

FISCAL YEAR 2013

**TRULY AGREED AND FINALLY PASSED
(AFTER VETO)**

PUBLIC DEFENDER

HOUSE BILL 2012

VETOES: *None*

**96th General Assembly
Second Regular Session**

Prepared by Senate Appropriations Committee Staff

Public Defender Commission - Director's Office/Legal Services - Section 12.400

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The Director's Office is responsible for centralized administration and coordination of resources, planning functions, fiscal processing, personnel functions, data processing support, conflict case transfers, collection of lien and recoupment monies and other support functions.

Legal Base: Chapter 600 RSMo
Funding Source: General Revenue
FY 2012 Withhold: None

CORE ADJUSTMENTS:

DEPARTMENT:

No Changes

Requested 100% Flexibility between General Revenue Personal Services and Expense & Equipment

GOVERNOR:

No Changes

Recommended 100% Flexibility between General Revenue Personal Services and Expense & Equipment

HOUSE:

No Changes

Recommended 100% Flexibility between General Revenue Personal Services and Expense & Equipment

SENATE:

No Changes

Recommended 100% Flexibility between General Revenue Personal Services and Expense & Equipment

CONFERENCE:

No Changes

Recommended 100% Flexibility between General Revenue Personal Services and Expense & Equipment

Committee Markup Annual

OFFICE OF THE PUBLIC DEFENDER

Regular House Bills

	FY 2011		FY 2012		FY 2013		GOV AS		HOUSE		SENATE		TRULY AGREED	
	ACTUAL		BUDGET		DEPT REQ		AMENDED REC		RECOMMENDED		RECOMMENDED		FINALLY PASSED	
	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
HOUSE BILL SECTION 12.400														
OFFICE OF THE DIRECTOR - 15111C														
CORE														
PERSONAL SERVICES	26,943,206	570.00	27,729,933	585.13	27,729,933	585.13	27,729,933	585.13	27,729,933	585.13	27,729,933	585.13	27,729,933	585.13
GENERAL REVENUE	26,943,206	570.00	27,729,933	585.13	27,729,933	585.13	27,729,933	585.13	27,729,933	585.13	27,729,933	585.13	27,729,933	585.13
EXPENSE & EQUIPMENT	4,665,828	0.00	4,419,108	0.00	4,419,108	0.00	4,419,108	0.00	4,419,108	0.00	4,419,108	0.00	4,419,108	0.00
GENERAL REVENUE	4,665,828	0.00	4,419,108	0.00	4,419,108	0.00	4,419,108	0.00	4,419,108	0.00	4,419,108	0.00	4,419,108	0.00
TOTAL	\$31,609,034	570.00	\$32,149,041	585.13	\$32,149,041	585.13	\$32,149,041	585.13	\$32,149,041	585.13	\$32,149,041	585.13	\$32,149,041	585.13

GENERAL STRUCTURE ADJUSTMENT - 0000012														
PERSONAL SERVICES	0	0.00	0	0.00	0	0.00	254,191	0.00	451,433	0.00	110,952	0.00	451,433	0.00
GENERAL REVENUE	0	0.00	0	0.00	0	0.00	254,191	0.00	451,433	0.00	110,952	0.00	451,433	0.00
TOTAL	\$0	0.00	\$0	0.00	\$0	0.00	\$254,191	0.00	\$451,433	0.00	\$110,952	0.00	\$451,433	0.00

General Structure Adjustment for all state employees.

Caseload Crisis Staff & PC - 1151001														
PERSONAL SERVICES	0	0.00	0	0.00	1,670,976	43.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	1,670,976	43.00	0	0.00	0	0.00	0	0.00	0	0.00

Committee Markup Annual

OFFICE OF THE PUBLIC DEFENDER

Regular House Bills

	FY 2011		FY 2012		FY 2013		GOV AS		HOUSE		SENATE		TRULY AGREED	
	ACTUAL		BUDGET		DEPT REQ		AMENDED REC		RECOMMENDED		RECOMMENDED		FINALLY PASSED	
	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
HOUSE BILL SECTION 12.400														
OFFICE OF THE DIRECTOR - 15111C														
Caseload Crisis Staff & PC - 1151001														
EXPENSE & EQUIPMENT	0	0.00	0	0.00	3,893,685	0.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	3,893,685	0.00	0	0.00	0	0.00	0	0.00	0	0.00
TOTAL	\$0	0.00	\$0	0.00	\$5,564,661	43.00	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

This option to address the caseload crisis presumes that (1) all conflict cases are contracted out to the private bar rather than sent to another nearby public defender office; (2) current contract fee amounts to private counsel remain flat; (3) caseload, and the percentage of cases that present conflicts, remain relatively flat; and (4) the personnel increases needed to handle the remaining caseload are phase-in over a three year period. Breakdown: contracting conflict cases - \$3.4M, FY13 personnel costs using 3 year phase-in - \$2.1M.

Caseload Crisis - Overload PC - 1151002														
EXPENSE & EQUIPMENT	0	0.00	0	0.00	13,052,625	0.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	13,052,625	0.00	0	0.00	0	0.00	0	0.00	0	0.00
TOTAL	\$0	0.00	\$0	0.00	\$13,052,625	0.00	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

This is option for addressing the caseload crisis presumes that (1) Missouri's public defender system current attorney staffing, caseload, and contract fee schedule all remain unchanged; (2) that MSPD continues its current practice of contracting out second, third, and subsequent co-defendant cases to private counsel; and (3) that MSPD also contracts out the remainder of its excess caseload to private counsel.

Social Workers - 1151003														
PERSONAL SERVICES	0	0.00	0	0.00	1,653,792	46.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	1,653,792	46.00	0	0.00	0	0.00	0	0.00	0	0.00

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OFFICE OF THE PUBLIC DEFENDER

Regular House Bills

	FY 2011		FY 2012		FY 2013		GOV AS		HOUSE		SENATE		TRULY AGREED	
	ACTUAL		BUDGET		DEPT REQ		AMENDED REC		RECOMMENDED		RECOMMENDED		FINALLY PASSED	
	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
HOUSE BILL SECTION 12.400														
OFFICE OF THE DIRECTOR - 15111C														
Social Workers - 1151003														
EXPENSE & EQUIPMENT	0	0.00	0	0.00	351,900	0.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	351,900	0.00	0	0.00	0	0.00	0	0.00	0	0.00
TOTAL	\$0	0.00	\$0	0.00	\$2,005,692	46.00	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

This item would add 46 Licensed Clinical Social Workers. Social workers assess the individualized factors contributing to a defendant's presence in the justice system and develop client-specific sentencing proposals that address those factors by drawing upon community resources such as third-party mentors, faith-based organizations, drug and mental health treatment options, etc. Unlike the post-plea sentencing reports prepared by probation officers, this information is available to defenders and prosecutors, as well as to the court prior to imposing a sentence.

Specialized Attorneys - 1151004														
PERSONAL SERVICES	0	0.00	0	0.00	795,900	12.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	795,900	12.00	0	0.00	0	0.00	0	0.00	0	0.00
EXPENSE & EQUIPMENT	0	0.00	0	0.00	152,400	0.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	152,400	0.00	0	0.00	0	0.00	0	0.00	0	0.00
TOTAL	\$0	0.00	\$0	0.00	\$948,300	12.00	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

Ineffective assistance of counsel in the areas of DNA, forensic science and mental health issues is among the most frequent causes of wrongful convictions and/or case reversals. This decision item proposes the creation of a handful of attorney specialists in these areas to assist local trial offices faced with these issues in a specific case, much as the Attorney General sends a capital litigation specialist in to assist local prosecutors who lack such expertise themselves. Ideally, all of Missouri's public defenders would be trained to address such issues as they arise in their cases, but the ideal is simply not possible given the caseloads under which the attorneys are now laboring.

Current Staff Adj - 1151005														
PERSONAL SERVICES	0	0.00	0	0.00	1,774,104	63.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	1,774,104	63.00	0	0.00	0	0.00	0	0.00	0	0.00

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OFFICE OF THE PUBLIC DEFENDER

Regular House Bills

	FY 2011		FY 2012		FY 2013		GOV AS		HOUSE		SENATE		Regular House Bills	
	ACTUAL		BUDGET		DEPT REQ		AMENDED REC		RECOMMENDED		RECOMMENDED		TRULY AGREED	
	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
HOUSE BILL SECTION 12.400														
OFFICE OF THE DIRECTOR - 15111C														
Current Staff Adj - 1151005														
EXPENSE & EQUIPMENT	0	0.00	0	0.00	663,230	0.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	663,230	0.00	0	0.00	0	0.00	0	0.00	0	0.00
TOTAL	\$0	0.00	\$0	0.00	\$2,437,334	63.00	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

Every law practice management expert will tell you that lawyer time needs to be leveraged as much as possible by utilizing support staff for everything that can be done by a non-lawyer and freeing up the lawyer to do those things that only a lawyer can do. Therefore, 16 secretaries, 27 legal assistants, and 20 investigators are being requested to bring the support-to-lawyer ratio up to 1:3. Current ratios: secretary-to-lawyer 1:5, investigator-to-lawyer 1:6+ and legal assistant-to-lawyer 1:9.5.

Office Space Requirements - 1151006														
EXPENSE & EQUIPMENT	0	0.00	0	0.00	2,151,511	0.00	0	0.00	0	0.00	0	0.00	0	0.00
GENERAL REVENUE	0	0.00	0	0.00	2,151,511	0.00	0	0.00	0	0.00	0	0.00	0	0.00
TOTAL	\$0	0.00	\$0	0.00	\$2,151,511	0.00	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00

This request will continue to cover the cost of building lease payments, fuel & utilities and housekeeping/janitorial services for the public defenders' office space statewide. Breakdown of requested funding: fuel & utilities - \$84,456; housekeeping/janitorial services - \$95,560; building lease payments - \$1,971,495.

TOTAL - OFFICE OF THE DIRECTOR	\$31,609,034	570.00	\$32,149,041	585.13	\$58,309,164	749.13	\$32,403,232	585.13	\$32,600,474	585.13	\$32,259,993	585.13	\$32,600,474	585.13
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Public Defender Commission – Grants - Section 12.400

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This section provides appropriation authority if grants are received from the federal government.

Legal Base: Chapter 600 RSMo

Funding Source: Federal Funds

FY 2012 Withhold: None

CORE ADJUSTMENTS:

DEPARTMENT:

No Changes

GOVERNOR:

No Changes

HOUSE:

No Changes

SENATE:

No Changes

CONFERENCE:

No Changes

Committee Markup Annual

OFFICE OF THE PUBLIC DEFENDER

Regular House Bills

	FY 2011		FY 2012		FY 2013		GOV AS		HOUSE		SENATE		Regular House Bills	
	ACTUAL		BUDGET		DEPT REQ		AMENDED REC		RECOMMENDED		RECOMMENDED		TRULY AGREED	
	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
HOUSE BILL SECTION 12.400														
GRANTS - 15131C														
CORE														
PROGRAM-SPECIFIC	1,643	0.00	125,000	0.00	125,000	0.00	125,000	0.00	125,000	0.00	125,000	0.00	125,000	0.00
FEDERAL FUNDS	1,643	0.00	125,000	0.00	125,000	0.00	125,000	0.00	125,000	0.00	125,000	0.00	125,000	0.00
TOTAL	\$1,643	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00
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TOTAL - GRANTS	\$1,643	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00	\$125,000	0.00

Public Defender Commission – Legal Defense and Defender Fund - Section 12.400

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This section reflects personal services and expense and equipment requested and recommended from the Legal Defense Fund (funds collected from the indigent).

Legal Base: Chapter 600 RSMo

Funding Source: Legal Defense and Defender Fund

FY 2012 Withhold: None

CORE ADJUSTMENTS:

DEPARTMENT:

No Changes

GOVERNOR:

No Changes

HOUSE:

No Changes

SENATE:

No Changes

CONFERENCE:

No Changes

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OFFICE OF THE PUBLIC DEFENDER

Regular House Bills

	FY 2011		FY 2012		FY 2013		GOV AS		HOUSE		SENATE		Regular House Bills	
	ACTUAL		BUDGET		DEPT REQ		AMENDED REC		RECOMMENDED		RECOMMENDED		TRULY AGREED	
	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
HOUSE BILL SECTION 12.400														
LEGAL DEFENSE & DEFENDER FUND - 15141C														
CORE														
PERSONAL SERVICES	119,299	2.00	129,507	2.00	129,507	2.00	129,507	2.00	129,507	2.00	129,507	2.00	129,507	2.00
OTHER FUNDS	119,299	2.00	129,507	2.00	129,507	2.00	129,507	2.00	129,507	2.00	129,507	2.00	129,507	2.00
EXPENSE & EQUIPMENT	1,619,587	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00
OTHER FUNDS	1,619,587	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00	2,795,756	0.00
PROGRAM-SPECIFIC	34,903	0.00	55,000	0.00	55,000	0.00	55,000	0.00	55,000	0.00	55,000	0.00	55,000	0.00
OTHER FUNDS	34,903	0.00	55,000	0.00	55,000	0.00	55,000	0.00	55,000	0.00	55,000	0.00	55,000	0.00
TOTAL	\$1,773,789	2.00	\$2,980,263	2.00	\$2,980,263	2.00	\$2,980,263	2.00	\$2,980,263	2.00	\$2,980,263	2.00	\$2,980,263	2.00

GENERAL STRUCTURE ADJUSTMENT - 0000012

PERSONAL SERVICES	0	0.00	0	0.00	0	0.00	1,188	0.00	689	0.00	689	0.00	689	0.00
OTHER FUNDS	0	0.00	0	0.00	0	0.00	1,188	0.00	689	0.00	689	0.00	689	0.00
TOTAL	\$0	0.00	\$0	0.00	\$0	0.00	\$1,188	0.00	\$689	0.00	\$689	0.00	\$689	0.00

General Structure Adjustment for all state employees.

TOTAL - LEGAL DEFENSE & DEFENDER FUN	\$1,773,789	2.00	\$2,980,263	2.00	\$2,980,263	2.00	\$2,981,451	2.00	\$2,980,952	2.00	\$2,980,952	2.00	\$2,980,952	2.00
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Public Defender Commission – Extraordinary Expenses and Conflict Cases - Section 12.400

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This section provides monies to meet the costs associated with conflict case reassignments and extraordinary expenses related to providing representation in criminal cases. The appropriation is used to provide for the defense of criminal cases and expenses such as expert witnesses, depositions and other expenses arising from changes of venue.

There are more than 300 homicide cases assigned to the system each year and more than 750 conflict of interest cases which must be reassigned each to the private bar.

Legal Base: Chapter 600 RSMo

Funding Source: General Revenue

FY 2012 Withhold: None

CORE ADJUSTMENTS:

DEPARTMENT:

No Changes

GOVERNOR:

No Changes

HOUSE:

No Changes

SENATE:

No Changes

CONFERENCE:

No Changes

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OFFICE OF THE PUBLIC DEFENDER

Regular House Bills

	FY 2011		FY 2012		FY 2013		GOV AS		HOUSE		SENATE		Regular House Bills	
	ACTUAL		BUDGET		DEPT REQ		AMENDED REC		RECOMMENDED		RECOMMENDED		TRULY AGREED	
	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
HOUSE BILL SECTION 12.400														
EXTRAORDINARY EXPENSE/CONFLIC - 15151C														
CORE														
EXPENSE & EQUIPMENT	2,848,058	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00
GENERAL REVENUE	2,848,058	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00	2,558,059	0.00
TOTAL	\$2,848,058	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$2,558,059	0.00

Contractual Representation - 1151007

EXPENSE & EQUIPMENT	0	0.00	0	0.00	0	0.00	0	0.00	1,163,012	0.00	1,163,012	0.00	1,163,012	0.00
GENERAL REVENUE	0	0.00	0	0.00	0	0.00	0	0.00	1,163,012	0.00	1,163,012	0.00	1,163,012	0.00
TOTAL	\$0	0.00	\$0	0.00	\$0	0.00	\$0	0.00	\$1,163,012	0.00	\$1,163,012	0.00	\$1,163,012	0.00

Funding for contractual representation of MSPD clients.

TOTAL - EXTRAORDINARY EXPENSE/CONFLI	\$2,848,058	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$2,558,059	0.00	\$3,721,071	0.00	\$3,721,071	0.00	\$3,721,071	0.00
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Public Defender Commission – Debt Offset Escrow - Section 12.400

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This section authorizes State Public Defender to intercept Missouri State Income Tax refund checks due to individuals who owe the Missouri State Public Defender System monies for representation.

Legal Base: Chapter 600 RSMo

Funding Source: Escrow Account between the Taxpayer and the Dept of Revenue for Missouri State Public Defender Income Tax Interceptions

FY 2012 Withhold: None

CORE ADJUSTMENTS:

DEPARTMENT:

No Changes

Requested an “E” on this appropriation

GOVERNOR:

No Changes

Recommended an “E” on this appropriation

HOUSE:

No Changes

Recommended an “E” on this appropriation

SENATE:

No Changes

Recommended an “E” on this appropriation

CONFERENCE:

No Changes

Recommended an “E” on this appropriation

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OFFICE OF THE PUBLIC DEFENDER

Regular House Bills

	FY 2011		FY 2012		FY 2013		GOV AS		HOUSE		SENATE		TRULY AGREED	
	ACTUAL		BUDGET		DEPT REQ		AMENDED REC		RECOMMENDED		RECOMMENDED		FINALLY PASSED	
	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE	DOLLAR	FTE
HOUSE BILL SECTION 12.400														
DEBT OFFSET ESCROW FUND - 15161C														
CORE														
PROGRAM-SPECIFIC	1,061,854	0.00	350,000	0.00	350,000	0.00	350,000	0.00	350,000	0.00	350,000	0.00	350,000	0.00
OTHER FUNDS	1,061,854	0.00	350,000 E	0.00	350,000 E	0.00	350,000 E	0.00	350,000 E	0.00	350,000 E	0.00	350,000 E	0.00
TOTAL	\$1,061,854	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00
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TOTAL - DEBT OFFSET ESCROW FUND	\$1,061,854	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00	\$350,000	0.00