

PUBLIC DEFENDER

Budget Summary							
Fund	2022-23 Base Year Doubled	2023-25 Governor	2023-25 Jt. Finance	2023-25 Legislature	2023-25 Act 19	Act 19 Change Over Base Year Doubled	
						Amount	Percent
GPR	\$226,301,800	\$268,942,200	\$263,180,900	\$263,180,900	\$263,180,900	\$36,879,100	16.3%
FED	0	3,200	3,200	3,200	3,200	3,200	N.A.
PR	<u>3,010,400</u>	<u>2,958,000</u>	<u>2,958,000</u>	<u>2,958,000</u>	<u>2,958,000</u>	<u>- 52,400</u>	- 1.7
TOTAL	\$229,312,200	\$271,903,400	\$266,142,100	\$266,142,100	\$266,142,100	\$36,829,900	16.1%

FTE Position Summary						
Fund	2022-23 Base	2024-25 Governor	2024-25 Jt. Finance	2024-25 Legislature	2024-25 Act 19	Act 19 Change
						Over 2022-23 Base
GPR	614.85	664.85	614.85	614.85	614.85	0.00
FED	63.00	0.00	0.00	0.00	0.00	- 63.00
PR	<u>5.00</u>	<u>5.00</u>	<u>5.00</u>	<u>5.00</u>	<u>5.00</u>	<u>0.00</u>
TOTAL	682.85	669.85	619.85	619.85	619.85	- 63.00

Budget Change Items

1. STANDARD BUDGET ADJUSTMENTS [LFB Paper 105]

	Funding	Positions
GPR	\$875,900	0.00
FED	3,200	- 63.00
PR	<u>- 52,400</u>	<u>0.00</u>
Total	\$826,700	- 63.00

Governor/Legislature: Provide adjustments to the base totaling \$447,500 GPR, \$1,600 FED, and -\$26,000 PR in 2023-24 and \$428,400 GPR, \$1,600 FED, and -\$26,400 PR and -63.0 FED

positions in 2024-25. Adjustments are for: (a) full funding of continuing position salaries and fringe benefits (-\$624,300 GPR and -\$34,700 PR annually); (b) overtime (\$219,300 GPR and \$2,900 PR annually); (c) removal of non-continuing elements from the base (-63.0 FED positions in 2024-25); (d) minor transfers within the same appropriation (\$173,600 GPR and 1.0 GPR position would be reallocated within the program operations appropriation from appellate representation to trial representation); and (e) full funding of lease and directed moves (\$852,500 GPR, \$1,600 FED, and \$5,800 PR in 2023-24 and \$833,400 GPR, \$1,600 FED, and \$5,400 PR). The positions removed under non-continuing elements (30 Assistant State Public Defenders (ASPDs), 3 client service specialists, 3 legal secretaries, 23 paralegals, and 4 investigators) were

supported with federal ARPA funds. Note that the calculated turnover reduction (\$1,354,900 GPR annually) was restored due to constitutional considerations. Under the Constitution and U.S. Supreme Court case law, the SPD is required to provide representation for all financially eligible individuals accused of a crime. The agency provides that representation through both staff and private bar attorneys. Restoration of the turnover reduction is recommended because, if turnover reductions are taken and staff positions not filled, cases will be handled by private bar attorneys. Since staff handle a higher caseload than private attorneys and generally cost less than private bar attorneys paid at \$70 an hour, not filling staff attorney positions may result in higher costs to provide representation.

2. PRIVATE BAR ATTORNEY COMPENSATION [LFB Paper 627]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$21,606,600	- \$4,012,200	\$17,594,400

Governor: Provide \$10,803,300 annually and modify current law to increase the rate at which private bar attorneys are compensated from \$70 per hour to \$100 per hour and from \$25 to \$50 per hour for travel. In addition, grant the SPD authority to modify rules to reflect the changes in the rate. Under current law, private bar attorneys are compensated at a rate of \$70 per hour for time spent related to a case, regardless of the case type. The increase in hourly compensation would apply to cases assigned on or after July 1, 2023.

Joint Finance/Legislature: Reduce funding by \$2,006,100 annually to provide increased funding of \$8,797,200 annually associated with the rate of private bar compensation as specified above.

[Act 19 Sections: 471 and 472]

3. STAFF COMPENSATION [LFB Paper 316]

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	\$16,054,700	\$2,354,100	\$18,408,800

Governor: Provide \$7,033,500 GPR in 2023-24 and \$9,021,200 GPR in 2024-25 to increase staff compensation and address retention, and recruitment issues that contribute to delays in the provision of constitutionally required representation.

a. *Pay Progression.* Provide \$1,987,700 in 2024-25 to support the pay progression plan. The pay progression plan is merit-based and consists of 17 hourly salary steps, with each step equal to one-seventeenth of the difference between the lowest annual salary (\$56,659 as of January 3, 2023) and the highest annual salary (\$136,781 as of January 3, 2023). The value of one hourly salary step equals \$4,722 annually. Funding is approximately equal to a step.

b. *Salary Adjustments.* Provide \$7,033,500 annually to increase the starting salary of assistant state public defenders from \$27.24 to \$35 an hour and provide any hourly increase of \$7.76 (\$16,140 annually) to all ASPDs.

c. *Non-Statutory Provision.* Create non-statutory language specifying that, notwithstanding statutory provisions establishing maximum annual salary increases in correction with pay progression at no more than 10%, salary increases in 2023-24 and 2024-25 may be more than 10% annually.

Joint Finance/Legislature: Provide an additional \$1,115,100 in 2023-24 and \$1,239,000 in 2024-25 in order to provide increased funding of \$8,148,600 in 2023-24 and \$10,260,200 in 2024-25 to increase the salary adjustment from \$7.76 to \$8.76 an hour. Further, include non-statutory language specifying that, notwithstanding statutory provisions that establish maximum annual salary increases in connection with pay progression, salary increases in 2023-24 may be more than 10% annually. In addition, include non-statutory language specifying that, notwithstanding the current compensation plan, that the agency may provide the new minimum salary upon appointment and provide adjustments and pay progression to those at the maximum salary level. In 2024-25, funding is intended to provide pay progression of one step with higher salaried individuals limited to the maximum of the salary range then in effect.

[Act 19 Sections: 9101(1)(b) and (c)]

4. SUPPORT AND ADMINISTRATIVE STAFF [LFB Paper 626]

	Governor (Chg. to Base)		Jt. Finance/Leg. (Chg. to Gov)		Net Change	
	Funding	Positions	Funding	Positions	Funding	Positions
GPR	\$6,363,200	50.00	-\$6,363,200	- 50.00	\$0	0.00

Governor: Provide \$2,784,200 in 2023-24 and \$3,579,000 in 2024-25 and 50.0 positions annually to address workload issues for staff assisting State Public Defender attorneys.

a. *Support Staff.* Provide an additional 46.0 support staff positions (18.0 paralegals, 10.0 investigators, 7.0 client services specialists, and 11.0 legal secretaries) in the trial division and 2.0 paralegal support staff positions in the appellate division.

b. *Administrative Staff.* Provide an additional 2.0 administrative office positions to recruit, onboard, and train staff. The positions are intended to lessen turnover rates and assist with administrative duties associated with the additional staff being provided.

Joint Finance/Legislature: Provision not included.

5. CHARGING AND SENTENCING ALTERNATIVES

	Governor (Chg. to Base)	Jt. Finance/Leg. (Chg. to Gov)	Net Change
GPR	-\$2,260,000	\$2,260,000	\$0

Governor: Provide a reduction to funding for private bar appointments of -\$753,300 in 2023-24 and -\$1,506,700 in 2024-25, associated with adoption of the following law changes intended to reduce the number of SPD appointments. [Note that estimated annual savings from the recommended law changes are generally halved in 2023-24 since private bar attorneys generally bill the SPD six months after being assigned a case.]

a. Provide that for the first offense violation of s. 947.01 Disorderly Conduct, if the alleged offender has not previously been convicted of a felony offense and has not been convicted of any similar offense in the previous three years, the prosecutor would be required to offer the alleged offender the opportunity to either complete a diversion program or pay a forfeiture under a stipulated finding of guilt of a non-criminal ordinance violation. The SPD estimates that this law change would affect 2,448 cases and reduce SPD costs by \$1,271,300.

b. Modify current law to legalize the possession and use of marijuana. Cost savings to the SPD associated with this modification are estimated at \$235,400 annually. Note that the estimate is based on the agency's budget request that possession of marijuana be reclassified as an ordinance violation for first- and second-time offenders and a misdemeanor for third-time offenders, provided that there are no allegations that the individual is manufacturing, distributing, or delivering a controlled substance. [See "Marijuana-Related Provisions."]

Joint Finance/Legislature: Provision not included. (Removed from budget consideration pursuant to Joint Finance Motion #10.)

6. PILOT CHIPS EXTENSION

Governor: Provide an extension of the sunset date on the pilot program to provide counsel for parents of a child subject to a Child in Need of Protection or Services (CHIPS) proceeding in five counties from June 30, 2023, to June 30, 2025. Modify current law to specify that the Department of Children and Families and the State Public Defender submit a report on the program to the Joint Committee on Finance and the Legislature by January 1, 2025, rather than by January 1, 2023.

Senate/Legislature: Include provisions and specify that the continuation of the pilot program for CHIPS cases takes effect retroactively to June, 2023.

[Act 19 Sections: 246 thru 248 and 9433(1s)]

7. TRIAL CASELOAD EXEMPTION

Governor: Amend the statutes to increase the number of trial division attorneys that may be exempted from caseload standards from 10 to 25 to perform other assigned duties beginning July 1, 2023.

Joint Finance/Legislature: Provision not included. (Removed from budget consideration pursuant to Joint Finance Motion #10.)

8. PROGRAMMATIC FUNDING REALIGNMENT [LFB Paper 625]

Governor: Transfer funding annually within SPD's GPR program operations between trial representation (-\$401,600 GPR) and transcripts, discovery, and interpreter costs (\$401,600 GPR).

Joint Finance/Legislature: Instead, transfer funding annually within SPD's GPR program operations appropriation between private bar and investigator reimbursement (-\$622,800 GPR) and transcripts, discovery, and interpreter costs (\$622,800 GPR) in order to align budgeted funding with programmatic expenditures.