

**Board of Indigents' Defense Services: Administration Program**

**Consequences of Not Funding this Program**

Failure to fund this program will render it impossible for the State of Kansas, through the Board of Indigents' Defense Services, to comply with its Sixth Amendment obligation to provide criminal defense services to all indigent Kansans who qualify for appointed felony counsel. The administrative office helps the Board accomplish this mission by providing support services for 17 public defender offices across the state, and administering the assigned counsel program with over 350 individual private counsel across all 31 judicial districts. Specifically, the administrative program accomplishes this by handling accounts payable and receivable, purchasing, contract negotiations, information technology services, data collection and review, human resources services, training, budgeting, and through advocacy and responses to Legislative and public inquiries.

Statutory Basis	Mandatory vs. Discretionary	MOE/Match Rqt.	Priority Level
General 6th Amend, U.S. Constitution; Sec 5 & 10 KS Const Bill of Rts; K.S.A. 22-4519 through K.S.A. 22-4523	Discretionary	No	1

**Program Goals**

- A. Maintain statewide costs per case while maintaining quality service to clients.
- B. To monitor caseload and performance of public defenders in all divisions.
- C. To minimize increase in cost of expert services.

**Program History**

The State Board of Indigents' Defense Services was created by the 1982 Legislature (1982 Session Laws, Ch. 142) for the purpose of providing indigent felony defense services as required by the Sixth Amendment to the United States Constitution.

The present Board succeeds the Board of Supervisors of Panels to Aid Indigent Defendants (1969 Legislature - K.S.A. 22-4501 et seq.) which was abolished on the effective date of the 1982 legislation. The Board of Indigents' Defense Services' (BIDS) statutory purpose is to "Provide, supervise and coordinate, in the most efficient and economical manner possible, the constitutionally and statutorily required counsel and related services for each indigent person accused of a felony and for such other indigent persons as prescribed by statute."

This statutory mission is firmly rooted in the combination of the constitutional requirements of the Sixth Amendment of the United States Constitution, as held in Gideon v. Wainwright, 372 U.S. 335 (1963); Sections 5 and 10 of the Kansas Constitution Bill of Rights; and K.S.A. 22-4503(a). The Board traditionally fulfills this core mission of providing the Sixth Amendment right to counsel to indigent Kansans accused of felonies through two different types of delivery systems: public defenders and assigned private counsel. The Administrative office program has been in effect since the beginning of the Board and its predecessor in order to administer all of the Board's programs and to provide support to its direct employees and its system of private appointed counsel.

**Performance Measures**

Outcome Measures	Goal	FY 2019	FY 2020	FY 2021	3- yr. Avg.	FY 2022	FY 2023
1. Maintain level of dollars saved by audit procedures.	A	\$235,654.00	\$234,185.00	\$291,488.00	253775.67	\$291,488.00	\$291,488.00
2. Maintain increase in average cost per case for private attorney services to 5% or less.	A	\$941	\$993	\$898	\$944	\$898	\$898
3. Prevent ineffective assistance of counsel due to case overload.	B	All Offices	All Offices	All Offices	All Offices	All Offices	All Offices
4. Maintain standard of excellence in public defender legal services with a zero tolerance for ethics violations on case work.	B	No Violations	No Violations	No Violations	No Violations	No Violations	No Violations
5. Number of experts agreeing to work at reduced rates.	C	64	64	65		65	65
<b>Output Measures</b>							
1. Number of Judicial Districts reviewed for cost effective delivery of defense services.	A	31	31	31	31	31	31
2. Number of counties covered by assigned counsel	A	39	19	19	25.67	19	19
3. Number of agency CLE programs offered to appointed panel attorneys	A	2	2	2	2	2	2
4. Number of agency CLE programs offered to public	B	2	2	3	2.33	2	2
5. Number of contacts with Chief Defenders regarding caseloads.	B	20	35	33	29.33	33	33
6. Number of cotacts with Court regarding assignment of public defenders to other jurisdictions.	A	7	20	18	15	18	18
7. Number of contacts/communications with assigned counsel/court regarding expert services approval and clarifications.	C	1,000	1,010	1,300	1,103	1,300	1,300

**Funding**

Funding Source	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
State General Fund	\$ 788,500	\$ 800,949	\$ 926,154	\$ 1,064,106	\$ 1,798,746	\$ 15,521,161
Non-SGF State Funds	2,629	1,639	1,435	625	2,000	2,000
Federal Funds	-	-	243,771	131,144	-	-
<b>Total</b>	<b>\$ 791,129</b>	<b>\$ 802,588</b>	<b>\$ 1,171,360</b>	<b>\$ 1,195,875</b>	<b>\$ 1,800,746</b>	<b>\$ 15,523,161</b>

## Board of Indigents' Defense Services: Trial Level Public Defender Program

### Consequences of Not Funding this Program

Failure to fund this program will render it impossible for the State of Kansas, through the Board of Indigents' Defense Services, to comply with its Sixth Amendment obligation to provide criminal defense services to all indigent Kansans who qualify for appointed felony counsel. The trial level public defender program helps the Board accomplish this mission by providing quality efficient trial level defense services to indigent Kansans charged with felonies in areas where the number of felony cases are numerous enough to justify maintaining a public defender office or in areas where there are an insufficient number of private attorneys to handle the number of criminal cases in their jurisdiction.

Statutory Basis	Mandatory vs. Discretionary	MOE/Match Rqt.	Priority Level
Specific 6th Amend, U.S. Constitution; Sec 5 & 10 KS Const Bill of Rts; K.S.A. 22-4522b	Mandatory	No	1

### Program Goals

- A. Maintain statewide costs per case while maintaining quality service to clients.  
 B. To monitor caseloads and performance of our public defenders for quality services.  
 C.

### Program History

The first two public defender offices (3rd Judicial District - Topeka, and 8th Judicial District - Junction City) were authorized and organized in FY 1972, and the third (28th Judicial District - Salina) was set up in FY 1973. The 18th Judicial District Public Defender Office (Wichita) was created in FY 1985, although it began its phase-in during the latter part of FY 1984. On July 3, 1989, the 10th Judicial District Public Defender Office (Johnson County) began accepting indigent felony appointments. The 25th Judicial District Office (Garden City) began accepting cases in January 1994. The 27th Judicial District Public Defender Office (Hutchinson) opened in June of 1996. The Johnson County Office opened a satellite office in Miami County in June of 1996. In August of 1996, the Garden City Office began accepting cases at a satellite office in Liberal, Kansas. The Northeast Kansas Conflict Office began accepting cases in July of 1997 and the Southeast Kansas Public Defender Office (Chanute) began accepting cases in August of 1997 and a satellite office was opened in Independence. The satellite office in Miami County was closed that same year in favor of a contract to allow attorney FTE to devote full time to Johnson County. On July 1, 2008, the Sedgwick County Conflicts Office was opened in Wichita. Effective September 1, 2009, the Southwest Public Defender Office in Liberal was closed as a result of continuing staff turnover. In August 2021, the Board voted to request funding for FY 2023 to open a new public defender office in the 7th Judicial District, Douglas County.

### Performance Measures

Outcome Measures	Goal	FY 2019	FY 2020	FY 2021	3- yr. Avg.	FY 2022	FY 2023
1. Prevent ineffective assistance of counsel due to case overload.	B	All Offices	All Offices	All Offices	All Offices	All Offices	All Offices
2. Maintain increase in average cost per case for public defender services to 5% or less.	A	\$659	\$818	\$1,032	\$836	\$1,032	\$1,032
3. Maintain standard of excellence in legal services with a zero tolerance for ethics violations on case work.	B	No Violations	No Violations	No Violations	No Violations	No Violations	No Violations
<b>Output Measures</b>							
4. Number of in-house attorney training CLEs for public defenders.	A	2	2	3	2.33	2	2
6. Number of Judicial Districts reviewed for cost effective delivery of defense services.	A	31	31	31	31	31	31
7. Number of contacts with Chief Defenders regarding caseloads.	B	20	35	33	29.33	33	33
8. Number of cotacts with Court regarding assignment of public defenders to other jurisdictions.	A	7	20	18	15	18	18

### Funding

Funding Source	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
State General Fund	\$ 9,674,131	\$ 9,762,455	\$ 10,138,750	\$ 10,260,120	\$ 14,167,753	\$ 13,882,746
Non-SGF State Funds	239,951	185,670	243,924	260,322	109,749	102,000
Federal Funds	-	-	-	159	-	-
<b>Total</b>	<b>\$ 9,914,082</b>	<b>\$ 9,948,125</b>	<b>\$ 10,382,674</b>	<b>\$ 10,520,601</b>	<b>\$ 14,277,502</b>	<b>\$ 13,984,746</b>

## Board of Indigents' Defense Services: Appellate Defender Program

### Consequences of Not Funding this Program

Failure to fund this program will render it impossible for the State of Kansas, through the Board of Indigents' Defense Services, to comply with its Sixth Amendment obligation to provide criminal defense services to all indigent Kansans who qualify for appointed felony counsel. The appellate public defender program helps the Board accomplish this mission by providing quality efficient defense services at the Kansas Court of Appeals, Kansas Supreme Court, and the United States Supreme Court to indigent Kansans convicted of felonies who are appealing their convictions.

Statutory Basis	Mandatory vs. Discretionary	MOE/Match Rqt.	Priority Level
Specific 6th Amend, U.S. Constitution; Sec 5 & 10 KS Const Bill of Rts; K.S.A. 22-4522b; K.S.A. 22-4505b	Mandatory	No	1

### Program Goals

- A. To provide high quality and economically efficient constitutionally required defense services at the appellate level to our clients.  
B. To monitor caseloads of our public defenders to ensure compliance with professional ethical rules.

### Program History

In June 1985, the Board approved the development and implementation of the Appellate Defender Office as a statewide office to represent indigent felony defendants on appeal.

In FY1994, an appellate defense program was established in partnership with the University of Kansas, School of Law whereby law students prepare direct appeal briefs under the supervision of an appellate defender. In FY2005, a similar program was established in partnership with the Washburn University School of Law. The universities provide office space, equipment and student labor.

In FY2002, the Capital Appeals and Conflicts Office and the Capital Appeals Office were established through reassignment of appellate defenders to provide appellate defense on capital murder convictions where the death penalty was issued and on other capital and capital eligible cases. Capital defense is the priority of these offices. However, both offices handle conflict cases and overflow cases from the appellate defender office when their workloads allow.

The Appellate Defender Office is currently staffed with eighteen appellate defenders, including one chief, and two deputies, two legal assistants and three support staff. The caseload of this office fluctuates depending on whether the Kansas Supreme Court decides a case that sets new precedent for current cases and future case filings.

### Performance Measures

Outcome Measures	Goal	FY 2019	FY 2020	FY 2021	3- yr. Avg.	FY 2022	FY 2023
1. Prevent ineffective assistance of counsel due to case overload.	A	All Offices	All Offices	All Offices	All Offices	All Offices	All Offices
2. Monitor average case units per attorney to avoid caseload overload.	B	39	41	29	36.33	29	29
3. Maintain standard of excellence in legal services with a zero tolerance for ethics violations on case work.	B	No Violations	No Violations	No Violations	No Violations	No Violations	No Violations
<i>Output Measures</i>							
1. Number of in-house attorney training CLEs for public defenders.	A	2	2	3	2.33	2	2
2. Number of Appeals Docketed	B	954	750	704	802.67	704	704
3. Number of Appeals Completed	B	1,120	981	981	1027.33	981	981

### Funding

Funding Source	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
State General Fund	\$ 2,145,031	\$ 2,215,769	\$ 2,287,109	\$ 2,113,380	\$ 2,116,521	\$ 2,168,097
Non-SGF State Funds	217,665	284,934	241,588	215,981	250,000	250,000
Federal Funds	-	-	-	-	-	-
<b>Total</b>	\$ 2,362,696	\$ 2,500,703	\$ 2,528,697	\$ 2,329,361	\$ 2,366,521	\$ 2,418,097

## Board of Indigents' Defense Services: Capital Defender Program

### Consequences of Not Funding this Program

Failure to fund this program will render it impossible for the State of Kansas, through the Board of Indigents' Defense Services, to comply with its Sixth Amendment obligation to provide criminal defense services to all indigent Kansans who qualify for appointed felony counsel. The capital defender program helps the Board accomplish this mission by providing quality efficient capital defense services at the trial, appellate, and habeas level to indigent Kansans charged with capital crimes.

Statutory Basis	Mandatory vs. Discretionary	MOE/Match Rqt.	Priority Level
Specific 6th Amend, U.S. Constitution; Sec 5 & 10 KS Const Bill of Rts; K.S.A. 22-4522b; K.S.A. 22-4506d	Mandatory	No	1

### Program Goals

- A. To provide high quality and economically efficient constitutionally required defense services to our capital clients.  
 B. To monitor caseloads of our public defenders to ensure compliance with professional ethical rules.  
 C.

### Program History

The Board of Indigents' Defense Services established the Capital Defense Coordinator Office in FY1995 in response to the enactment of the death penalty. The Board transferred its most experienced attorney to the office and authorized a temporary Office Assistant I to assist. In FY1996 the office expanded and its name was changed to the Death Penalty Defense Unit to more accurately reflect its mission to defend potential death penalty cases statewide. The purpose of the office is to establish and administer procedures and to provide services that result in the highest quality defense of person's accused of murder when the potential penalty is death. To accomplish this purpose, the Death Penalty Defense Unit will (1) represent all individuals, except those with which the office has a conflict of interest, charged with potentially capital cases wherever charged in the state; (2) establish and administer a system by which courts may appoint qualified attorneys; (3) plan and execute training programs for staff, public defenders, private counsel, investigators, mitigation specialists and ancillary staff including continuing legal education programs, manuals and newsletters; (4) establish and maintain a resource library and consultation service for attorneys assigned to capital or potentially capital cases; (5) collect and maintain statistical records regarding the use of capital punishment; and (6) establish through contract and/or negotiation a system for providing trial counsel with competent and cost-effective expert and investigative services needed to defend potential capital cases. In FY2020, this office employed five trial attorneys, one investigator, two mitigators, two legal assistants and one clerical staff. Additional attorneys from trial offices are called upon to handle conflict cases on occasion.

In FY2016 the Kansas death penalty was upheld by both the United States Supreme Court and the Kansas Supreme Court which necessitated the establishment of the capital habeas unit and the hiring of private attorneys with experience defending capital habeas cases.

### Performance Measures

Outcome Measures	Goal	FY 2019	FY 2020	FY 2021	3- yr. Avg.	FY 2022	FY 2023
1. Prevent ineffective assistance of counsel due to case overload.	A	All Offices	All Offices	All Offices	All Offices	All Offices	All Offices
2. Maintain standard of excellence in legal services with a zero tolerance for ethics violations on case work.	B	No Violations	No Violations	No Violations	No Violations	No Violations	No Violations
<i>Output Measures</i>							
1. Number of new cases filed with a potential sentence of death.	B	6	6	3	5	6	6
2. Number of cases tried or pled during the fiscal year.	B	12	2	1	5	5	5
3. Number of in-house attorney training CLEs available for capital public defenders.	A	3	3	3	3	3	3

### Funding

Funding Source	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
State General Fund	\$ 2,426,288	\$ 2,954,446	\$ 2,902,584	\$ 2,917,894	\$ 3,255,160	\$ 3,099,512
Non-SGF State Funds	4,338	12,228	19,535	5,175	2,000	2,000
Federal Funds	-	-	-	201	-	-
<b>Total</b>	<b>\$ 2,430,626</b>	<b>\$ 2,966,674</b>	<b>\$ 2,922,119</b>	<b>\$ 2,923,270</b>	<b>\$ 3,257,160</b>	<b>\$ 3,101,512</b>

## Board of Indigents' Defense Services: Assigned Counsel Program

### Consequences of Not Funding this Program

Failure to fund this program will render it impossible for the State of Kansas, through the Board of Indigents' Defense Services, to comply with its Sixth Amendment obligation to provide criminal defense services to all indigent Kansans who qualify for appointed felony counsel. The assigned counsel program helps the Board accomplish this by providing constitutionally required defense services in geographic areas where public defender offices do not yet exist or where the establishment of public defender offices is not cost efficient.

Statutory Basis	Mandatory vs. Discretionary	MOE/Match Rqt.	Priority Level
Specific 6th Amend, U.S. Constitution; Sec 5 & 10 KS Const Bill of Rts; K.S.A. 22-4501; K.S.A. 22-4503c.	Mandatory	No	1

### Program Goals

A. Manage the average annual cost of assigned counsel expenditures while maintaining quality defense services.

### Program History

The State Board of Indigents' Defense Services was created by the 1982 Legislature (1982 Session Laws, Ch. 142) for the purpose of providing indigent felony defense services as required by the Sixth Amendment to the United States Constitution.

The present Board succeeds the Board of Supervisors of Panels to Aid Indigent Defendants (1969 Legislature - K.S.A. 22-4501 et seq.) which was abolished on the effective date of the 1982 legislation. The Board of Indigents' Defense Services' (BIDS) statutory purpose is to "Provide, supervise and coordinate, in the most efficient and economical manner possible, the constitutionally and statutorily required counsel and related services for each indigent person accused of a felony and for such other indigent persons as prescribed by statute."

This statutory mission is firmly rooted in the combination of the constitutional requirements of the Sixth Amendment of the United States Constitution, as held in *Gideon v. Wainwright*, 372 U.S. 335 (1963); Sections 5 and 10 of the Kansas Constitution Bill of Rights; and K.S.A. 22-4503(a). The Board traditionally fulfills this core mission of providing the Sixth Amendment right to counsel to indigent Kansans accused of felonies through two different types of delivery systems: public defenders and assigned private counsel. The Assigned counsel program has been in effect since the beginning of the Board and its predecessor in order to provide for the constitutionally required assistance of counsel to all indigent Kansans charged with felonies.

### Performance Measures

Outcome Measures	Goal	FY 2019	FY 2020	FY 2021	3- yr. Avg.	FY 2022	FY 2023
1. Maintain level of dollars saved by audit procedures on assigned counsel vouchers.	A	\$235,654	\$234,185	\$291,488	\$253,776	\$291,488	\$291,488
2. Maintain increase in average cost per case for private attorney services to 5% or less.	A	\$941	\$993	\$898	\$944	\$898	\$898

### Output Measures

4. Number of Judicial Districts reviewed for cost effective delivery of defense services.	A	31	31	31	31	31	31
5. Number of counties covered by assigned counsel contracts/agreements.	A	39	19	19	25.67	19	19
3. Number of agency CLE programs offered to appointed panel attorneys.	A	2	2	2	2	2	2

### Funding

Funding Source	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023
State General Fund	\$ 13,235,258	\$ 14,733,020	\$ 14,656,847	\$ 13,063,084	\$ 21,450,692	\$ 23,498,328
Non-SGF State Funds	366,435	371,147	402,174	391,935	250,000	250,000
Federal Funds	-	-	-	-	-	-
<b>Total</b>	<b>\$ 13,601,693</b>	<b>\$ 15,104,167</b>	<b>\$ 15,059,021</b>	<b>\$ 13,455,019</b>	<b>\$ 21,700,692</b>	<b>\$ 23,748,328</b>

## Legal Services for Prisoners (BIDS Passthrough)

### Consequences of Not Funding this Program

Legal Services for Prisoners, Inc. is a non-profit corporation organized under the laws of the State of Kansas for the purpose of providing legal assistance to indigent incarcerated residents of Kansas correctional institutions. Failure to fund this program would prevent the State of Kansas from meeting its constitutional obligation to provide indigent incarcerated residents of KDOC with meaningful access to the courts to pursue non-frivolous legal claims.

Statutory Basis	Mandatory vs.	MOE/Match Rgt.	Priority Level
Specific K.S.A. 22-4514a	Mandatory	No	1

### Program Goals

A. To provide individuals incarcerated in the Kansas Department of Corrections with constitutionally required meaningful access to the courts.

B. To identify and assist those incarcerated residents with real legal problems concerning the validity of convictions and sentences, civil rights, and conditions of confinement.

C. To discourage frivolous and unsubstantial litigation.

D. To assist state courts and the Board of Indigents' Defense Services meet their program goals.

E. To assist incarcerated residents in successfully completing their sentences, parole, and post release supervision. Those whose legal problems are taken care of prior to their release are more apt to successfully complete their term of parole or post release supervision.

### Program History

Legal Services for Prisoners, Inc. is a non-profit corporation organized under the laws of the State of Kansas for the purpose of providing legal assistance to indigent incarcerated residents of Kansas correctional institutions. K.S.A. 22-4514(a) authorizes the corporation to submit its annual operating budget to the State Board of Indigents' Defense Services. BIDS has no administrative authority over LSP, rather LSP's budget is a passthrough and submitted as part of BIDS budget.

### Performance Measures

<i>Outcome Measures</i>	<i>Goal</i>	<i>FY 2019</i>	<i>FY 2020</i>	<i>FY 2021</i>	<i>3- yr. Avg.</i>	<i>FY 2022</i>	<i>FY 2023</i>
1. Cases administratively resolved	B	1,220	1,042	1,058	1,107	1,058	1,058
2. Cases judicially resolved	A	4	6	1	3.67	1	1
3. Cases rejected by LSP	C	387	376	467	410	467	467
4. Cases still open at the end of the fiscal year.	A, E	11	0	4	5	4	4
<i>Output Measures</i>							
1. Total Cases handled by LSP	A, D, E	1,636	1,463	1,530	1,543	1,530	1,530
2. Total Hours spent on cases	B	1,894	1,759	2,013	1,889	2,013	2,013

### Funding

<i>Funding Source</i>	<i>FY 2018</i>	<i>FY 2019</i>	<i>FY 2020</i>	<i>FY 2021</i>	<i>FY 2022</i>	<i>FY 2023</i>
State General Fund	\$ 289,592	\$ 289,592	\$ 289,592	\$ 289,592	\$ 289,592	\$ 289,592
Non-SGF State Funds	-	-	-	-	-	-
Federal Funds	-	-	-	-	-	-
<b>Total</b>	<b>\$ 289,592</b>	<b>\$ 289,592</b>	<b>\$ 289,592</b>	<b>\$ 289,592</b>	<b>\$ 289,592</b>	<b>\$ 289,592</b>