services budget. This request has been broken into the following categories, and further detail is shown in the agency summary:

- Legislatively approved changes
- Management decisions
- Budget modifications made to the personal services budget in the 2025 biennium

Office of Public Defender Conflict Defender Division FY 2026 Statewide Present Law Adjustment for Personal Services	
Legislative Changes	\$21,719
Management Decisions	(129,525)
Budget Modifications	(3,558)
Total	<u>(\$111,363)</u>

DP 303 - Sustain Exst Pub Def Svcs - CDD Current Modifieds -

The executive is requesting 3.00 additional public defender positions.

LFD COMMENT	The Conflict Defender Division is currently utilizing 3.00 modified public defender positions. During the 2025 interim, the OPD has been paying these positions out of existing resources. This request looks to fund these PB within the agency’s HB 2 budget which should free up the resources currently used to pay the positions.
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New Proposals

The “New Proposals” table shows new proposals for spending.

	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 2204 - Centralize External Pub Def Costs	0.00	(6,701,119)	0	0	(6,701,119)	0.00	(6,701,119)	0	0	(6,701,119)
Total	0.00	(\$6,701,119)	\$0	\$0	(\$6,701,119)	0.00	(\$6,701,119)	\$0	\$0	(\$6,701,119)

**Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 2204 - Centralize External Pub Def Costs -

The executive requests moving all authority for contracting and operations into the Central Services Division.

**LFD
COMMENT**

This consolidation nets to \$0 across all programs.

Program Base Budget Comparison

The following table compares the base budget with the requested expenditures for the upcoming biennium by type of expenditure and source of funding.

Program Base Budget Comparison					
Budget Item	Base Budget	Requested Budget		Biennium Change from Base	
	FY 2025	FY 2026	FY 2027	Amount	Percent
PB	32.94	49.00	57.00	24.06	36.5%
General Fund	5,881,474	30,395,951	31,599,364	50,232,367	427.0%
Total Funds	5,881,474	30,395,951	31,599,364	50,232,367	427.0%
Personal Services	3,481,250	5,417,632	6,464,116	4,919,248	70.7%
Operating Expenses	2,400,224	24,709,866	24,925,456	44,834,874	934.0%
Equipment & Intangible Assets		186,000	42,000	228,000	0.0%
Debt Service		82,453	167,792	250,245	0.0%
Total Expenditures	5,881,474	30,395,951	31,599,364	50,232,367	427.0%
Total Ongoing	5,881,474	29,949,351	31,293,164	49,479,567	420.6%
Total One-Time-Only	125,000	446,600	306,200	502,800	201.1%

Program Highlights

<p>Central Services Division Major Budget Highlights</p>
<p>The Central Services Division's 2027 biennium budget request is \$50.2 million or 427.0% higher than the FY 2025 base budget. Significant biennial proposals include:</p> <ul style="list-style-type: none"> • \$22.4 million to consolidate all contracted attorney costs within the Central Services Division accompanied by decreases in all other divisions • \$13.1 million general fund including \$12.5 million to cover the department's supplemental request and \$600,000 to fund OTO contracted attorney costs provided for the 2025 biennium • Nearly \$6.2 million general fund to increase the contracted attorney pay rate from \$71.00 to \$90.00 per hour • Almost \$3.1 million for 8.00 new attorney positions in FY 2026 and 16.00 new attorney positions in FY 2027 • \$1.2 million general fund to fund 5.06 additional FTE currently being utilized as modified positions • \$1.0 million general fund for increased licensing costs

Executive Request

The following table shows the total executive request with the base budget and the statewide present law adjustments, present law adjustments, and new proposals by source of funding.

Central Services Division 2027 Biennium HB 2 Base Budget and Requested Adjustments										
	FY 2026					FY 2027				
	General Fund	State Special	Federal Special	Total Funds	% of Budget Request	General Fund	State Special	Federal Special	Total Funds	% of Budget Request
Base Budget	5,881,474	0	0	5,881,474	19.3%	5,881,474	0	0	5,881,474	18.6%
Statewide PL										
Personal Services	76,988	0	0	76,988	0.3%	90,528	0	0	90,528	0.3%
Fixed Costs	226,516	0	0	226,516	0.7%	237,988	0	0	237,988	0.8%
Inflation Deflation	0	0	0	0	0.0%	0	0	0	0	0.0%
Total Statewide PL	303,504	0	0	303,504	1.0%	328,516	0	0	328,516	1.0%
Present Law (PL)	12,802,809	0	0	12,802,809	42.1%	13,981,210	0	0	13,981,210	44.2%
New Proposals	11,408,164	0	0	11,408,164	37.5%	11,408,164	0	0	11,408,164	36.1%
Total HB 2 Adjustments	24,514,477	0	0	24,514,477	80.7%	25,717,890	0	0	25,717,890	81.4%
Total Requested Budget	30,395,951	0	0	30,395,951		31,599,364	0	0	31,599,364	

Funding

The following table shows proposed program funding for all sources of authority.

Office of State Public Defender, 04-Central Services Division Funding by Source of Authority							
Funds	HB2 Ongoing	HB2 OTO	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds	
01100 General Fund	61,242,515	752,800	0	0	61,995,315	100.0%	
State Special Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Federal Special Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Proprietary Total	\$0	\$0	\$0	\$0	\$0	0.0%	
Total All Funds	\$61,242,515	\$752,800	\$0	\$0	\$61,995,315		

The Central Services Division is funded exclusively with general fund.

Program Actuals and Budget Comparison

The following table compares FY 2024 actual expenditures, FY 2024 and FY 2025 appropriations, and the expenditures requested for FY 2026 and FY 2027 by type of expenditure and source of funding.

Program Actuals and Budget Comparison					
Budget Item	Actuals Fiscal 2024	Approp. Fiscal 2024	Approp. Fiscal 2025	Request Fiscal 2026	Request Fiscal 2027
PB	0.00	32.94	32.94	49.00	57.00
Personal Services	3,068,723	3,116,401	3,481,250	5,417,632	6,464,116
Operating Expenses	2,371,841	2,385,056	2,475,224	24,709,866	24,925,456
Equipment & Intangible Assets	50,000	50,000	50,000	186,000	42,000
Debt Service	177,628	231,173	0	82,453	167,792
Total Expenditures	\$5,668,192	\$5,782,630	\$6,006,474	\$30,395,951	\$31,599,364
General Fund	5,668,192	5,782,630	6,006,474	30,395,951	31,599,364
Total Funds	\$5,668,192	\$5,782,630	\$6,006,474	\$30,395,951	\$31,599,364
Total Ongoing	\$5,543,192	\$5,657,630	\$5,881,474	\$29,949,351	\$31,293,164
Total OTO	\$125,000	\$125,000	\$125,000	\$446,600	\$306,200

Program Description

Provides management of non-legal services, i.e., accounting, budgeting, IT, payroll, contracting, quality and performance controls to all programs. The oversight of the eligibility determination process, including verification of all hardship cases, is also a responsibility of this division.

FY 2024 Appropriation Compared to FY 2024 Actual Expenditures

The Central Services Division expended 98.0% of its \$5.8 million HB 2 modified budget in FY 2024. Personal services were 98.5% expended, and operating expenses were 99.4% expended. This division's FY 2024 budget was increased by \$300,000 through the fiscal transfer, of which all was allocated to operating expenses. Without the transfer, the division's budget would have been 103.4% expended.

FY 2024 Appropriations Compared to FY 2025 Appropriations

When compared to FY 2024, appropriations in FY 2025 reflect an increase of \$220,000 or 3.9%. This includes the transfer of \$300,000 from FY 2025 to FY 2024 which is included in both years. Principally, authority between the two years is very similar. Small increases in personal services result from the pay plan authority for FY 2025.

Program Personal Services

Personal service authority requested for the 2027 biennium is \$11.9 million. This is an increase of \$4.9 million or 70.7% when compared to the FY 2025 base. Increases are attributed to the request for an additional 16.06 PB in FY 2024 and 24.06 PB in FY 2025. Additionally, statewide present law increases to personal services contribute a small amount and are mainly due to the agency rehiring vacant positions at higher rates than when the positions became vacant.

Present Law Adjustments

The "Present Law" Adjustments table shows the changes from the base appropriation to the proposed budget. "Statewide Present Law" adjustments (DP 1, DP 2, DP 3) are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies.

	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 1 - Personal Services	0.00	76,988	0	0	76,988	0.00	90,528	0	0	90,528
DP 2 - Fixed Costs	0.00	226,516	0	0	226,516	0.00	237,988	0	0	237,988
DP 404 - Sustain Exst Pub Def Svcs - CSD Current Modifieds	5.06	595,027	0	0	595,027	5.06	596,181	0	0	596,181
DP 504 - Sustain Exst Pub Def Svcs - Contract Svcs Overage	0.00	6,550,000	0	0	6,550,000	0.00	6,550,000	0	0	6,550,000
DP 704 - Sustain Exst Pub Def Svcs - Contr Pub Def Rates	0.00	3,177,586	0	0	3,177,586	0.00	3,177,586	0	0	3,177,586
DP 904 - Close Pub Def Shortfall - PB - Years 1-2	8.00	1,016,638	0	0	1,016,638	16.00	2,048,428	0	0	2,048,428
DP 1104 - Sustain Exst Pub Def Svcs - Provider Rates	0.00	171,139	0	0	171,139	0.00	350,835	0	0	350,835
DP 1204 - Sustain Exst Pub Def Svcs - Contracts Program	3.00	281,329	0	0	281,329	3.00	272,929	0	0	272,929
DP 1304 - Sustain Eff Pub Def Supp - AI/Tech License	0.00	500,000	0	0	500,000	0.00	500,000	0	0	500,000
DP 1504 - Sustain Eff Pub Def Supp - Computer Purch (BIEN, OTO)	0.00	171,600	0	0	171,600	0.00	31,200	0	0	31,200
DP 1604 - Sustain Eff Pub Def Supp - Agency Training Events (OTO)	0.00	150,000	0	0	150,000	0.00	150,000	0	0	150,000
DP 1704 - Sustain Eff Pub Def Supp - Client Comm/Access Tech (OTO)	0.00	75,000	0	0	75,000	0.00	75,000	0	0	75,000
DP 1904 - Sustain Exst Pub Def Svcs - Lease Rates	0.00	82,453	0	0	82,453	0.00	167,792	0	0	167,792
DP 2004 - Sustain Exst Pub Def Svcs - Court Report Rates	0.00	8,025	0	0	8,025	0.00	8,025	0	0	8,025
DP 2104 - Sustain Exst Pub Def Svcs - Postage Inflation	0.00	24,012	0	0	24,012	0.00	53,234	0	0	53,234
Grand Total All Present Law Adjustments	16.06	\$13,106,313	\$0	\$0	\$13,106,313	24.06	\$14,309,726	\$0	\$0	\$14,309,726

**Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 1 - Personal Services -

The executive requests adjustments to the present law personal services budget. This request has been broken into the following categories, and further detail is shown in the agency summary:

- Legislatively approved changes
- Management decisions
- Budget modifications made to the personal services budget in the 2025 biennium

Office of Public Defender Central Services Division FY 2026 Statewide Present Law Adjustment for Personal Services	
Legislative Changes	\$59,431
Management Decisions	57,943
Budget Modifications	(40,386)
Total	\$76,988

DP 2 - Fixed Costs -

The executive requests adjustments to provide the funding required in the proposed budget to pay increases in fixed costs assessed by other agencies within state government for the services they provide. Examples include: audit fees, Capitol complex rent, information technology services, etc. The rates charged for these services are approved in the section of the budget that provides the services.

DP 404 - Sustain Exst Pub Def Svcs - CSD Current Modifieds -

The executive is requesting funding for 5.06 PB.

**LFD
COMMENT**

The Central Services Division is currently utilizing 5.00 modified positions that are assisting administrative and operational support of the agency. These PB comprise of one Bureau Chief, one program planner, one contracting program officer, and two public defender positions. Additionally, one position currently sits at 0.94 PB, and this request would take that position to 1.00 PB resulting in the increase of 5.06 PB. This request looks to fund these positions within the agency's HB 2 budget moving forward which would free up authority that is currently utilized to pay these modified positions for other purposes.

DP 504 - Sustain Exst Pub Def Svcs - Contract Svcs Overage -

The executive requests additional general fund for the 2027 biennium to cover 2025 biennium shortfalls related to contractor assignment and compensation.

**LFD
COMMENT**

As discussed earlier in the report, caseloads and the movement of rates in the private market increased beyond what was budgeted for in FY 2024. The agency utilized another \$5.3 million of their biennial appropriation that was budgeted in FY 2025, resulting not only in a hole to backfill in FY 2025, but leaving the agency short compared to FY 2024. This request is to have the agency's FY 2025 supplemental request of \$12.5 million funded as part of the base budget as well as \$600,000 to continue the OTO appropriation for contracted attorneys provided in the 2023 Session.

DP 704 - Sustain Exst Pub Def Svcs - Contr Pub Def Rates -

The executive requests general fund to increase the state's contract public defender payment rate from \$71.00 per hour to \$90.00 per hour.

DP 904 - Close Pub Def Shortfall - PB - Years 1-2 -

The executive is requesting 8.00 new public defender positions in FY 2026 and 16.00 new public defender positions in FY 2027.

DP 1104 - Sustain Exst Pub Def Svcs - Provider Rates -

The executive requests general fund for a 5.0% increase each year of the 2027 biennium for non-attorney contracted providers such as mental health and contract investigators. For contracted investigators, this request is intended to establish a payment rate of \$50 per hour, up from the \$41 established in 2018.

DP 1204 - Sustain Exst Pub Def Svcs - Contracts Program -

The executive requests 3.00 additional contracts program officers for the 2027 biennium.

DP 1304 - Sustain Eff Pub Def Supp - AI/Tech License -

The executive requests additional general fund to cover increased licensing costs related to artificial intelligence (AI), data, and technology tools.

DP 1504 - Sustain Eff Pub Def Supp - Computer Purch (BIEN, OTO) -

The executive requests additional one-time-only funding to replace computer systems on consistent schedules for the upcoming biennium.

**LFD
COMMENT**

Currently, this request would cover 138 computers needing end-of-life replacement in FY 2026, 21 computers needing replacement in FY 2027, and an estimated 5 computers each year needing replacement due to accidental loss or damage. According to state policy, replacement cycles of these systems are to be every five years. The OPD requests this funding be biennial to allow flexibility with the timing of these upgrades.

DP 1604 - Sustain Eff Pub Def Supp - Agency Training Events (OTO) -

The executive is requesting one-time-only funding to continue training events that were provided as one-time-only during the 2025 biennium.

DP 1704 - Sustain Eff Pub Def Supp - Client Comm/Access Tech (OTO) -

The executive is requesting funding to develop an incarcerated client communications plan that would provide hardware, software, and support to ensure clients are able to access their confidential information with the OPD and review filings and evidence.

DP 1904 - Sustain Exst Pub Def Svcs - Lease Rates -

The executive requests additional funding to cover lease escalations and renewals in the 2027 biennium. Overall rates are estimated to increase at 3.5% each year.

DP 2004 - Sustain Exst Pub Def Svcs - Court Report Rates -

The executive requests funding for increases in rates paid to official court reporters as outlined in statute. These rates are set by the Office of Court Administrator.

DP 2104 - Sustain Exst Pub Def Svcs - Postage Inflation -

The executive requests funding to cover an increase in costs for mailing of 21.7% per year.

New Proposals

The "New Proposals" table shows new proposals for spending.

New Proposals	-----Fiscal 2026-----					-----Fiscal 2027-----				
	PB	General Fund	State Special	Federal Special	Total Funds	PB	General Fund	State Special	Federal Special	Total Funds
DP 1404 - Sustain Eff Pub Def Supp - AI/Data/Tech (OTO)	0.00	200,000	0	0	200,000	0.00	200,000	0	0	200,000
DP 2204 - Centralize External Pub Def Costs	0.00	11,208,164	0	0	11,208,164	0.00	11,208,164	0	0	11,208,164
Total	0.00	\$11,408,164	\$0	\$0	\$11,408,164	0.00	\$11,408,164	\$0	\$0	\$11,408,164

*"Total Funds" amount includes funding from sources other than General Fund, State Special, or Federal Special (i.e. Proprietary).

DP 1404 - Sustain Eff Pub Def Supp - AI/Data/Tech (OTO) -

The executive requests one-time-only general fund for the OPD to continue to develop its artificial intelligence (AI), data, and technology structures.

DP 2204 - Centralize External Pub Def Costs -

The executive requests moving all authority for contracting and operations into the Central Services Division.

LFD COMMENT	This consolidation nets to \$0 across all divisions in the agency.
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