

Program Budget Comparison

The following table summarizes the total executive budget for the program by year, type of expenditure, and source of funding.

Program Budget Comparison								
Budget Item	Base Fiscal 2012	Approp. Fiscal 2013	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 12-13	Biennium Fiscal 14-15	Biennium Change	Biennium % Change
FTE	199.50	199.50	233.00	233.00	199.50	233.00	33.50	16.79%
Personal Services	12,923,907	11,780,292	15,901,841	16,135,353	24,704,199	32,037,194	7,332,995	29.68%
Operating Expenses	8,594,131	9,039,405	9,596,337	9,563,998	17,633,536	19,160,335	1,526,799	8.66%
Equipment & Intangible Assets	18,554	21,118	28,554	18,554	39,672	47,108	7,436	18.74%
Total Costs	\$21,536,592	\$20,840,815	\$25,526,732	\$25,717,905	\$42,377,407	\$51,244,637	\$8,867,230	20.92%
General Fund	21,436,634	20,654,671	25,246,998	25,442,446	42,091,305	50,689,444	8,598,139	20.43%
State Special	99,958	186,144	279,734	275,459	286,102	555,193	269,091	94.05%
Total Funds	\$21,536,592	\$20,840,815	\$25,526,732	\$25,717,905	\$42,377,407	\$51,244,637	\$8,867,230	20.92%

Program Description

The Office of State Public Defender administers the statewide public defender system that delivers public defender services in all courts in Montana for criminal and certain civil cases for an individual who is determined to be financially unable to retain private counsel and who is accused of an offense that could result in the person’s loss of life or liberty if convicted. The office administers the statewide public defender system that is supervised by the Public Defender Commission. The office is administratively attached to the Department of Administration but has authority in law to provide administrative functions as determined by the commission.

The Public Defender Commission is responsible for the design, direction, and supervision of the system. The commission appoints the chief public defender, approves the strategic plan for the delivery of services, and approves statewide standards for qualifications and training of public defenders.

Program Highlights

Office of Public Defender Program Major Budget Highlights	
<ul style="list-style-type: none"> ◆ The executive proposes several major initiatives in this agency to address workload and other issues: <ul style="list-style-type: none"> ● A significant increase in staffing levels (33.00 FTE) ● The funding of career ladders for state staff ● An increase of 2% in rates paid to contract attorneys, which is the same as other provider rate increases in other agencies ● Costs for death penalty cases ◆ The Governor proposes adding FTE for the following purposes: <ul style="list-style-type: none"> ● Make permanent 10.00 FTE modified positions funded in the 2013 biennium with funds to address caseload growth seen during the 2011 Legislative Session ● Add 15.00 FTE to address recent caseload growth ● Add 2.00 FTE crime investigators to address caseload growth ● Add 3.00 FTE to shift caseloads from managing attorneys to free up time for management duties ● Add 2.50 FTE to address caseload growth in conflict cases ● Add 1.00 FTE to account for court assessments on defendants for reimbursement for services 	

Major LFD Issues	
◆	A portion of the funding to add FTE is one time only

Program Narrative

This program includes a number of proposed additions to address various challenges of the office. The proposals are discussed in detail in the following narrative, while the Summary section of this agency’s narrative discusses the challenges and the executive’s proposed response in total.

Funding

The following table shows program funding, by source for the 2015 biennium as recommended by the Governor.

Total Office Of The Public Defender Funding by Source of Authority 2015 Biennium Budget - Office Of Public Defender							
Funds	HB 2	Non-Budgeted Proprietary	Statutory Appropriation	Total All Sources	% Total All Funds	MCA Reference	Statutory Category
General Fund	\$50,689,444	\$0	\$0	\$50,689,444	98.9%		
State Special Total	\$555,193	\$0	\$0	\$555,193	1.1%		
02250 Court Ordered Sentencing Costs	\$555,193	\$0	\$0	\$555,193	1.1%		
Total All Funds	\$51,244,637	\$0	\$0	\$51,244,637	100.0%		
Percent - Total All Sources	100.0%	0.0%	0.0%				

The Office of the Public Defender is funded primarily from the general fund. A small amount of state special revenue from collection of reimbursement for services also supports the program.

Budget Summary by Category

The following summarizes the total budget by base, present law adjustments, and new proposals.

Budget Item	-----General Fund-----				-----Total Funds-----			
	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget	Budget Fiscal 2014	Budget Fiscal 2015	Biennium Fiscal 14-15	Percent of Budget
Base Budget	21,436,634	21,436,634	42,873,268	84.58%	21,536,592	21,536,592	43,073,184	84.05%
Statewide PL Adjustments	(416,916)	(469,267)	(886,183)	(1.75%)	(416,916)	(469,267)	(886,183)	(1.73%)
Other PL Adjustments	4,109,400	4,246,086	8,355,486	16.48%	4,289,176	4,421,587	8,710,763	17.00%
New Proposals	117,880	228,993	346,873	0.68%	117,880	228,993	346,873	0.68%
Total Budget	\$25,246,998	\$25,442,446	\$50,689,444		\$25,526,732	\$25,717,905	\$51,244,637	

Present Law Adjustments

The “Present Law Adjustments” table shows the changes to the adjusted base budget proposed by the executive. “Statewide Present Law” adjustments are standard categories of adjustments made to all agencies. Decisions on these items were applied globally to all agencies. The other numbered adjustments in the table correspond to the narrative descriptions.

Present Law Adjustments									
-----Fiscal 2014-----					-----Fiscal 2015-----				
FTE	General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
Personal Services				(50,950)					(53,969)
Vacancy Savings				(514,908)					(514,789)
Inflation/Deflation				31,011					35,833
Fixed Costs				117,931					63,658
Total Statewide Present Law Adjustments									
	(\$416,916)	\$0	\$0	(\$416,916)		(\$469,267)	\$0	\$0	(\$469,267)
DP 1 - Support Workload - FTE									
15.00	1,117,846	0	0	1,117,846	15.00	1,061,135	0	0	1,061,135
DP 2 - Computers/Servers/Printers (OTO)									
0.00	88,689	0	0	88,689	0.00	84,713	0	0	84,713
DP 4 - Conflict Coordinator									
2.50	210,826	0	0	210,826	2.50	188,227	0	0	188,227
DP 5 - Managers' Caseloads									
3.00	272,373	0	0	272,373	3.00	260,947	0	0	260,947
DP 6 - Investigative Staff to Support Workload									
2.00	41,948	100,000	0	141,948	2.00	34,399	100,000	0	134,399
DP 7 - Accounts Receivable Support									
1.00	0	42,363	0	42,363	1.00	0	38,138	0	38,138
DP 9 - Capital Case Defense - OTO/RST/BIEN									
0.00	500,000	0	0	500,000	0.00	500,000	0	0	500,000
DP 13 - Fund Career Ladder									
0.00	1,230,951	0	0	1,230,951	0.00	1,470,849	0	0	1,470,849
DP 15 - Support Workload - Modified FTE									
10.00	646,767	37,413	0	684,180	10.00	645,816	37,363	0	683,179
Total Other Present Law Adjustments									
33.50	\$4,109,400	\$179,776	\$0	\$4,289,176	33.50	\$4,246,086	\$175,501	\$0	\$4,421,587
Grand Total All Present Law Adjustments									
33.50	\$3,692,484	\$179,776	\$0	\$3,872,260	33.50	\$3,776,819	\$175,501	\$0	\$3,952,320

DP 1 - Support Workload - FTE - The executive requests general fund to fund personal services and operating costs for the addition of 15.00 FTE to address workload issues. The funding would add 10.00 FTE attorneys and 5.00 FTE legal secretaries.

LFD COMMENT The request provides staffing levels to address situations where attorney workloads have or are projected to exceed case weighting system levels of 150 units established to ensure effective assistance of counsel. Attorneys would be assigned as needed to address the regions with the largest occurrences where caseloads exceed the 150 unit threshold. Administrative support positions would support existing and new attorneys. For further information on the case weighting system see the narrative in the agency discussion of the agency summary.

LFD ISSUE Staff Outfitting Costs are One-Time
 FY 2014 funding includes \$55,125 in outfitting costs that are not ongoing to purchase computer equipment and software licenses, desks, and other office items for the new positions. The legislature may wish to designate this amount as one-time-only.

DP 2 - Computers/Servers/Printers (OTO) - The executive requests general fund to replace computers, servers, printers, and copiers according to a five-year replacement schedule. The executive recommends designating funding for this request as one time only.

**LFD
COMMENT**

The 2011 Legislature appropriated \$600,000 to fund contracted services, or replacement of computers, servers, or copiers. The base includes expenditures of \$111,400 for various equipment purchases from this one-time appropriation.

DP 4 - Conflict Coordinator - The executive requests general fund to fund operating costs and personal services for the addition of 2.50 FTE. The funding would increase an existing position from 0.50 FTE to 1.00 FTE for the existing conflict manager lawyer position. It would also add 1.00 FTE lawyer for an additional conflict manager and 1.00 FTE legal secretary to assist in administering conflict cases.

**LFD
ISSUE**Staff Outfitting Costs are One-Time

FY 2014 funding includes \$7,350 in outfitting costs that are not ongoing to purchase computer equipment and software licenses, desks, and other office items for the new positions. The legislature may wish to designate this amount as one-time-only.

DP 5 - Managers' Caseloads - The executive requests general fund to fund operating costs and personal services for the addition of 3.00 FTE. The funding would be used to add attorneys to work a portion of the cases currently being done by staff responsible for managing others and would free up time for administrative and managerial duties.

**LFD
COMMENT**

The Public Defender Commission has established a policy that sets caseload limits for managers, either regional managers or managing attorneys. The request for funding to add 3.00 FTE would move the office halfway to complying with the policy established by the commission. The policy establishes caseload limits for regional managers that are different based on demographics of the region. It also establishes caseload limits for managing attorneys in four offices that are based on the demographics of that office. On average regional managers would be limited by the policy to spending 50% of their time working cases and the remainder performing management duties. For managing attorneys, the caseload would be limited to 69% of the manager's time.

**LFD
ISSUE**Staff Outfitting Costs are One-Time

FY 2014 funding includes \$11,025 in outfitting costs that are not ongoing to purchase computer equipment and software licenses, desks, and other office items for the new positions. The legislature may wish to designate this amount as one-time-only.

DP 6 - Investigative Staff to Support Workload - The executive requests general fund (30%) and state special revenue from court assessed fees on defendants served (70%) to fund operating costs and personal services for the addition of 2.00 FTE to address workload issues. The funding would be used to add two criminal investigator positions used in most felony cases and some misdemeanor cases to interview witnesses, seek out potential witnesses, identify and collect physical evidence, visit and inspect crime scenes, and prepare reports for use by the public defender's office.

**LFD
ISSUE**Staff Outfitting Costs are One-Time

FY 2014 funding includes \$7,350 in outfitting costs that are not ongoing to purchase computer equipment and software licenses, desks, and other office items for the new positions. The legislature may wish to designate this amount as one-time-only.

DP 7 - Accounts Receivable Support - The executive requests state special revenue to fund operating costs and personal services for the addition of 1.00 FTE to provide accounting and reporting for the funds collected through fees assessed to clients by various courts.

LFD COMMENT Montana law has established a structure under which a court would require a convicted defendant to pay for the cost of counsel assigned to represent the defendant. Since FY 2007, both the number of individuals owing assessments and the cumulative amount of the assessments owed to the office has grown from \$41,000 in assessments owed by 73 individuals to nearly \$1.3 million owed by 4,109 individuals. It is the accounting for these assessments the position of this request would assist.

LFD ISSUE Staff Outfitting Costs are One-Time
FY 2014 funding includes \$4,175 in outfitting costs that are not ongoing to purchase computer equipment and software licenses, desks, and other office items for the new positions. The legislature may wish to designate this amount as one-time-only.

DP 9 - Capital Case Defense - OTO/RST/BIEN - The executive requests general fund to fund costs associated with death penalty cases. The executive recommends designating the funding for this request as one-time-only, restricted to fund defense costs on death penalty cases or cases that are likely to be a death penalty case, and biennial.

LFD COMMENT The 2011 Legislature appropriated \$900,000 to fund death penalty costs for the 2013 biennium. The funding was designated as one-time-only, restricted to fund death penalty costs, and biennial. Language was also provided that allowed the agency to use unexpended funds that remained after September 1, 2012 for any purpose consistent with the mission of the agency. As of November 30, 2012, \$102,037 remained unexpended and the office is working on two active death penalty cases and beginning to pursue work on one other case that has aggravating circumstances that would qualify it as a death penalty case. Funding for an anticipated overrun in death penalty defense costs has been included in the supplemental appropriations bill as currently requested by the Governor.

DP 13 - Fund Career Ladder - The executive requests general fund to fund adjustments to the career ladder for unionized attorneys. The career ladder provides incremental competency pay adjustments under a negotiated pay schedule for employees as they achieve certain educational and experiential milestones. The adjustment is based on a 2012 market survey and adjusts the midpoint of the career ladder to the survey midpoint.

LFD COMMENT For further information on the career ladder see the narrative in the agency discussion of the agency summary.

DP 15 - Support Workload - Modified FTE - The executive requests general fund and state special revenue to fund operating costs and personal services for the addition of 10.00 FTE to address caseload growth.

LFD COMMENT The 2011 Legislature appropriated \$3.0 million for the 2013 biennium to: 1) fund the addition of 8.00 FTE attorneys to address caseload growth being experienced by the agency; and 2) fund costs to hire contract attorneys to assist in addressing the caseload growth. During the interim, the agency experienced difficulties finding private attorneys willing to contract with them in several regions of the state. To address the caseload growth the agency sought and obtained approval from the Governor to hire modified FTE in place of contract attorneys. This request is to fund the modified FTE on an ongoing basis.

The Legislative Finance Committee monitored the use of the \$3.0 million during the interim. Reports presented to the committee identified the difficulty the agency was having hiring contract attorneys and the use of modified FTE to address caseload demands. The committee made no recommendations in association with its monitoring of these funds. For further information and to view the report presented to the committee see the June 2012 committee meeting reports at: <http://leg.mt.gov/css/fiscal/reports/2011-2012-interim-reports.asp#june2012>.

New Proposals

Program	FTE	Fiscal 2014				Fiscal 2015				
		General Fund	State Special	Federal Special	Total Funds	FTE	General Fund	State Special	Federal Special	Total Funds
DP 12 - Increase Contract Attorney Rates										
01	0.00	111,113	0	0	111,113	0.00	222,226	0	0	222,226
DP 6101 - Professional Development Center Fee Allocation										
01	0.00	6,767	0	0	6,767	0.00	6,767	0	0	6,767
Total	0.00	\$117,880	\$0	\$0	\$117,880	0.00	\$228,993	\$0	\$0	\$228,993

DP 12 - Increase Contract Attorney Rates - The executive requests general fund to fund an increase in the hourly rate paid to contracted attorneys by 2% in FY 2014 and an additional 2% in FY 2015. The funding would increase the hourly rate from \$60.00 to \$61.20 in FY 2014 and \$62.42 in FY 2015.

LFD ISSUE Little Impact on Rate Paid to Contract Attorneys
 For further information on contract rates see the narrative in the agency discussion of the agency summary.

DP 6101 - Professional Development Center Fee Allocation - The executive requests an increase for training services purchased from the Professional Development Center (PDC) of the Department of Administration. This request reflects the difference between the amount paid in the base for PDC services and a fixed cost allocation based on agency FTE counts. Starting in the 2015 biennium and beyond, the executive recommends funding the PDC as a fixed cost item. For a further discussion, see the narrative for the Department of Administration.