



**Fiscal Note Request SB0146, As Amended in House Committee**

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- b. Assistant Public Defenders – 2.00 FTE with total salary and benefits of \$131,094 – 25 percent in FY 2006
  - c. Financial Manager - annual salary and benefits of \$50,571 – 50 percent in FY 2006
  - d. Contract managers – 2.00 FTE with total salary and benefits of \$101,502 – 25 percent in FY 2006
  - e. Administrative Support – 2.00 FTE with total salary and benefits of \$68,571
  - f. Accountant – annual salary and benefits - \$50,751 – 25 percent in FY 2006
  - g. Accounting Technicians – 3.00 FTE with total salary and benefits of \$119,721 – FY 2007 only
  - h. Indigence determination specialists – 5.00 FTE with total salary and benefits of \$199,935 – FY 2007 only
  - i. Information tech analysts – 2.00 FTE with total salary and benefits of \$101,502 – 25 percent FY 2006
7. The existing appellate defender operating budget is increased 4 fold to handle an increased caseload with current FTE. This legislation creates an office of appellate defender and a chief appellate defender hired by the chief public defender. The operating budget is increased by \$192,290 in FY 2006 and \$769,160 in FY 2007.
8. Operating Costs are assumed for partial office operation in FY 2006 and fully fund the office in FY 2007:
- a. Rent - \$25,956 in FY 2006 and \$98,880 in FY 2007
  - b. Data network charges - \$4,709 in FY 2006 and \$17,947 in FY 2007.
  - c. Furniture -- \$30,900 in FY 2006.
  - d. Personal computers - \$27,831 in FY 2006
  - e. Processing services -- \$16,055 in FY 2006 and \$61,158 in FY 2007.
  - f. Job classifications for new and transferred staff - \$30,000 in FY 2006.
  - g. Travel -- \$1,442 in FY 2006 and \$2,884 in FY 2007.
  - h. Fixed costs - \$13,519 in FY 2006 and \$51,500 in FY 2007.
  - i. Training -- \$102,528 in FY 2007.
  - j. Commission meetings and travel equal \$25,000 in FY 2006 and \$15,000 in FY 2007.
  - k. DoA support costs – payroll \$25,000 each year.
  - l. Information technology – FY 2006 includes \$20,000 for a needs assessment. FY 2007 includes \$428,000 for the purchase of a case management system (NM system) and \$64,200 for maintenance.

**Current costs in District Court Assumption Transferred to Office:**

9. Appointed attorneys – estimated cost of \$5,122,378 in FY 2007.
10. County Public Defender staff – In FY 2007, 40.00 FTE attorneys and 22.75 FTE support staff will be transferred from the county offices to the state. Estimated personal services cost amount to \$1,846,863 in FY 2007.
11. Contracted attorney costs are estimated to total \$619,056 in FY 2007.
12. Private investigator costs are assume to be \$216,978 in FY 2007
13. Witness fees that will transfer to the Office of the Chief Public Defender are assumed to be \$153,443.
14. Legal fees and other court costs that will transfer to the Office of the Chief Public Defender are assumed to be \$134,717.
15. The Judicial Branch will transfer 1.50 FTE to the Office of the Chief Public Defender effective July 1, 2007 per below:
  - a. One Accounting Technician at annual salary and benefits of \$28,595
  - b. One half-time Administrative Assistant at annual salary and benefits of \$15,130.

**Other County Public Defender Costs transferred to State of Montana**

16. Justice court costs assumed by the state are estimated to total \$1,040,000 in FY 2007 (MaCO survey)
17. City and municipal court costs transferred to the state are estimated to be \$737,546 in FY 2007.

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18. County funded office costs not reimbursed by the District Court Council are estimated to be \$674,157.
19. All costs reduced from the entitlement share allocation have been inflated at rates consistent with other entitlement share growth. This brings the total reduction of entitlement share allocations to \$2,559,141 in FY 2007.
20. A legislative audit will be conducted to determine actual costs, please refer to the Legislative Audit assumptions for further discussion.

### **Department of Administration**

21. The Department of Administration will provide human resource services to the office. This fiscal note assumes classification costs to cover new and existing employees to the state system will total \$30,000 in FY 2006. Ongoing payroll processing costs are estimated at \$25,000 each year and require an additional 0.25 FTE per year with offsetting proprietary revenues.

### **Costs associated with representation for indigent parents in child abuse and neglect cases - new**

22. These new costs would be incurred in the newly created Office of the Public Defender.
23. The Judiciary used case filing data for cases filed pursuant to 41-3-422, MCA, from the first 6 months of FY 2004 and doubled the filings to estimate a full fiscal year.
24. Currently the 1<sup>st</sup>, 2<sup>nd</sup>, 4<sup>th</sup>, 13<sup>th</sup>, 14<sup>th</sup>, 18<sup>th</sup>, 21<sup>st</sup> and 22<sup>nd</sup> Judicial Districts as well as some counties in the 7<sup>th</sup> and 12<sup>th</sup> Judicial Districts appoint counsel immediately. The cost in FY 2004 for public defender representation of the parents in these cases was \$533,213. There were 241 filings in the first 6 months of FY 2004 in these districts. The average cost per case was \$1,106.  $\$533,213 / (241 \times 2)$ .
25. The cost in FY 2004 for public defender representation of the parents in Judicial Districts, which don't appoint counsel immediately, was \$279,360. There were 221 cases filed in the first 6 months of FY 2004 in the Judicial Districts where counsel was appointed at either the adjudication or dispositional hearing stage of the process. The average cost per case was \$632.  $\$279,360 / (221 \times 2)$ .
26. The total increased cost is estimated at \$209,508 per year.  $(\$1,106 - \$632) \times (221 \times 2)$ .
27. Assumptions are base on work done by the Legislative Fiscal Division and the Legislative Services Division for the Law and Justice Interim Committee in preparation for submission of this bill. The Office of the Court Administrator and the Department of Administration compiled additional information.

### **Department of Corrections**

28. The proposed statewide public defender system would absorb the costs DOC currently spends on inmate public defender services for the prosecution of crimes committed in prison.
29. These costs also include expert witnesses, psychological exams and transcripts. In FY 2004, these expenses totaled \$50,141.67.
30. It is assumed that the base budget in the DoC will transfer to the Public Defender Office in FY 2007 to offset costs associated with the new responsibility.

### **Legislative Audit**

31. In accordance with section 2-7-504, MCA, the named counties are conforming to the rules of accounting for the receipt and disbursement of all money belonging to the local government.
32. Fiscal years 1999 through 2004 public defender expenditure records of each county named are readily available for both district and justice court proceedings (emphasis added).
33. The audit hours for each of fiscal year 2003 and 2004 financial audits required by the state single audit act for the six named counties averaged 720 hours per audit.
34. The average billing rate for the fiscal year 2003 and 2004 financial audit services required by the state single audit act for the named counties was \$60 per hour.
35. To the extent that these expenditures were included in the annual audits of the counties, the audit requirement under section 74(2) will rely on the audit results of the annual audits under the state single audit act.

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36. These audits are special purpose claims reviews of the actual costs as defined in legislation, for public defender services in justice and district courts that were not reimbursed by the office of court administrator.
37. The legislative auditor will contract for the audit services.
38. Due to the reporting deadline of April 30, 2006, we will use a limited solicitation for contracted services and anticipate 75 hours at \$54 per hour for preparation of bid specifications, or \$4,050.
39. The legislative auditor will provide administrative support for contract arrangements, not to exceed 25 hours per county at a rate of \$54 per hour, or \$8,100.
40. Contract payments will be made directly to the contractor by the county for 50% of actual audit services rendered.
41. The Office of State Public Offender will pay the remaining 50% of the audit costs.
42. At 75 hours of audit effort per fiscal year under review, the six year audit period requires 450 audit hours at a rate of \$60 per hour, or \$27,000 per county.
43. The legislative auditor will spend 40 hours compiling the results of the audit work at \$54 per hour to meet the reporting requirement, or \$2,160.
44. The audit cost will include the costs of the preparation of bid specifications, administrative support, audit costs, and report compilation costs as estimated above.
45. The total estimated costs of the above mentioned audit is \$176,310.

**FISCAL IMPACT:**

	<u>FY 2006</u> <u>Difference</u>	<u>FY 2007</u> <u>Difference</u>
<b>Public Defender Office - New</b>		
FTE	5.50	84.25
 <u>Expenditures:</u>		
Personal Services	294,140	2,874,486
Operating Expenses – Indigent parent	0	209,508
Operating Expenses – Inmate Public Defender Services	0	50,141
Operating Expenses	<u>412,702</u>	<u>10,652,000</u>
TOTAL	\$706,842	\$13,786,495
 <u>Funding of Expenditures:</u>		
General Fund (01)	\$706,842	\$13,786,495
 <b>Legislative Audit</b>		
<u>Expenditures:</u>		
Operating Expenses	\$88,155	\$0
 <u>Funding of Expenditures:</u>		
General Fund (01)	\$88,155	\$0
 <b>Department of Administration</b>		
FTE	0.25	0.25

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Expenditures:

Personal Services	25,000	25,000
Operating Expenses	<u>30,000</u>	<u>0</u>
TOTAL	\$55,000	\$25,000

Funding of Expenditures:

General Fund (01)	0	0
Proprietary	<u>55,000</u>	<u>25,000</u>
TOTAL	\$55,000	\$25,000

Revenues:

Proprietary (06)	\$55,000	\$25,000
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**Judicial Branch**  
**Supreme Court Operations (01)**

FTE	0.00	(1.50)
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Expenditures:

Personal Services	\$0	(\$43,725)
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Funding of Expenditures:

General Fund (01)	\$0	(\$43,725)
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**Judicial Branch**  
**District Court Operations (04)**

Expenditures:

Operating Expenses	\$0	(\$8,093,435)
Operating Expenses – Indigent parent	209,508	\$0

Funding of Expenditures:

General Fund (01)	\$209,508	(\$8,093,435)
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**Department of Corrections**

Expenditures:

Operating Expenses	\$0	(\$50,141)
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Funding of Expenditures:

General Fund (01)	\$0	(\$50,141)
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**Department of Administration**  
**Entitlement Offset**

Expenditures:

Transfers (Entitlement Share Allocation)	\$0	(\$2,559,141)
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Funding of Expenditures:

General Fund (01)	\$0	(\$2,559,141)
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Net Impact to Fund Balance (Revenue minus Funding of Expenditures):

General Fund (01)	(\$1,004,505)	(\$2,989,912)
State Special Revenue (02)	\$0	\$0
Proprietary (06)	\$0	\$0

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

1. The local entities will be required to pay, into a state special revenue account, 12.5% of the accrued sick leave and 50% of the vacation leave totals for each assumed employee. It is impossible to determine the impact of this but anything paid in will reduce the counties balance sheet liabilities by 100% of their current associated liabilities.
2. There will be a legislative audit of 6 counties. The costs of these audits will be split 50/50 between the state of Montana and the audited counties. The estimated total cost of these audits \$176,310 in FY 2006.
3. The currently identified costs (justice court - \$1,040,000 and city/municipal court - \$737,546 and county office costs of \$674,157) associated with justice courts and city and municipal courts will be reduced from the local entity's entitlement share with inflationary factors applied, and all costs assumed by the state of Montana.

TECHNICAL NOTES:

1. This may create an unfunded mandate for counties by stipulating that the audit costs are shared per 1-2-112, MCA.