

## NARRATIVE INFORMATION – DA 400

DIVISION OF THE BUDGET  
STATE OF KANSAS

AGENCY NAME: Kansas State Board of Indigents' Defense Service  
AGENCY NUMBER: 328-00 FUNCTION NO. 01  
PROGRAM TITLE AND NUMBER: AID TO INDIGENTS DEFENSE  
SUBPROGRAM TITLE AND NUMBER: AGENCY SUMMARY

Dear Governor Kelly, and Senate and House Budget Committee Members:

The Kansas State Board of Indigents' Defense Services (BIDS) submits for your approval its budget request for FY 2026 and FY 2027.

BIDS is the state agency tasked with ensuring that Kansas meets its constitutional and statutory mandate to provide effective representation for people who are indigent and accused of a felony. This obligation arises from *Gideon v. Wainwright*, 372 U.S. 335 (1963), and K.S.A. 22-4522 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....”<sup>1</sup> Meeting this mandate is an ongoing challenge due prosecutorial charging of felony cases that far exceeds our public defense system’s current capacity, state-wide, to staff those cases with constitutionally effective criminal counsel in a timely and efficient manner.

We do not currently have enough attorneys and defense staff within our public defender offices to handle caseloads within our public defense system and there are not enough private practicing attorneys in Kansas who are experienced in criminal law and willing to take sufficient numbers of appointed cases at our current hourly rates to handle the number of cases flowing into our assigned counsel program.<sup>2</sup> As a result, there are delays in getting counsel appointed to cases in many jurisdictions and, when counsel are located for our clients, frequently they are traveling from far outside of the jurisdictions where they are needed, resulting in significantly higher assigned counsel costs.<sup>3</sup>

We continue to struggle to fill and retain public defender positions in our agency due to uncompetitive salaries that still linger approximately \$30,000 below prosecutor salary rates in the same jurisdictions. Additionally, we’ve also experienced significant issues hiring investigators and mitigation support staff as our salaries for those positions continue to linger \$10,000 to \$20,000 below competitive rates for sufficiently qualified

<sup>1</sup> See K.S.A. 22-4522.

<sup>2</sup> BIDS’ current statutory rate of \$120 per hour in K.S.A. 22-4507(c) is approximately 45% percent of the going rate of private defense services in Kansas (\$225/hour), last surveyed by the Kansas Bar Association in 2017. ([https://ksbar.org/?pg=economics\\_report](https://ksbar.org/?pg=economics_report)).

<sup>3</sup> Brink, M. N., Metzger, P. R., Solving the Public Defense Crisis in Kansas, Deason Criminal Justice Reform Center (February 2025).

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candidates. As a result, in FY 2025, our active trial-level public defender average caseload was at least 109.4 cases per attorney, per year. Averaged out, that 109.4 felony caseload left each of our active trial attorneys approximately only **19 hours per case** over the course of the year to fully litigate their client's felony criminal cases, which could include anything from probation violations up to premeditated first-degree murders with life sentences.<sup>4</sup>

In comparison, the 2023 National Caseload Standards for Public Defense, published by the American Bar Association, the National Center for State Courts, and the Rand Corporation indicates that even for low-level felonies, attorneys should spend 35 hours per case to meet the Sixth Amendment Constitutional standard of reasonably effective assistance of counsel pursuant to professional norms.<sup>5</sup> To meet the constitutionally reasonable effective assistance of counsel standard on the highest level felonies, such as homicide and sex cases, the study found that attorneys should be spending **248 hours per case**. These caseload standards were compiled using public defense workload study results from 17 different workload studies from across the United States and employed the Delphi method to facilitate a panel of 33 national criminal defense attorney experts. These new standards represent the widely accepted national professional, constitutional, and ethical standards for criminal defense practice.

It is important for all state stakeholders concerned about challenges in Kansas's criminal legal system to work together to address the growing number of felony cases and the significant staffing shortages in our public defense system. Meaningful action is needed to ensure that every person charged with a crime who cannot afford an attorney receives timely legal representation, as required by the Sixth Amendment. Without adequate support, the state risks serious consequences, including cases being dismissed outright or having to be retried, which can undermine confidence in the justice system and increase costs for all involved.

This Governor and Legislature's investments in our public defense system over the last five years have been desperately needed, much appreciated, and have made significant positive impacts on addressing part of our long history of high turnover. However, we are still struggling to recruit qualified candidates from the small pools of law school graduates while competing with prosecutors' offices paying starting salaries \$20,000

<sup>4</sup> At 40 hours per week, 52 weeks a year, each attorney would have 2,080 hours per year to work those cases (with no vacations, holidays, or sick time), leaving 19 hours per case, per year for each attorney to handle everything from low level probation violations up to off-grid premeditated first degree murders with life sentences.

<sup>5</sup> [https://www.rand.org/pubs/research\\_reports/RRA2559-1.html](https://www.rand.org/pubs/research_reports/RRA2559-1.html)

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to \$30,000 above our public defender salaries. Even as our turnover rates decrease and once all our current vacant positions are filled, we still do not have enough attorneys and staff to provide timely, constitutionally effective assistance of counsel in a timely manner in every case.

We are therefore asking, in addition to maintaining our current funding levels, that the Governor and Legislature consider a number of absolutely necessary additional budget enhancement requests in FY 2026 and for FY 2027 aimed once again at addressing the staffing issues and shortages of assigned counsel that continue to plague our efforts to meet our statutory mandate. Among these is:

- (1) a salary adjustment aimed at bridging the pay gap and achieving pay parity with prosecutors for our public defenders;
- (2) a moderate request for additional staffing in order to begin addressing shortages of attorneys and staff necessary to ethically support our current caseloads.

A strong public defense system is not just a constitutional imperative. It is also valuable to the Kansas criminal legal system as a whole. A strong public defense system not only protects our clients' rights and satisfies the state's obligations under the constitutional requirements of the Sixth Amendment, it also protects our Kansas citizens' individual liberties, increases the effectiveness of the court system, saves down the line incarceration costs for the Department of Corrections, and is essential to maintaining the legitimacy and fairness of the judicial process.<sup>6</sup>

The good news is that the investments in our public defense system over the last several years have started us down the path towards creating a well-functioning and effective public defense system, but our caseloads and the prosecutor's case filings are still outpacing this positive progress. In FY 2027 we need to continue that progress forward in significant and measurable ways in order to meet those caseloads and the judicial system's needs.

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<sup>6</sup> Fabelo, Tony, "What Policy Makers Need to Know to Improve Public Defense Systems," *Bureau of Justice Assistance*, U.S. Dept. of Justice, December 2001, <https://www.ncjrs.gov/pdffiles1/bja/190725.pdf>

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This year's budget also includes caseloads and expert witness costs. While not technically enhancements since they are existing costs and the expenditure is not a programmatic change, this budget includes the items as enhancements for clarity. Caseloads are typically incorporated during the budget process, but were not included in the 2025 final budget bill due to an unintentional oversight outside of our agency's control. Expert witness costs have been included in previous budgets at artificially deflated rates due to spending excess shrinkage funds in that area, but this year the focus is to provide maximum transparency for a cost that we are obligated to incur.

The budget also includes an IT security package. This request includes items that BIDS has been specifically told by a legislative audit to budget for, items that BIDS has been told by a statewide survey from another agency that we should consider to reduce risk, upgrading IT software and equipment that will be unsupported next year, and effectuating multi-factor authentication and continuity of operations planning.

Our goal here is to give all stakeholders a clear picture of the full consequences those funding decisions will have on the future of our agency's most basic core function of providing constitutionally required criminal counsel to all impoverished Kansans who need our assistance.

### Conclusion

The Board of Indigents' Defense Services appreciates the support that the Governor and the Legislature have given us. We will continue to make our best efforts at providing the most constitutionally effective and economically efficient defense delivery system available to all Kansans who need our services with continued investments in the years to come.

Sincerely,



Brandon Barrett  
Acting Executive Director

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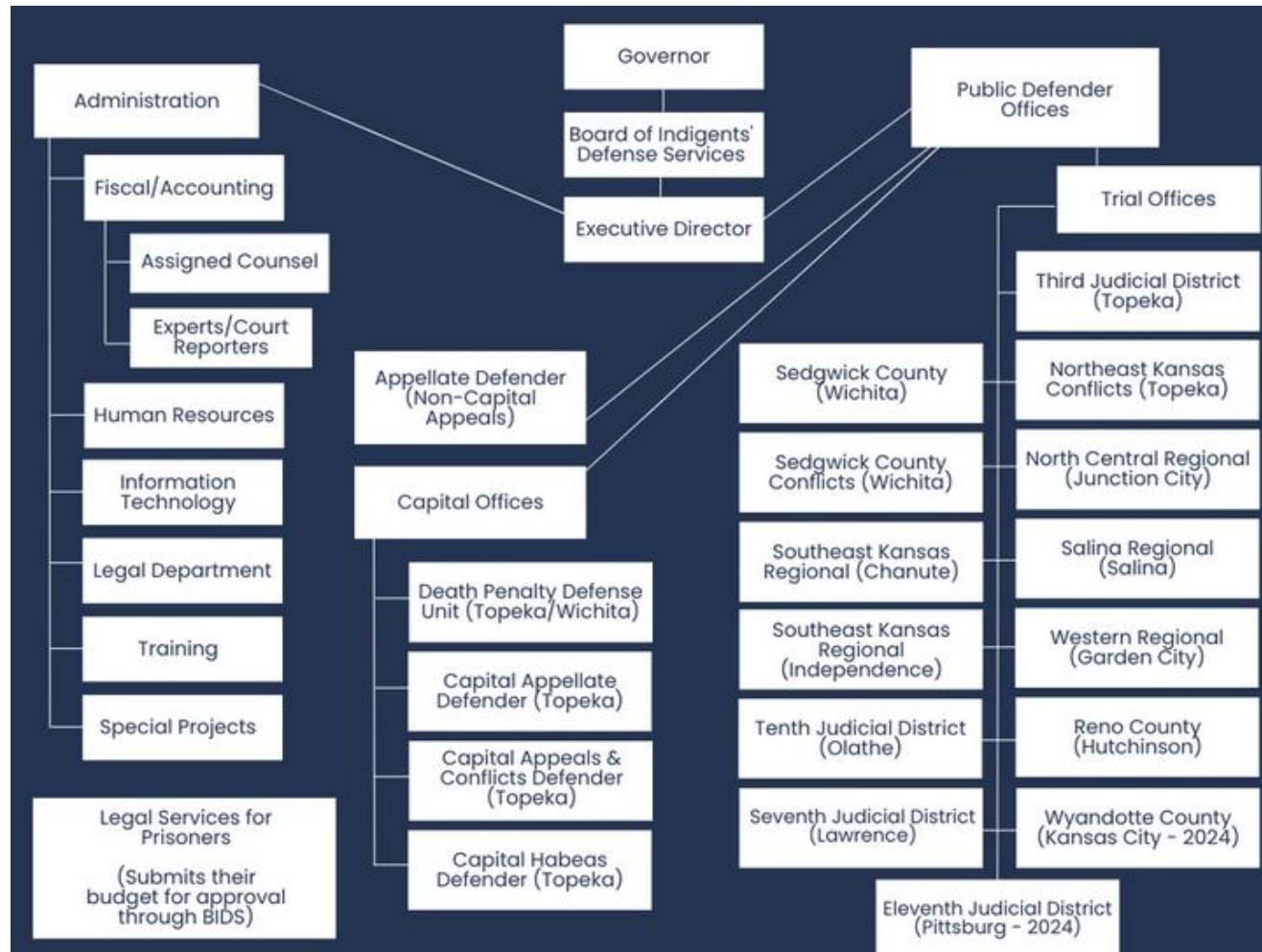
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## Agency Organizational Chart FY 2025



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### **Board of Indigents' Defense Services**

#### **AGENCY MISSION**

The Board of Indigents' Defense Services' mission is to fulfill the constitutional promise of a zealous defense by providing our clients with team-based advocacy that champions their human dignity and achieves just outcomes on their behalf.

ADVOCACY	Providing excellent criminal defense and holistic representation to promote our clients' priorities.
DIGNITY	Honoring and championing our clients' experiences is foundational to our client-centered representation.
JUSTICE	Zealously protecting the constitutional rights of our clients in pursuit of the transformation of an inherently unjust legal system.

#### **STATUTORY PURPOSE**

The statutory purpose of the State Board of Indigents' Defense Services is to provide, supervise and coordinate, in the most efficient and economical manner possible, the constitutionally and statutorily required counsel and related service for each indigent person accused of a felony and for such other indigent persons as prescribed by statute.<sup>7</sup>

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<sup>7</sup> K.S.A. 22-4522(a)

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### AGENCY PHILOSOPHY

The employees of the Board of Indigents' Defense Services strive to protect individual liberty and seek just outcomes for our clients through dedication to the Constitution and the Bill of Rights, and the effective and efficient use of resources.

### PROGRAMS ESTABLISHED TO ASSIST WITH AGENCY MISSION:

1. Administration Office
2. Trial Level Offices
3. Appellate Defender Office
4. Death Penalty Units
  - a. Capital Appeals & Conflicts Office
  - b. Capital Appellate Defender Office
  - c. Death Penalty Defense Unit (Trial Divisions in Topeka & Wichita)
  - d. State Capital Habeas Office
5. Assigned Counsel
  - a. Contracts
  - b. Attorney panels

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### **STATUTORY HISTORY AND THE DEFENSE SYSTEM**

The State Board of Indigents' Defense Services was created by the 1982 Legislature for the purpose of providing indigent felony defense services as required by the Sixth Amendment to the United States Constitution. The present Board succeeded 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 1982 Legislature provided that the Board could: 1) contract with one or more law firms in a county or district for the defense of indigent persons accused of felonies; 2) contract with cities or counties to provide for defense of misdemeanors or other defense services at the expense of the city or county; 3) accept the services of volunteer workers and consultants; 4) appoint public defenders; 5) conduct attorney training programs; 6) provide technical aid or assistance to attorneys; and 7) accept and expend governmental and private grants.

The Kansas Public Defense System, administered by the Board of Indigents' Defense Services, consists of two types of indigents' defense delivery systems: our Assigned Counsel Program and our regional Public Defender Offices.

Our Assigned Counsel Program consists of two types of delivery systems. The first are the lists of private attorneys who volunteer to serve on local appointment panels in each judicial district where they are assigned felony cases by the local judge in exchange for the current BIDS hourly rate. The second of those two types of assigned counsel are local private attorneys who have accepted contracts from BIDS to handle felony cases in certain jurisdictions under negotiated contract terms.

In FY 2025, our Public Defender Offices consisted of the following offices:

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### Kansas State Level Public Defender Offices in FY 2025<sup>8</sup>

Office	Localities Served	Year Established	Current Chief Public Defender
<b>Appellate Defender Office</b> 700 SW Jackson Street, Suite 900 Topeka, KS 66603	Statewide	1985	J. Patrick Lawless
<b>Capital Appellate Defender</b> 300 SW 8 <sup>th</sup> Street Topeka, KS 66603	Statewide	2002	Clayton Perkins
<b>Capital Appeals and Conflicts Defender</b> 1040 New Hampshire Lawrence, KS 66044	Statewide	2002	Reid Nelson
<b>Capital Habeas Office</b> 6750 Antioch Rd Merriam, KS 66204	Statewide	2015	Vacant

<sup>8</sup> Adult Felony only—Juvenile/misdemeanor cases are handled through a separate county-by-county appointment system.

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<b>Death Penalty Defense Unit (Main Office)</b> 300 SW 8 <sup>th</sup> Street Topeka, KS 66603	Statewide	1995	Mark Manna
<b>Death Penalty Defense Unit</b> Wichita Satellite Office 604 N. Main Street Wichita, KS 67203	Statewide	1995	Mark Manna
<b>Eleventh Judicial District Public Defender Office</b> 506 N Pine, Suite A Pittsburg, KS 66762	Crawford County, Labette County, Cherokee County	2025	Jessica Watts
<b>North Central Kansas Public Defender Office</b> 715 N. Washington Street Junction City, KS 66441	Geary County, Riley County, Clay County, Morris County, Dickinson County	1972	Trey Bryant
<b>Northeast Kansas Conflicts Public Defender Office</b> 700 SW Jackson Street Suite 1001 Topeka, KS 66603	Shawnee County (Conflicts/overflow cases)	1997	Jonathon Noble
<b>Reno County Public Defender Office</b> 129 W 2 <sup>nd</sup> Ave, Suite D Hutchinson, KS 67501	Reno County	1996	Christine Jones

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<b>Salina Regional Public Defender Office</b> 119 W. Iron Ave, 6 <sup>th</sup> Floor Salina, KS 67401	Saline County, Ottawa County	1973	Justin Bravi
<b>Sedgwick County Public Defender Office</b> 604 N. Main Street, Suite D Wichita, KS 67203	Sedgwick County	1985	Sarah Sweet McKinnon
<b>Sedgwick County Conflicts Public Defender Office</b> 266 N. Main Street, Suite 210 Wichita, KS 67202	Sedgwick County (Conflicts/overflow cases)	2009	Bradley Sylvester
<b>Seventh Judicial District Public Defender Office</b> 1040 New Hampshire Street Lawrence, KS 66044	Douglas County	2023	Jessica Glendening
<b>Southeast Kansas Public Defender Office</b> 10 S. Highland Ave Chanute, KS 66720	Allen County, Neosho County, Wilson County, Woodson County	1997	Jay Witt
<b>Southeast Kansas Public Defender Satellite Office</b> 404 N. 14 <sup>th</sup> Street Independence, KS 67301	Chautauqua County, Montgomery County	2004	Jay Witt
<b>Third Judicial District Public Defender Office</b> 701 SW Jackson Street, 3 <sup>rd</sup> Floor Topeka, KS 66603	Shawnee County	1972	Danielle Hamilton Slate

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<b>Tenth Judicial District Public Defender Office</b> 115 E. Park Street, Suite A Olathe, KS 66061	Johnson County	1989	Michael McCulloch
<b>Twenty-Ninth Judicial District Public Defender Office</b> 1017 N. 6 <sup>th</sup> Street, Suite 103 & 109 Kansas City, KS 66101	Wyandotte County	2025	David Magariel
<b>Western Regional Public Defender Office</b> 113 Grant Ave Garden City, KS 67846	Finney County	1994	Lori Jensen

### A History of BIDS Assigned Counsel Rates

In December 1987, the Kansas Supreme Court held in *State ex. rel. Stephan v. Smith*, 242 Kan. 336 (1987), that the state's existing system of appointing and compensating assigned counsel was unconstitutional. The court overturned the then mandatory appointment process for assigned counsel and ruled the state "has an obligation to pay appointed counsel such sums as will fairly compensate the attorney...at a fair rate which is not confiscatory, considering overhead and expenses." In essence, the court ordered an end to the long-standing reliance on the goodwill of the County Bar for indigent defense and instructed the state to pay reasonable compensation to attorneys assigned to represent indigent defendants.

As a result of *Stephan v. Smith*, the 1988 Legislature approved an increase in the compensation rate for assigned counsel from \$35 to \$50 per hour. Service by private attorneys on panels for appointment as counsel to indigent defendants was also made voluntary. In 2006, the Legislature increased the compensation for assigned counsel through statute K.S.A. 2006 supp. 22-4507, from \$50 to \$80 per hour. In 2024, the Legislature increased the statutory compensation for assigned counsel through statute K.S.A. 2024 Supp. 22-4507 from \$80 per hour to a minimum of \$120 per hour up to \$140 per hour. The 2024 budget bill included a proviso to set the maximum assigned counsel rate at \$125 per hour, but caseloads were not included in the budget bill and therefore the Board has only authorized payments up to \$120 per hour.

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### BIDS Assigned Counsel Hourly Rates

Year of Change	Paid Hourly Rate	Reason for Change
1982	\$35	Original rate set by Legislature
1988	\$50	Stephan v. Smith/ Legislative funding increase
2006	\$80	Legislative Increase
2010	\$62	Prorating by the BIDS Board due to budget shortfalls
2016	\$65	Public hearing/ Legislative funding increase
2017	\$70	Public hearing/ Legislative funding increase
2018	\$75	Public hearing/ Legislative funding increase
2019	\$80	Public hearing/ Legislative funding increase
2022	\$100*	Special Budget Proviso/ Legislative funding increase
2021	\$120*	Special Budget Proviso/ Legislative funding increase
2022	\$120*	Special Budget Proviso/ Legislative funding maintained.
2023	\$120*	Special Budget Proviso/ Legislative funding maintained.
2024	\$120-\$140	Statutory amendments to K.S.A. 22-4507, funding maintained at \$120 per hour for FY 2025.
2025	\$120-140	Budget proviso authorized funding for \$125/hour, but omitted caseloads prevented paying this amount, and therefore funding is maintained at \$120/hour.

\*Statutory hourly rate remained at \$80 per hour, higher rates were being paid through a series of special budget provisos in BIDS budget bills.

From 2006 until 2024, the BIDS statutory hourly rate for our assigned counsel program was \$80 per hour under K.S.A. 22-4507(c). However, in 2021 the State Legislature allotted funds and included a special budget proviso in BIDS' FY 2022 budget to temporarily raise our statutory rate to \$100 an hour for our assigned counsel, to be paid starting July 1, 2021. In the 2022 Legislative Session, another special budget proviso was included in BIDS' FY 2023 budget which temporarily raised our statutory rate to \$120 an hour for our assigned counsel to be paid starting July 1, 2022. In the 2023 Legislative Session, another budget proviso was included in our BIDS budget to allow that \$120 per hour rate to remain in effect through FY

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2024 and FY 2025. In the 2024 Legislative session, K.S.A. 22-4507(c) was amended to raise the statutory assigned counsel rate to a minimum of \$120 per hour up to \$140 per hour, with certain exceptions.

Currently, the BIDS Board has authorized and the Legislature has funded the BIDS assigned counsel rate at \$120 per hour through FY 2026, though caseload consensus estimates were not included in the enrolled 2025 budget bill.

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### **AGENCY OVERVIEW OF CURRENT YEAR ESTIMATE AND BUDGET YEAR SCENARIOS**

The BIDS budget can be described in thirds: Public Defenders; Assigned Counsel; and Defense Services, including court reporters, interpreters and experts.

#### ***Public Defenders***

Agency FTE is stable at 284.0 as follows:

Administration	32.0	Assigned Counsel	0.0
Legal Services for Prisoners	0.0	Appellate Defender Office	27.0
Trial Level Public Defender Offices	184.0	Death Penalty Defense	41.0

This appears to be a slight decrease, but this difference arises from assigning FTE allocations to intern positions based on annual usage. BIDS continues to make efforts to effectively and efficiently use our funding to provide the necessary resources for our employees and our clients. We continue to frequently negotiate with contract counsel and experts for lower-than-market rate services. Support staff provide vital assistance to aid in accomplishing the agency's mission as well.

#### **Public Defense Employee Pay and Turnover Issues**

However, one of the ways in which BIDS' efforts to use our resources effectively and efficiently continue to be hampered is through ongoing turnover. In the spring of 2019, it was reported that during the previous fiscal year, 1 out of every 4 public defenders resigned. As a result, the legislature approved funding to provide experience-based pay increases for public defenders that would begin July 1, 2019. That boost had a positive impact and that turnover rate fell to 13% in the fall of 2019. However, in part due to ongoing caseload issues and pay parity disparities, by July 2020 that turnover rate had increased back up to 15% agency-wide. In FY 2021 while that turnover rate fell slightly to 12%, our ongoing, chronic loss of

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experienced defenders over an extended period of time had put a significant strain on our ability to maintain our caseloads at ethically reasonable levels.

After enduring a world-wide pandemic and several years of stagnant wages, in FY 2022 our agency turnover rate spiked again to almost 18% with turnover rates among public defenders driving that at 20.63%. In FY 2022, 1 in 5 public defenders left our Kansas public defender system. During that severe period of turnover, another significant pay adjustment aimed at reaching better pay parity with prosecutors and other government services was implemented. As a result of that agency-wide pay scale adjustment and ongoing efforts to continue to control our public defender caseloads, our BIDS agency wide turnover rate plummeted in FY 2023 to 9.72% with public defender turnover specifically dropping to 8.55% while staff turnover hovered around 11.58%. By FY 2024, that turnover rate had risen back up to 14.8%.

While the implementation of a statewide employee pay raise of 5% at the beginning of FY 2025 continued that pay progress, additional pay adjustments are still needed to continue to hold any additional exodus of experienced defenders from starting again in future years and to aid us in continuing to recruit qualified, dedicated defense counsel and defense staff to fill our vacancies.

### ***Assigned Counsel***

The statutory payment rate for our assigned counsel is currently funded at \$120 per hour under K.S.A. 2024 Supp. 22-4507(c), though BIDS has statutory authority under 2024 changes to K.S.A. 22-4507(c) to go as high as \$140 per hour. However, to support a rate of more than \$120 per hour long-term, additional funding will need to be secured for the assigned counsel program under future budget requests. While the 2025 budget provided authorization for funding up to \$125, the omission of caseload consensus estimates prevented the increase from occurring on schedule.

Assigned counsel, though necessary, are generally more costly per case than public defenders, although due to staffing shortages and greater efforts to ethically control caseloads, the cost effectiveness comparison has been less stark in recent years. Even at hourly rates well below the going market rate, assigned counsel historically cost more per case and assigned counsel typically handled fewer difficult, high-level cases such as first-degree murder and Jessica's Law cases. However, when the number of experienced public defenders drops due to resignation or public defender

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offices have to refuse cases due to caseload overload, more and more high-level cases must be defended by assigned counsel because there are not enough qualified public defenders remaining. This is due, in large part to the comparatively low salaries paid to public defenders compared to similarly qualified prosecutors.

During FY 2026, BIDS is taking the opportunity presented by two new offices opening to assess how best to measure assigned counsel to public defender costs on a one-to-one basis.

### ***Defense Services: Experts and Court Reporters***

For many years, revenue in the Indigents' Defense Services fee fund has fluctuated while expert and court reporter costs continue to climb. The projected state general funds and fee funds have not adequately supported expert and court reporter payments. Fluctuating increases in fee funds, savings from the remainder of the Operating Appropriation line item, and carrying unpaid claims into the next year have been the means for the agency to deal with this issue.

Additionally, due to recent state and national appellate decisions, our agency has implemented a required focus on utilizing appropriate expert services at all levels of the defense case. Due to the increased training on the necessity of obtaining appropriate experts and wider availability of a variety of experts, these costs have significantly increased over these past few years. BIDS has often used one-time cost savings to cover these increased costs, but these savings will not occur in FY 2026 due to the vacancy proviso, and therefore the full amount must be incorporated into the budget.

BIDS continues to negotiate fees with experts at lower than market rates, but even those costs still increase year-to-year. Permanent funding to support these costs is required.

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	<b>FY 2019 (Actuals)</b>	<b>FY 2020 (Actuals)</b>	<b>FY 2021 (Actuals)</b>	<b>FY 2022 (Actuals)</b>	<b>FY 2023 (Actuals)</b>	<b>FY 2024 (Actuals)</b>	<b>FY 2025 (Actuals)</b>	<b>FY 2026 (Projected)</b>	<b>FY 2027 (Projected)</b>
Experts Expenditures by year	\$1,341,182	\$1,229,582	\$1,178,837	\$2,008,522	\$2,114,188	\$3,731,092	\$4,253,687	\$4,225,403	\$4,324,833

Expert cost increases are driven by capital defense (50.0% of the increase since 2023, 43.2% of the increase since 2021) and assigned counsel (34.8% of the increase since 2023, 44.8% of the increase since 2021). Given the increased need for expert witnesses and rising costs, it is notable that noncapital public defender offices are not driving these costs.

	<b>FY 2019 (Actuals)</b>	<b>FY 2020 (Actuals)</b>	<b>FY 2021 (Actuals)</b>	<b>FY 2022 (Actuals)</b>	<b>FY 2023 (Actuals)</b>	<b>FY 2024 (Actuals)</b>	<b>FY 2025 (Actuals)</b>	<b>FY 2026 (Projected)</b>	<b>FY 2027 (Projected)</b>
Transcription costs by year	\$769,683	\$680,447	\$378,279	\$430,764	\$543,338	\$623,946	\$727,980	\$779,000	\$779,000

Transcriptionist totals vary based on the length of trials transcribed. Transcription costs took a significant decline in FY2021 to \$378,279 due to the pandemic and lack of case movement in the courts during that time. Transcript costs in FY 2022 began to gain steam and were back up to \$430,764. In FY 2023, those costs increased to \$543,338, likely due to the rebound in casework following the slowdown of casework during the

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pandemic. Transcription costs were still lower in FY 2023 than they were in 2019, pre-pandemic. In FY 2024, as caseloads returned to more typical levels after pandemic slow-downs, transcription costs increased again to \$623,946. These costs appear to be plateauing near the FY 2019 amounts.

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### Public Defense Service Coverage Areas by Type FY 2025

Counties With Public Defender Office Coverage	Counties with Contract Counsel Coverage	Counties with Assigned Counsel Panel Coverage
Allen Chautauqua Cherokee Clay Crawford Dickinson Douglas Finney Geary Johnson Labette Montgomery Morris Neosho Ottawa Reno Riley Saline Sedgwick Shawnee Wilson Woodson Wyandotte	Atchison, Brown, Butler, Cherokee, Cloud, Crawford, Doniphan, Douglas, Geary, Hamilton, Harper, Jefferson, Jewell, Johnson Kearney Labette, Leavenworth, Lincoln, Mitchell, Ottawa, Reno, Republic, Saline, Scott, Sedgwick, Shawnee, Sumner, Washington, Wyandotte	All Counties

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## FY 2026 Agency Appropriation

### CURRENT YEAR

#### **FY 2026 Appropriation – Current Service Level - \$63,343,828**

The agency's FY 2026 budget includes \$61,001,169 in SGF appropriations, an estimated \$1,065,411 in Indigents' Defense Services fee fund receipts, and an estimated \$8,326 of revenue from the Inservice Education fee fund. It also includes \$1,268,922 in reappropriations, which were all committed to assigned counsel costs received during FY 2025 that could not be fully audited for payment prior to the end of the fiscal year.

The FY 2026 budget submission also includes two items that require no funding:

1. The creation of a gifts and grants fund so BIDS can apply for and receive grants, with a proviso allowing BIDS to utilize the funds for the grant's purpose, and
2. A proviso authorizing BIDS to create BIDS-specific pay scales for BIDS legal assistant and investigator positions. This proviso would specifically recognize that the work conducted by BIDS legal assistants and BIDS investigators is more difficult and intensive than work typical of these position names statewide, and therefore the BIDS scales should not be compared or modeled from the state pay scales for similarly-named positions.

### BUDGET YEAR

#### **FY 2027 Appropriation – Current Service Level - \$62,335,269**

The agency's FY 2027 budget includes \$61,235,188 in SGF appropriations, an estimated \$1,091,537 in Indigents' Defense Services fee fund receipts, and an estimated \$8,543 of revenue from the In-Service Education fee fund.

The FY 2027 budget submission also includes two items that require no funding, which are identical to those in the FY 2026 submission:

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1. The continued authorization of a gifts and grants fund so BIDS can apply for and receive grants, with a proviso allowing BIDS to utilize the funds for the grant's purpose, and
2. A proviso authorizing BIDS to create BIDS-specific pay scales for BIDS legal assistant and investigator positions. This proviso would specifically recognize that the work conducted by BIDS legal assistants and BIDS investigators is more difficult and intensive than work typical of these position names statewide, and therefore the BIDS scales should not be compared or modeled from the state pay scales for similarly-named positions.

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### **BIDS Enhancements**

#### **Enhancement Package #1 – Caseloads – Assigned Counsel - \$5.0 million in FY 2026; \$4.1 million for FY 2027**

While not technically an enhancement, caseloads are typically included in the budget process. For maximum transparency and due to the apparently-unintentional omission of caseloads from the budget bill in 2025, we submit the caseload estimates as an enhancement.

BIDS is required to pay costs for assigned counsel. Combined with the base budget, this enhancement reflects the FY 2026 caseload consensus estimate for FY 2026 and a similarly-calculated estimate for FY 2027. These amounts may be adjusted after the Fall 2025 Caseload Consensus Meeting.

All costs are contractual services.

	FY 2026 Base	FY 2026 Caseload Increase	FY 2027 Base	FY 2027 Estimate Increase
Assigned Counsel - Contract	\$4,500,000	\$601,503	\$4,500,000	\$795,830
Assigned Counsel - Noncontract	\$22,531,831	\$4,433,704	\$21,580,140	\$3,348,912
Total	\$27,031,831	\$5,035,207	\$26,080,140	\$4,144,742

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### **Enhancement Package #2 – Caseloads – Expert Witnesses - \$3.0 million in FY 2026; \$3.4 million for FY 2027**

Expert witnesses were artificially deflated in previous budgets because of using one-time cost savings, typically from excess shrinkage, to pay these costs. In FY 2026, shrinkage coverage is lapsed, and therefore the full cost of expert witnesses must be included in the budget.

Much like assigned counsel costs, BIDS has little to no control over expert witness costs. While BIDS successfully negotiates for lower rates, current jurisprudence is that failure to provide experts at notable moments in representation will result in successful ineffective assistance claims in the appellate process, which increases costs for the state dramatically to provide for new trials and proceedings. Additionally, statutory requirements for providing certain types of experts in certain proceedings creates costs, as does the increased use of expert witnesses by prosecutors.

All costs are contractual services.

	FY 2026 Base	FY 2026 Estimate Increase	FY 2027 Base	FY 2027 Estimate Increase
Expert Witness (Assigned Counsel)	\$947,231	<b>\$952,769</b>	\$630,000	<b>\$1,370,000</b>
Expert Witness (Trial)	\$115,472	<b>\$584,528</b>	\$115,472	<b>\$584,528</b>
Expert Witness (Capital Defense)	\$175,000	<b>\$1,450,403</b>	\$175,000	<b>\$1,449,833</b>
Total	\$1,237,703	<b>\$2,987,700</b>	\$920,472	<b>\$3,404,361</b>

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### **Enhancement Package #3 – Recruitment & Retention Enhancement: Pay Parity with Prosecutors Compensation Adjustment - \$6,668,972 for FY 2027 (ongoing)**

In FY 2023, BIDS requested and received a large-scale, agency-wide salary readjustment to bring all of our employee salary ranges up to more competitive levels with similarly situated employees in other government agencies and to provide better pay parity for our public defenders with their prosecutor counterparts. While 1 in 5 public defenders left our service in FY 2022, that pay scale adjustment, effective with the first pay day in July 2022 for FY 2023, and had a significant impact on both our retention of current employees and our recruitment efforts to fill our currently vacant positions. In FY 2024 and FY 2025, we were able to continue that progress of moving our salary structure forward thanks to being included in the 5% state employee pay raise plan for two years in a row.

In the summer of 2023, BIDS conducted a new round of open records requests of a selection of prosecutor offices across the state aimed at reviewing the current salary structures of prosecutors and combined that data with the collection of prosecutor job opening advertisements from the Kansas Attorney General's office over the same time period. Based on that data collection, along with the more antidotal feedback we've gotten from recent job applicants, it's clear that our public defenders still lag approximately 24.5% behind prosecutor salaries, and this gap is most significant for new attorneys (38.6%), compounding an already-difficult recruitment and retention environment.

In 2019 we lost 1 out of every 4 public defenders. In 2022, we lost 1 out of every 5 public defenders. We will be paying for those recent catastrophic losses for quite some time as we continue to replace those lost attorneys with attorneys who overall have less experience than those we lost. Suffering another year of such huge staffing losses will result in a breakdown of our ability to meet our core agency mission of providing constitutionally required criminal defense counsel on every adult felony-level case for an indigent person in Kansas.

In August 2025, our Board heard a report from our BIDS Well-Being Committee on our 2025 Employee Well-Being Survey that was conducted over the summer of 2025. In that report, approximately 75% of our employees who responded indicated that they had considered leaving our public defender offices within the last 12 months primarily due to salary concerns. That is a highly concerning statistic. This is evidence that as long as our salaries continue to be so substantially outpaced by prosecutor salaries, we continue to be susceptible to substantial turnover issues. As a result, pay issues and specifically pay parity with prosecutors, will continue to be our Board's number one budget priority in order to retain our current employees and to continue recruiting new employees.

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To support our current and long-term goals of keeping experienced public defenders within the agency and being able to recruit competitively against our prosecutor counterparts for quality candidates for open positions, BIDS is proposing compensation adjustments for FY 2027 to account for pay parity with prosecutors.

All costs are salaries and wages.

### *Pay Parity with Prosecutors Compensation Adjustment FY 2027*

It is imperative for BIDS to not only continue to hold off additional turnover within our agency but also that we be able to continue to effectively compete for quality candidates to fill our vacant positions. We have had a number of quality candidates who we lost specifically because we could not come close to offering a competitive salary to who instead took prosecutor positions in the same jurisdictions where we offered a public defender position. In short, while the significant progress we made on pay issues three years ago was important and appreciated, it is clear that the best long-lasting support would be pay parity.

Based on the data we collected and after a thorough review of our current salary structure, BIDS anticipates that the funding needed to adjust our compensation for both our attorneys and staff to reach pay parity with prosecutor's offices costs \$6,311,356. This adjustment provides an average 24.5% adjustment for attorney salaries throughout the agency, depending on position. These figures represent the total agency cost of both base salary changes and fringe adjustments.

Continued movement towards our goal of professional-level compensation is vital so that BIDS can continue our efforts at slowing our turnover of experienced attorneys and continuing to recruit quality candidates for our vacant positions.

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### **Enhancement Package #4 – IT Security - \$160,931 in FY 2026 and 1.0 FTE position, \$674,216 for FY 2027 and 2.0 FTE positions (partially ongoing)**

This enhancement request focuses on items that are either required because state studies have specifically told BIDS that changes must be implemented, software is out of date enough that it is no longer supported and becomes a security risk, or is a functional need for IT security reasons. Each item is discussed individually, and all costs are contractual services unless otherwise identified.

#### **1. Data Backup Project - \$300,000 for FY 2027 (ongoing)**

The largest part of this request is a data backup solution. In April 2024, Legislative Post-Audit published a study that indicated BIDS needed to fund updates and improvements to its relatively antiquated data backup system. Particularly for an agency that is so dependent on electronically stored material, a more comprehensive, continuous, and safer approach was called for. BIDS has been awaiting quotes from vendors for some time and has not received one as of the budget submission, but the request will be adjusted during the budget process to accommodate actual expected costs when known.

#### **2. Office 365 - \$106,976 in FY 2026 and FY 2027 (ongoing)**

The next largest cost is upgrading Microsoft Office. The version of Office that BIDS currently operates on will be unsupported partway through 2026 and therefore will no longer receive security updates or support, creating cybersecurity vulnerabilities. While most agencies have likely already made this change, BIDS has not had the financial opportunity to do so. We have negotiated licenses that are much cheaper than those provided through OITS.

#### **3. Cell Phones - \$17,974 in FY 2026 and \$107,844 for FY 2027 (ongoing)**

BIDS has not typically provided cell phones to employees, which significantly complicates multi-factor authentication (MFA). MFA is obviously more secure, particularly when handling confidential case files and attorney-client communication. Additionally, continuity of operations planning (COOP) requires that quick communication can be provided to people in an effective way in the event of emergencies or disasters. The state contract provides phones for free and the rate is discounted significantly.

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4. Server Replacements - \$15,000 in FY 2026 and \$15,000 for FY 2027 in capital outlay expenses (one-time)  
BIDS has two servers that will reach end of life in the next two years and will need replacement.
5. Off-Site Networking Hub Backup - \$25,000 for FY 2027 (ongoing)  
BIDS' networking architecture relies upon the servers at the Admin office remaining online. When Jayhawk Towers had an AC issue, the building's servers were all shut down, which affected all of our offices. The actual rate of this portion of the request will be updated in the budget process when quotes are received.
6. Two additional IT positions - \$20,981 in FY 2026 and 1.0 FTE position, and \$119,396 for FY 2027 and 2.0 total FTE positions in salaries and wages expenses (ongoing)  
OITS and the Department of Administration contracted with Gartner to survey the IT setup for every agency to identify areas of improvement. The only area identified by that study for BIDS was that agency IT has a “risk of reduced flexibility and an undue burden of responsibility” due to the amount of IT management required for an agency of this size. Two positions are sufficient to meet that need, with the first position scheduled to begin after legislative approval of the budget near the end of FY 2026.

IT Security Package	FY26	FY27
Data Backup Project		\$300,000
Office 365	\$106,976	\$106,976
Cell Phones	\$17,974	\$107,844
Server Replacements	\$15,000	\$15,000
Off-Site Hub Backup		\$25,000
Additional 2 IT Positions	\$20,981	\$119,396
<b>Totals</b>	<b>\$160,931</b>	<b>\$674,216</b>

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### **Enhancement Package #5 – Attorney Positions for Graduating Students Who Completed BIDS Internships - \$55,768 in FY 2026 and 8.0 FTE positions; \$794,685 for FY 2027 and 18.0 total FTE positions (ongoing)**

BIDS has provided internships for law students to learn on the job and understand what it means to be a public defender. These internships have been helpful at combating longstanding recruitment and retention issues: all BIDS interns who graduated and were licensed in Kansas ended up employed by BIDS, and all of those employees are still with the agency. While the internship program is relatively young, this bodes well for long-term planning. Of course, if there are no existing attorney positions, then the time, effort, and investment the agency spent developing these students' talents will go elsewhere, often to other states.

All costs are salaries and wages. Positions are budgeted to begin in May of each year. FY 2028 is included below for transparency since positions begin in May.

Post-Intern Attorney Positions	FY26	FY27	FY28
PD I Salaries (Beginning in May)	\$55,768	\$794,685	\$1,552,840
FTE	8.0	18.0	18.0

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### **Enhancement Package #6 – Additional Support Staff - \$70,629 in FY 2026 and 6.0 FTE positions; \$456,714 for FY 2027 and 6.0 FTE positions (ongoing)**

In order to adequately handle the caseloads required of public defenders, it is important that non-attorney work can be handled by other staff. Additionally, in some instances, offices are contracting out these costs, which is more expensive than simply having the staff in-house. To put the issue another way, an office without an investigator still has investigator work to do – they either have the public defender do it, which decreases the amount of time the attorney has for other work and increases the likelihood of an office shutdown, or they contract out those costs at a higher price.

Costs are salaries and wages and positions are budgeted to begin in May 2026.

Support Staff Positions	FY26	FY27
Investigator (1)	\$11,692	\$76,382
Legal Assistants (4)	\$46,016	\$300,668
Mitigation Specialist (1)	\$12,921	\$79,664
	\$70,629	\$456,714
	6.0 FTE	6.0 FTE

### **Enhancement Package #7 –Ethical Caseloads Staffing & Holistic Defense for FY 2027: Totaling \$5,610,435 and 58.0 new FTEs. (Ongoing)**

We are seeking a budget enhancement of \$5,610,435 to enhance our holistic defense offerings across the agency and to assist with providing ethical caseloads. This enhancement includes 25 additional attorney and 31 non-attorney staff to be hired into our offices throughout the agency along with two administrative positions to assist with communications and well-being. Holistic defense means understanding and assisting with issues beyond the traditional criminal case. For many clients, employment, housing, mental health and addiction issues are common pressure points beyond their determined poverty.

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The proposed in-office positions are critical to positive case outcomes. Attorneys need time to work on cases to get good results. They also need time to work with the client on mitigating factors which lead to better results. Positive case outcomes save Kansas money long term by reducing the likelihood of a custodial sentence and sentence duration thereby easing the burden on the Department of Corrections, maintaining familial relationships and keeping clients employed.<sup>9</sup> They may also reduce recidivism if underlying issues, such as mental health, can be accounted for early.

Additionally, we are seeking two administrative positions to assist with the agency's day-to-day operation. After our most recent Well-Being Report, it is clear that a greater degree of communication with the agency and the community is necessary to continue building strong relationships between employees and enhance transparency – all crucial factors for retention. A Well-Being Coordinator would assist our agency with employee retention initiatives, addressing burnout/compassion fatigue and matching employees with the appropriate resources from outside the agency that may be necessary to assist them with sudden or ongoing struggles.

In September 2023, the national public defender caseload standards were released by the American Bar Association, the National Center for State Courts, and the Rand Corporation. Based on our review of those caseload standards, BIDS would need well over 600 FTE positions to fully address current caseloads. This requested staffing increase – far below that which the ABA recommends – is intended to avoid offices declining new cases due to overwork. Offices declining cases increases costs since those cases have to be sent to assigned counsel, which costs more than in-house public defense.

This funding comprises the salaries and wages costs to the agency for those positions. The positions would be prioritized in offices with the capacity to house the positions and where positions are most likely to be filled quickly or where the need is the greatest.

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<sup>9</sup> Evaluating the Effect of Holistic Indigent Defense on Criminal Justice Outcomes, Anderson, Buenaventura & Heaton, RAND Justice Policy, December 31, 2018.

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Holistic Defense/Workloads	#	FY 27
Public Defender I	5	\$466,470
Public Defender II	10	\$1,148,500
Public Defender III	10	\$1,374,140
Legal Assistant	20	\$1,503,340
Mitigation Specialist	10	\$796,640
Investigator	1	\$76,382
Well-Being Coordinator	1	\$137,586
Communication Specialist	1	\$107,377
		<b>\$5,610,435</b>

58.0 FTE

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### EXPERTS

Expert service expenditures are reported in the budget program associated with the corresponding requesting attorney (Trial, Appellate, Assigned Counsel, and Capital). Account Code 527970 is utilized to reflect these expenditures. Since the same issues impact the use of expert services across all program areas, a brief summary of these issues and aggregate historic statistical information for expert services is provided.

**Expert witness costs have been artificially deflated in previous budget cycles in order to responsibly use cost savings from other categories. Both to increase budget transparency and due to some salaries and wages cost savings being lapsed in FY 2026, expert costs are fully included in the budget as an enhancement, though these expenses are not truly optional costs for BIDS nor are they a programmatic change.**

Expenditures in this category include investigators, interpreters, experts specializing in DNA analysis, change-of-venue, crime scene analysis, sexual abuse, psychology, ballistics, computer forensics, and other specialties. Expert costs continue to increase due to Supreme Court decisions requiring the use of experts in order to provide effective assistance of counsel.

This increase in the use of experts and the subsequent cost is due to:

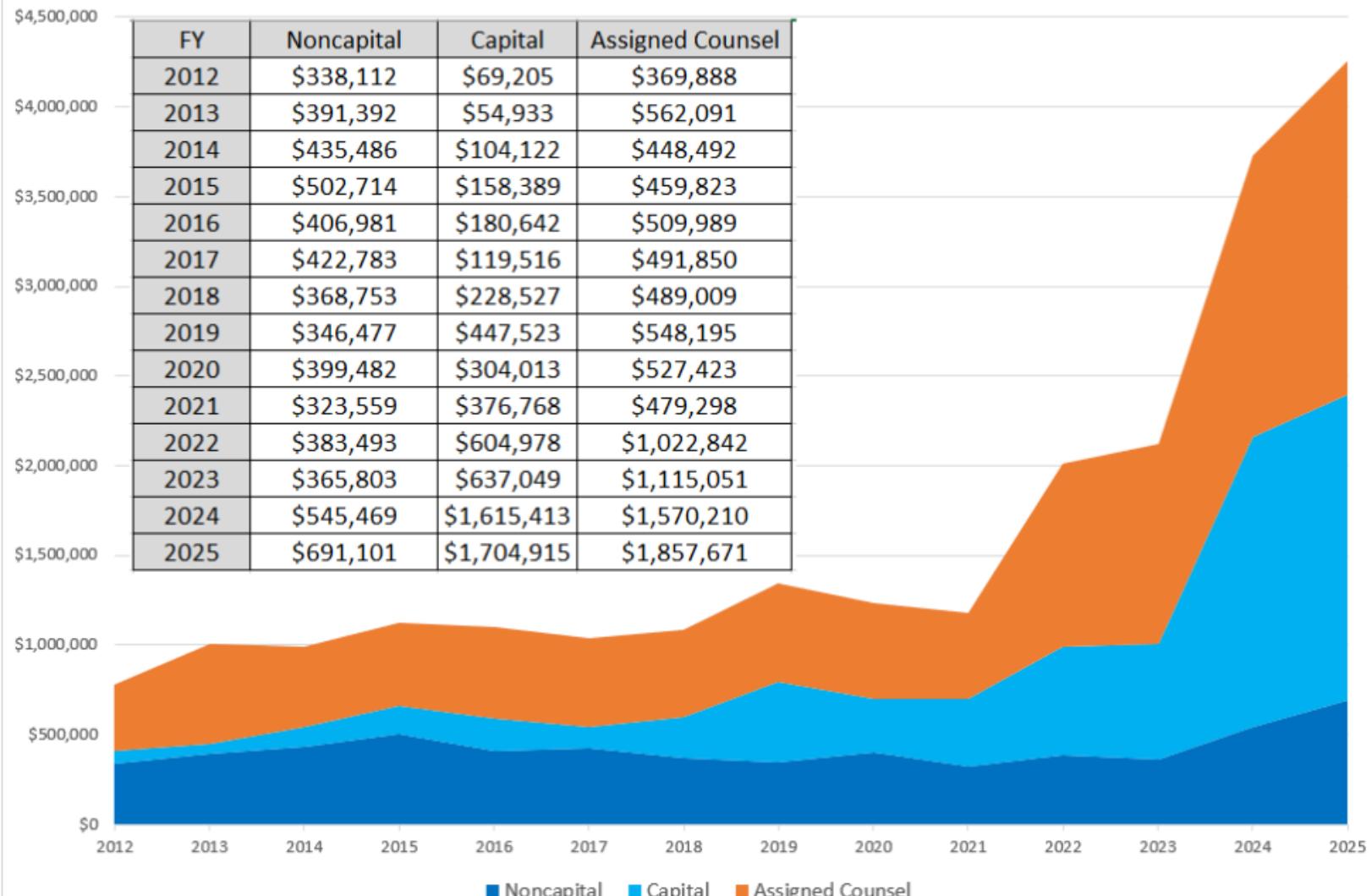
- 1) legislation requiring drug and alcohol evaluations for all DUI cases,
- 2) legislation requiring psychological evaluations for sentencing purposes,
- 3) United States Supreme Court decisions finding that attorneys are ineffective if they do not use experts for the defense,
- 4) more expert hours being required on a case,
- 5) an increase in billed rates even though we maintain a list of experts who are willing to provide services for indigent defense at a reduced cost,
- 6) the impact of "Jessica's Law" and other legislation increasing sentences or increasing the severity level of a crime, and
- 7) the need for new types of experts for new crimes-such as electronic solicitation and possession of child pornography, in the areas of computer, cell phone and electronic forensics,
- 8). the increased professional standards that require much more extensive use of *Daubert* hearings to assess all types of evidence prior to their admission into evidence.

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### Historical Expert Costs



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## ADMINISTRATION OFFICE BACKGROUND

### Historical Perspective

	<b>FY 2019 (Actual)</b>	<b>FY 2020 (Actual)</b>	<b>FY 2021 (Actual)</b>	<b>FY 2022 (Actual)</b>	<b>FY 2023 (Actual)</b>	<b>FY 2024 (Actual)</b>	<b>FY 2025 (Actual)</b>
<b>COST</b>	<b>\$792,153</b>	<b>\$829,257</b>	<b>\$924,697</b>	<b>\$1,264,046</b>	<b>\$2,123,560</b>	<b>\$3,029,767</b>	<b>\$3,988,516</b>
<b>FTE</b>	<b>10.2</b>	<b>11.8</b>	<b>11.8</b>	<b>19.2</b>	<b>30.6</b>	<b>30.6</b>	<b>30.0</b>

The administrative office fulfills the agency mission of providing the most efficient and economical defense delivery system through constant vigilance of both the assigned counsel and the public defender systems. The effectiveness and efficiency of the assigned counsel program are promoted through the use of contracts between the agency and assigned counsel and by regulatory requirements for continuing legal education and minimum experience levels for attorneys who accept appointments as assigned counsel. The Administration Office continues to monitor costs in both the assigned counsel program and in the public defender offices. In recent years, due to the identified additional support needs of our public defender offices and our assigned counsel program, the administrative office has been experiencing much needed growth.

The administrative office currently provides support services for the 20 public defender office locations across the state as well as all of the assigned counsel program which consists of approximately 350 individual private counsel.

The administrative office also supervises and administers our BIDS paid public defender internship program for 2L and 3L year law students. Part of the increase in FTEs in the administrative office between FY 2022 and FY 2023 reflected the implementation of those paid internship positions that are filled on a rotating basis by different law students during the fall, spring, and summer sessions and are actually physically housed in our participating regional public defender offices across the state.

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In support of the public defender offices and assigned counsel, the administrative office is responsible for accounts payable, accounts receivable, purchasing, accounting, auditing, contract negotiations, technology updates, expansions and support, human resources, training coordination and general administration. General administration includes responsibilities such as:

Caseloads of each office are monitored to address overload of cases and to allow for transfer of public defender and support staff positions as caseloads increase more rapidly in some counties.

Administration writes and updates agency regulations, as well as completes regulation approval and the public hearing process.

Administration is in frequent contact with chief judges and district court clerks around the state in an effort to ensure that BIDS is providing sufficient attorney coverage to all areas of the state.

Administration requests new legislation, or changes in legislation, to enable the agency to carry out its statutory mission.

Administration conducts in-house continuing legal education (CLE) programs whereby public defenders and assigned counsel can receive the required training for attorney licensing at no cost to public defenders and low cost to assigned counsel.

Administration secures training for public defenders through ITAP, and NITA, NACDL, NAPD, NCDC, and NLADA as well as other programs.

Administration regularly attends and participates in a variety of local and state committees, programs, listening sessions, and public conversations about the role of public defense in our criminal legal system.

### ***State Director***

The State Director serves as the Chief Executive Officer for the agency. (K.S.A. 22-4525)

The duties of the State Director are defined by K.S.A. 22-4525 as follows: "The state director of indigents' defense services shall be chief executive officer of the state board of indigents' defense services. In addition, thereto, the director shall: (a) supervise the operation, policies and procedures of the office of the board; (b) prepare and submit to the board an annual report of the operation of the office in such form as the board directs; and (c)

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perform such other duties as the board requires.” The Executive Director is responsible for overall supervision, agency planning, and providing the most current and accurate information regarding the agency to Board members, the Governor’s Budget Division, the Legislative Research Department, legislative subcommittees, all levels of the Executive Branch, and employees throughout the agency.

In addition, the State Director provides administrative supervision and support to contract counsel and assigned counsel by initiating and overseeing contracts with private attorneys, reviewing and authorizing payment for assigned counsel and expert services and updating Board policies. The State Director directly supervises the Assistant Director, Chief Counsel, Human Resources Director, Training Director, Special Projects Director, and the Chief Defenders of all the agency’s public defender offices.

### ***Chief Fiscal Officer***

The Chief Fiscal Officer for the agency oversees the Accounting and IT departments. The CFO also directs fiscal operating functions of the agency, including but not limited to audit compliance, agency purchases, lease management activities, payroll backup, COOP plan involvement, serving as program manager for the trial offices, responsible for administering the preparation of all agency financial data, preparation and entry of budget data, and assisting the Director with the preparation of the annual budget narrative.

### ***Legal Section***

The Legal Section of the BIDS Administrative office is responsible for all major legal questions and issues that come before the Board or involve the Board as and assigned counsel panel recruitment. The Legal Section also works closely with the State Director, Assistant Director, and the Personnel Section on employment law issues as needed. The Legal Section also responds to Open Records Act requests, coordinates responses to client inquiries and complaints regarding assigned defense counsel, and assists with locating experts and other legal resources for our public defenders and assigned counsel. The Legal Section currently consists of the agency’s General Counsel, Deputy General Counsel, the Assigned Counsel/Experts Coordinating Counsel, and two Procurement Officers.

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### ***Training Section***

The Training Section of BIDS is responsible for training all BIDS employees and providing training to assigned counsel on a wide variety of topics including, but not limited to, new attorney trial skills, ethics, leadership training, continuing legal education on a variety of topics, basic employment rules and regulations training in conjunction with the Personnel Section and the Department of Administration, Capital Defense continuing legal education, investigator trainings, as well as legislative and case law updates. The Training Section consists of our Training Director, Assistant Training Director, and an administrative specialist.

### ***Special Projects Section***

The Special Projects Section is responsible for recruitment of attorneys and staff to fill vacant positions within BIDS in conjunction with the Personnel Section. The Special Projects Section also develops and administers an agency-wide internship program aimed at pairing interested law students, and potential criminal justice-oriented college and graduate students with appropriate learning opportunities within BIDS while providing additional needed assistance to our capital, trial, and appellate public defender offices. The Special Projects Section also is available to spearhead or assist with specific limited projects for the improvement of the agency as workload allows. Our Special Projects Section is led by the Director of Special Projects, and includes a Data and Statistics Analyst, two Special Projects Staff Attorneys, and a rotating group of temporary interns. The Special Projects team is also taking the lead on managing the case management system and plan to utilize the data from that system to assist in identifying how to cost-effectively provide for services in different offices.

### ***Personnel Section***

The Personnel Section of BIDS is responsible for all major personnel functions and activities related to human resource management such as employee relations, benefits, FLSA, ADA, FMLA, Shared Leave Program, Affirmative Action/Equal Employment Opportunity, employment, recruitment, orientation, exit interview, training, timekeeping, maintaining position organizational charts, and SHaRP.

The HR unit continually initiates changes and updates to the Employee Handbook, Personnel Handbook, and New Employee state-wide Orientation Training due to regulation changes. The HR unit has been involved with the Division of Personnel Services dealing with compensation and other issues.

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### ***Accounting Section***

The Accounting Section consists of 7 Accountant employees ranging from I-IV. The Accounting Section is responsible for the auditing, collection of supporting documentation, and processing of all agency payments in accordance with state and Board policies, regulations, and statutes. This includes operating expenses for all field offices, assigned counsel, experts, transcriptionists and contract attorneys. This section is also responsible for the monitoring and processing of defendant recoupment payments submitted by the District Courts. These recoupment funds are a pass-through to the State Treasurer for deposit into the state general fund; they are not agency funds. This section supports the CFO by coordinating large purchases, office moves, travel requests, negotiating leases, and other projects that would affect the goals of the Public Defender program.

### ***Information Technology Section***

One Technology Support Consultant III, who serves as the department team lead, one Technology Support Consultant II, two Technology Support Consultant I, and a System Analyst comprise the IT section's five FTEs. The Information Technology Section provides planning, design, procurement, implementation, training, and support of the agency's information resources including computer equipment, networking, VPN, applications and telecommunications. With the use of statewide WAN connections and TCP/IP remote connections in smaller outlying offices, the agency is positioned to provide information services, demographics, and statistical data to its internal and external customers. The CFO oversees the IT section and together they develop the Three-Year Information Technology Strategic Plan and other objectives for the department.

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## ADMINISTRATION OFFICE PROGRAM

**MISSION:** To provide administrative supervision, technical support, and coordination of state resources to support the delivery of indigents' defense services. Through teamwork, communication and cooperation, the Administration Office strives to continually improve assistance to the board, public defenders, and assigned counsel.

**PHILOSOPHY:** The Administration Office of the State Board of Indigents' Defense Services must accurately and wisely monitor, analyze and report the activities of our agency and social factors that affect it in order to aid the decisions of government policymakers. We shall strive to support the delivery of excellent services by those who directly serve the indigent client.

### **OBJECTIVE #1:**

Monitor statewide costs per case while maintaining quality service to clients.

#### **Strategies for Objective #1:**

1. Review and analyze defense delivery cost for all counties in the state.
2. Explore cost-effective alternative defense delivery options.
3. Implement viable cost-saving defense delivery programs including contracts with individual attorneys and exercise statutory authority to prorate cost per case.

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### Performance Measures for Objective #1:

#### OUTCOME MEASURES:

	<b>FY 2019 (Actual)</b>	<b>FY 2020 (Actual)</b>	<b>FY 2021 (Actual)</b>	<b>FY 2022 (Actual)</b>	<b>FY 2023 (Actual)</b>	<b>FY 2024 (Actual)</b>	<b>FY 2025 (Actual)</b>	<b>FY 2026 (Current Year)</b>	<b>FY 2027 (Out Year)</b>
Maintain level of dollars saved by audit procedures.	\$235,654	\$234,185	\$291,488	\$404,353	\$672,612	\$553,612	\$485,082	\$677,136	\$702,178
Monitor increase in average cost per case for attorney services.	\$941	\$993	\$898	\$1,062	\$1,328	\$1,524	*	*	*

*\*Due to the opening of two new offices and the rise in assigned counsel expert costs, cost-per-case calculations are being reviewed to identify how best to compare costs one-to-one against assigned counsel.*

#### OUTPUT MEASURES:

	<b>FY 2019 (Actual)</b>	<b>FY 2020 (Actual)</b>	<b>FY 2021 (Actual)</b>	<b>FY 2022 (Actual)</b>	<b>FY 2023 (Actual)</b>	<b>FY 2024 (Actual)</b>	<b>FY 2025 (Actual)</b>	<b>FY 2026 (Current Year)</b>	<b>FY 2027 (Out Year)</b>
Number of Judicial Districts Reviewed for cost-effective delivery of defense services	31	31	31	31	31	31	31	31	31
Number of counties covered by assigned counsel contracts/agreements	36	39	19	17	17	29	27	29	30
Number of agency CLE programs offered to assigned counsel attorneys	2	2	10	51	50	60	60	60	60

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### OBJECTIVE #2:

Minimize increase in cost of expert services while maintaining quality defense services.

#### Strategies for Objective #2:

1. Continue updating the compilation of experts who will work for reduced rates.
2. Pursue agreements with experts to provide indigent forensic services at reduced rates.
3. Continue to revise orders and instructions for expert service to provide better guidance to assigned counsel in obtaining expert services.
4. Continue to communicate agency regulations and policies to assigned counsel both online and through telephone contact.
5. Continue to provide administrative review of expert service requests and claims.
6. Initiate paperless processing of expert service requests from public defenders.

#### Performance Measures for Objective #3

#### OUTCOME MEASURES:

	<b>FY 2019 (Actual)</b>	<b>FY 2020 (Actual)</b>	<b>FY 2021 (Actual)</b>	<b>FY 2022 (Actual)</b>	<b>FY 2023 (Actual)</b>	<b>FY 2024 (Actual)</b>	<b>FY 2025 (Actual)</b>	<b>FY 2026 (Current Year)</b>	<b>FY 2027 (Out Year)</b>
Estimated number of experts agreeing to work at reduced rates.	64	64	65	67	67	68	70	70	73

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### OUTPUT MEASURES:

	<b>FY 2019 (Actual)</b>	<b>FY 2020 (Actual)</b>	<b>FY 2021 (Actual)</b>	<b>FY 2022 (Actual)</b>	<b>FY 2023 (Actual)</b>	<b>FY 2024 (Actual)</b>	<b>FY 2025 (Actual)</b>	<b>FY 2026 (Current Year)</b>	<b>FY 2027 (Out Year)</b>
Estimated contacts/communication with assigned counsel/court regarding expert service approval and clarifications.	1000	1010	1300	1500	2000	2600	2800	2900	2900

### EXPENDITURE JUSTIFICATION:

#### Salaries and Wages:

**FTE: 34 FTE, 1 non-FTE**

**Current Year FY 2026: \$3,525,999**

The agency estimate includes a full year staffing of 34 FTE and 1 non-FTE position. Agencywide shrinkage is budgeted at 3.5%. Benefit amounts are based on cost indices. No overtime expenses are included.

**Budget Year FY 2027: \$3,549,033**

This estimate maintains current staff. Agencywide shrinkage is budgeted at 3.3% reflecting retention efforts. Benefit amounts are based on cost indices. No overtime expenses are included.

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### **Contractual Services:**

#### **Current Year FY 2026: \$1,164,570**

This estimate includes the cost of leasing rental vehicles, personal vehicle usage, and costs related to the agency training program. The largest costs are building rent, software licenses like a case management system, training costs, and the monumental building surcharge.

While there are changes within categories, this budget generally reflects the approved amount for FY 2026. Westlaw costs are apportioned to trial offices to increase budget transparency and accuracy which is the largest single part of the \$214,711 decrease, so much of these costs are just shifted to another program. Some decreased costs (e.g., temporary staffing, attorney registration, training registration costs) are offset by other increases (APBS/SMART state accounting system costs from the Department of Administration, building rent, etc.) or exist due to recategorization.

#### **Budget Year FY 2027: \$1,187,238**

Contractual service budgeted costs increase by \$22,668, or 1.9%, in FY 2027. This increase is primarily attributable to increases in case management system costs (\$12,264) but also includes IT infrastructural software costs (\$1,033), annual conference costs (\$2,500), meals and incidental travel costs (\$2,500), state accounting system budget index costs (\$1,686), and malpractice insurance (\$1,500).

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### **Commodities:**

Commodities primarily include office supplies, printer supplies, and gasoline. This also includes miscellaneous IT purchases (replacement drives, memory) needed to maintain existing workstations and servers, as well as other professional supplies such as external hard drives.

#### **Current Year FY 2026: \$27,950**

The budgeted amount is unchanged from the approved amount.

#### **Budget Year FY2 027 \$27,950**

The budgeted amount is unchanged from the FY 2026 budgeted amount.

### **Capital Outlay:**

Capital outlay costs include most IT equipment such as computers, printers, and telecommunications hardware. This category also includes furniture.

#### **Current Year FY 2026: \$64,400**

Capital outlay costs increase by \$13,100, or 25.5%, over the approved amount. The increase is entirely attributable to 10 laptop replacements. Agency computer replacements are generally part of the Administration budget, and laptops are generally less expensive than desktops. The budget is otherwise unchanged from the approved amount.

#### **Budget Year FY 2027: \$84,050**

Capital outlay costs increase by \$19,650, or 30.5%, over the FY 2026 budgeted amount. The increase is entirely attributable to 25 total laptop replacements. Agency computer replacements are generally part of the Administration budget, and laptops are generally less expensive than desktops. The budget is otherwise unchanged from the approved amount.

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### **ASSIGNED COUNSEL**

The 6<sup>th</sup> Amendment to the U. S. Constitution provides every person with a right to adequate and effective representation when charged with a crime punishable by imprisonment. State statutes (K.S.A. 22-4501, et seq.) also mandate state-funded representation when a person who has been charged with a felony is determined to be indigent. The two primary systems for delivering these constitutionally guaranteed services in Kansas are the public defender system and the assigned counsel program.

The assigned counsel system of providing indigent felony defense is used in geographic areas where it is not cost-effective to open a public defender office and in cases where the public defenders have a conflict of interest or are otherwise unavailable due to caseloads and are therefore unable to provide defense services. Historically, the cost per case is often lower when a case is handled by public defenders. Initially, assigned counsel were paid at the rate of \$35 per hour and acceptance of court appointments was considered a professional duty for many years. The Kansas Supreme Court decision in *Stephan v. Smith* determined that participation as assigned counsel is voluntary. In response to that case decision, the Board increased the hourly rate for assigned counsel to \$50 per hour. In the 2006 legislative session, the payment rate became statutory at \$80 per hour.

In response to FY 2010 budget cuts, the Board exercised its statutory authority to reduce the hourly rate paid to assigned counsel to meet assigned counsel appropriations. The hourly rate was reduced 22% from \$80 per hour to \$62 per hour effective for all work performed on and after January 18, 2010. The Board provided a slight increase in the hourly rate, after a public hearing, from \$62/hour to \$65/hour for FY2016 and increased the hourly rate, after a public hearing, to \$70/hour for FY 2017 and for FY 2018. For FY 2019, the Board increased the hourly rate, after a public hearing, to \$75/hour. At its June 2019, meeting, the Board of Indigents' Defense Services allowed the statutory hourly rate for assigned counsel to be restored to \$80 per hour. In 2021, due to concerns about assigned counsel leaving appointment lists due to low pay and high caseloads, the Legislature allotted and the Governor approved funding and a temporary budget proviso to allow BIDS to pay assigned counsel at a \$100 per hour rate beginning July 1, 2021. Again, due to concerns that more assigned counsel were needed for panels, in FY 2022, the Legislature again allotted and the Governor approved funding and a temporary budget proviso to allow BIDS to pay assigned counsel at \$120 per hour rate, beginning July 1, 2022. With continued funding to support a \$120 per hour rate, the Legislature included additional budget proviso language to allow BIDS to continue paying \$120 per hour through FY 2025. During the 2024 legislative session, the assigned counsel hourly rate was increased to a minimum of \$120 with the ability to go as high as \$140 per hour. During FY 2024 and FY 2025, that rate was approved by the Board and funded by the legislature at

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\$120 per hour. The 2025 legislative session provided authorization to fund assigned counsel at \$125/hour, but since caseload consensus estimates were not included in the FY 2026 budget, the Board has held the rate to \$120/hour until such time as funds are provided for assigned counsel caseloads.

During the 2015 Legislative session, based on recommendations by the Division of the Budget and the Governor's office, a State General Fund "Litigation Support" account was created for the assigned counsel consensus funding in order to give the agency the flexibility to operate in the most efficient manner to respond to case filings.

### **PROGRAM GOAL I: Effectively Manage Program Expenditures.**

#### **OBJECTIVE #1:**

Manage the average annual cost of assigned counsel expenditures.

#### **Strategies for Objective #1:**

1. Negotiate contracts with private counsel to handle conflict cases where public defenders' office is located and negotiate volume contracts in other regions.
2. Continue to refine internal audit procedures of assigned counsel claims.
3. Collect data on numbers and costs of assigned counsel cases.
4. Exercise statutory authority to prorate fees when necessary.
5. Offer agency criminal defense CLE training to panel attorneys to assist them in maintaining their expertise, thereby effecting a reduction in down the line costs of retrial, resentencing, and ineffective assistance of counsel claims.
6. Review the cost of indigent defense in judicial districts to determine the most cost-effective way to provide the right to counsel.

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### Performance Measures for Objective #1

#### OUTCOME MEASURES:

	<b>FY 2019 (Actual)</b>	<b>FY 2020 (Actual)</b>	<b>FY 2021 (Actual)</b>	<b>FY 2022 (Actual)</b>	<b>FY 2023 (Actual)</b>	<b>FY 2024 (Actual)</b>	<b>FY 2025 (Actual)</b>	<b>FY 2026 (Current Year)</b>	<b>FY 2027 (Out Year)</b>
Maintain level of dollars saved by audit procedures.	\$235,654	\$234,185	\$291,488	\$404,353	\$672,612	\$553,612	\$485,082	\$677,136	\$702,178
Monitor increase in average cost per case for attorney services.	\$885	\$941	\$993	\$898	\$1,062	\$1,328	*	*	*

*\*Due to the opening of two new offices and the rise in assigned counsel expert costs, cost-per-case calculations are being reviewed to identify how best to compare costs one-to-one against public defenders.*

#### OUTPUT MEASURES:

	<b>FY 2019 (Actual)</b>	<b>FY 2020 (Actual)</b>	<b>FY 2021 (Actual)</b>	<b>FY 2022 (Actual)</b>	<b>FY 2023 (Actual)</b>	<b>FY 2024 (Actual)</b>	<b>FY 2025 (Actual)</b>	<b>FY 2026 (Current Year)</b>	<b>FY 2027 (Out Year)</b>
Number of Judicial Districts Reviewed for cost-effective delivery of defense services	31	31	31	31	31	31	31	31	31
Number of counties covered by assigned counsel contracts/agreements	37	36	39	19	17	17	27	29	30
Number of agency CLE programs offered to assigned counsel attorneys	3	2	2	10	51	50	51	60	60

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### **Professional Services:**

The current statutory rate is a minimum of \$120 per hour and a maximum of \$140 per hour. Currently, the BIDS Board has approved and the legislature has funded the assigned counsel rate at \$120 per hour, though authorization could be given for \$125/hour if funds are provided to that end.

### **Calculating the FY 2026 and FY 2027 Assigned Counsel Caseload and Costs**

In April 2025, the Caseload Consensus Group projected assigned counsel expenditures for FY 2026 to be \$32,067,038. The budget bill did not include caseload consensus estimates and only provided FY 2026 funding of \$27,000,000. Additionally, the Legislature cut agency SGF budgets by 1.5%, which impacted assigned counsel costs as a 1.5% budget decrease would most likely result in delaying assigned counsel claims at the end of the fiscal year. The agency requests that caseloads are fully funded and that actual caseload data continue to be reviewed at the caseload consensus meetings in October 2025 and April 2026 so that agency projections can be revised accordingly for FY 2026 and FY 2027 as more data becomes available.

The use of contracts in public defender districts to hold down costs of conflict cases has greatly helped control expenditures for assigned counsel. The agency has initiated a system of tracking costs by case type in order to better project caseload costs. We continue to find that the high numbers of low-cost cases such as probation violations artificially reduce the overall average cost per case for assigned counsel.

### **Current Year FY 2026: \$28,159,062**

**Attorneys - \$27,031,831**

**Court Reporters - \$180,000**

**Experts - \$947,231**

Enhancements #1 (assigned counsel) and #2 (expert witnesses) are intended to reflect caseload consensus estimates. They are not programmatic changes and so technically not enhancements, but for maximum budget transparency, are broken out separately. The total FY 2026 cost including caseload consensus estimates is \$32,067,038.

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	FY 2026 Base	FY 2026 Caseload Increase	FY 2027 Base	FY 2027 Estimate Increase
Assigned Counsel - Contract	\$4,500,000	<b>\$601,503</b>	\$4,500,000	<b>\$795,830</b>
Assigned Counsel - Noncontract	\$22,531,831	<b>\$4,433,704</b>	\$21,580,140	<b>\$3,348,912</b>
Expert Witness (Assigned Counsel)	\$947,231	<b>\$952,769</b>	\$630,000	<b>\$1,370,000</b>
<b>Total</b>	<b>\$27,031,831</b>	<b>\$5,035,207</b>	<b>\$26,080,140</b>	<b>\$4,144,742</b>

**Budget Year FY 2027: \$26,890,140**

**Attorneys - \$26,080,140**

**Court Reporters - \$180,000**

**Experts - \$630,000**

Enhancements #1 (assigned counsel) and #2 (expert witnesses) are intended to reflect caseload consensus estimates. They are not programmatic changes and so technically not enhancements, but for maximum budget transparency, are broken out separately. The total FY 2027 cost including caseload consensus estimates is \$30,224,882. Current models suggest a decrease in assigned counsel noncontract costs in FY 2027, though the consensus estimating group will have the most up-to-date data when they meet. This program will be updated during the budget cycle with caseload consensus estimates.

	FY 2026 Base	FY 2026 Caseload Increase	FY 2027 Base	FY 2027 Estimate Increase
Assigned Counsel - Contract	\$4,500,000	<b>\$601,503</b>	\$4,500,000	<b>\$795,830</b>
Assigned Counsel - Noncontract	\$22,531,831	<b>\$4,433,704</b>	\$21,580,140	<b>\$3,348,912</b>
Expert Witness (Assigned Counsel)	\$947,231	<b>\$952,769</b>	\$630,000	<b>\$1,370,000</b>
<b>Total</b>	<b>\$27,031,831</b>	<b>\$5,035,207</b>	<b>\$26,080,140</b>	<b>\$4,144,742</b>

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### Public Defense Service Coverage Areas by Type FY 2025

Public Defender Office Coverage	Contract Counsel Coverage	Assigned Counsel Panel Coverage
Allen Chautauqua Cherokee Clay Crawford Dickinson Douglas Finney Geary Johnson Labette Montgomery Morris Neosho Ottawa Reno Riley Saline Sedgwick Shawnee Wilson Woodson Wyandotte	Atchison, Brown, Butler, Cherokee, Cloud, Crawford, Doniphan, Douglas, Geary, Hamilton, Harper, Jefferson, Jewell, Johnson Kearney Labette, Leavenworth, Lincoln, Mitchell, Ottawa, Reno, Republic, Saline, Scott, Sedgwick, Shawnee, Sumner, Washington, Wyandotte	All Counties

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### LEGAL SERVICES FOR PRISONERS

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.

#### **PROGRAM GOAL:**

The program operates for the purpose of ensuring that the state meets its constitutional obligation to provide indigent incarcerated residents of KDOC with meaningful access to courts to pursue non-frivolous legal claims.

#### **OBJECTIVE #1:**

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

#### **Strategies for Objective #1:**

1. To make the availability of services known through the cooperation of the Department of Corrections.
2. To provide standardized forms for applying for assistance.
3. To provide for the review of their requests by licensed attorneys.

#### **OBJECTIVE #2:**

To discourage frivolous and unsubstantial litigation.

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### **Strategies for Objective #2:**

1. To resolve at the lowest administrative level complaints and grievances that would otherwise burden correctional officers and the courts.
2. To advise incarcerated residents with legal questions of the viability of their legal claim.
3. To discourage filing in court claims without a substantial legal basis and where appropriate, refer incarcerated residents to agencies that may assist in solving complaints administratively and without litigation.

### **OBJECTIVE #3:**

To assist state courts and the Board of Indigents' Defense Services.

### **Strategies for Objective #3:**

1. To provide appropriate preparation of, and representation in, habeas corpus and post-conviction motions that would otherwise require the appointment of private counsel.

### **OBJECTIVE #4:**

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.

### **Strategies for Objective #4:**

1. To identify and solve legal problems and complete legal procedures prior to the resident's release from custody.

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### **PERFORMANCE MEASURES FOR OBJECTIVES:**

### **OUTCOME MEASURES:**

#### CASES BY DISPOSITION

	FY 2018	FY 2019	FY 2020	FY 2021	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026 Estimate	FY 2027 Estimate
Total Cases	1637	1636	1463	1530	1582	1068	1033	1348	1348	1348
Total Hours	2096	1894	1759	2013	1943	1586	1457	1889	1889	1889
<b>DISPOSITION</b>										
Administratively Resolved	1205	1220	1042	1058	1039	696	836	1249	1249	1249
Judicially Resolved	15	4	6	1	2	4	0	0	0	0
Rejected	414	387	376	467	522	343	197	99	99	99
Still Open	3	11	0	4	0	0	0	0	0	0

\*FY 2023 reports from LSP indicated that their final FY 2023 numbers do not appear to include approximately 220 requests received by the former LSP Director but not recorded before his passing in May 2023.

### **OUTPUT MEASURES:**

Legal Services for Prisoners handled approximately 1,033 requests for legal assistance in FY 2024 and spent 1,457 attorney hours toward the resolution of those cases. The reduction in staffing has resulted in fewer attorney hours being available and meant that the number of court appointments that Legal Services for Prisoners accepted was reduced requiring appointment of assigned counsel and reducing the number of cases resolved without court filings. Reduced resources for future years will result in further staff reductions and a proportionate reduction in cases handled.

### **DELIVERY OF SERVICES:**

Currently, Legal Services for Prisoners consists of a staff of three (3) Attorneys and one (1) Administrative Assistant. Legal Services for Prisoners maintains an office in Topeka for inmates at the Topeka Correctional Facility and in the El Dorado Correctional Facility. Legal Services for Prisoners

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also provides assistance by mail only to incarcerated residents at the correctional facilities located in Lansing Correctional Facility (LCF), Hutchinson (HCF), Ellsworth (ECF), Norton (NCF), Winfield (WCF), Larned (LCMHF) and the Wichita Work Release Center (WWRC), plus KDOC inmates housed in local jails and out of state, as well as parolees. In providing legal assistance, Legal Services for Prisoners receives some assistance each year from law students participating in the clinical program at the University of Kansas School of Law.

The corporation's unpaid, volunteer, board of directors consists of one representative from each of the two Kansas law schools and two Kansas attorneys.

LSP serves a critical function for the Department of Corrections in part to satisfy the KDOC's obligation to provide incarcerated residents in their facilities adequate access to the courts. Without LSP, KDOC would likely also incur additional costs in order to provide this access to the courts to their residents through alternative means.

### **EXPLANATION OF RESOURCE ESTIMATES:**

In past years Legal Services for Prisoners received a lump sum appropriation for its operation.

**Current Year FY 2026: \$402,382**

**Budget Year FY 2027: \$402,382**

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### **EXPENDITURE JUSTIFICATION:**

#### **Salaries and Wages:**

Workers' Compensation, Health Insurance and Unemployment Taxes: As a very small, private corporation, Legal Services for Prisoners, Inc. is required to pay higher rates than the State of Kansas in these areas and the rates specified by the Division of Budget cannot be used. LSP is under private contract in each of these areas, the state rates do not apply, and the rates continue to rise annually, particularly in the area of workers' compensation and health insurance.

**Current Year FY 2026: \$402,382**

**Budget Year FY 2027: \$402,382**

Funding at this level will not allow travel to the many correctional facilities and will eliminate appearances by LSP counsel at most hearings thereby requiring the appointment of counsel from assigned counsel panels at a much higher cost.

#### **Contractual Services, Commodities, Capital Outlay**

Legal Services for Prisoners, Inc. is a private corporation and must pay commercial telephone rates as well as all equipment costs and internet service at several offices. Postage and mailing expenses are also included in this category. Contractual Services also include LSP's professional liability insurance, which is essential to the organization and the fee for LSP's independent audit as required by K.S.A. 22-4514(a).

**Current Year FY 2026: \$0**

**Budget Year FY 2027: \$0**

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### **APPELLATE DEFENDER OFFICE**

#### **History of the Appellate Defender**

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 FY 1994, an appellate defense program was established in partnership with the University of Kansas School of Law whereby law students prepared direct appeal briefs under the supervision of an appellate defender. That program was discontinued in 2022 but the KU School of Law Project for Innocence now has a contract with BIDS to accept certain appeals and habeas cases under the direct supervision of attorney supervisors so that law students continue to gain important appellate experience prior to graduating law school. In FY 2005, a similar program was established in partnership with the Washburn University School of Law which still remains in effect. Washburn provides office space, equipment and student labor.

In FY 2002, 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 are available to handle conflict cases and overflow cases from the appellate defender office when their workloads allow.

In FY 2025, the Appellate Defender Office was staffed with 21 appellate defenders, including one chief, and two deputies, as well as four legal assistants and two support staff.

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### Appellate Defender Office Appeals by Year

Fiscal Year	Appeals Docketed	Appeals Completed
FY 2018	1,120	1,333
FY 2019	954	1,120
FY 2020	750	981
FY 2021	704	981
FY 2022	731	843
FY 2023	817	647
FY 2024	871	761
FY 2025	810	994

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### **EXPENDITURE JUSTIFICATION:**

#### **Salaries and Wages:**

The appellate program remains constant at 27.0 FTE positions in FY 2026 and for FY 2027.

#### **Current Year FY 2026: \$3,095,997**

The agency estimate includes a full year staffing of 27.0 FTE. Shrinkage is based on 3.5%. Benefit amounts are based on cost indices. No overtime or temporary staff expenses are included.

#### **Budget Year FY 2027: \$3,122,852**

This estimate includes maintaining current staff of 27.0 FTE. Shrinkage is based on 3.3%, reflecting slight improvements due to retention efforts. Benefit amounts are based on cost indices. No overtime or temporary staff expenses are included.

#### **Contractual Services:**

The largest contractual services cost in the Appellate Defender Office is court transcripts, since that is a fundamental requirement for conducting appeals (\$550,000). Otherwise, the largest expenses are building rent (\$75,157) and the monumental building surcharge (\$26,505).

#### **Current Year FY 2026: \$727,406**

Contractual services costs increase by \$24,266, or 3.5%, from the approved amount. The largest part of this increase arises from the monumental building surcharge (\$9,505), but also includes increases for postage via central mail (\$3,000), parking (\$3,000), attorney registration (\$2,750), and Adobe Pro licenses to edit documents (\$1,776), offset in part by decreases from properly allocating Westlaw costs based on which office holds the licenses (a decrease of \$1,077).

#### **Budget Year FY 2027: \$729,659**

Contractual services costs increase by \$2,253, or 0.3%, above the FY 2026 budget. This is almost exclusively attributable to increased costs for the Department of Administration's SMART statewide accounting system (\$1,185) and postage via central mail (\$719). The budgeted increases are based on Division of the Budget cost indices rather than increased usage. The remainder of the increase is attributable to the Westlaw rate (\$349).

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### **Commodities:**

Commodities primarily include office supplies, printer supplies, and gasoline.

#### **Current Year FY 2026: \$12,600**

Commodities costs decrease by \$80 in FY 2026 from the approved amount, a decrease of 0.6%.

#### **Budget Year FY 2027: \$12,600**

Commodities costs are unchanged for FY 2027 from the FY 2026 budget request.

### **Account Code Capital Outlay:**

For the Appellate Defender Office, this category generally reflects furniture or IT equipment.

#### **Current Year FY 2026: \$5,000**

This cost is for furniture and is unchanged from the approved amount.

#### **Budget Year FY 2027: \$5,000**

This cost is for furniture and is unchanged from the FY 2026 budgeted amount.

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### TRIAL LEVEL PUBLIC DEFENDER OFFICES

#### History of Public Defender Offices

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 2005 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. On October 1, 2023, a new public defender office opened in the 7<sup>th</sup> Judicial District, Douglas County. On August 12, 2024, a new public defender office began accepting cases in the 29<sup>th</sup> Judicial District in Wyandotte County. BIDS has opened another new trial level public defender office in the 11<sup>th</sup> Judicial District (Labette, Cherokee, and Crawford Counties) which has started taking cases in FY 2026.

In FY 2021 and 2022, all of our public defender offices had lower than normal caseloads as a result of the effects of the COVID-19 global pandemic and the subsequent suspension of speedy trial, delay of charging of new cases during the pandemic by some prosecutor offices, and by prolonged caseload case refusals exacerbated by the court shutdown. As a result, across the board, our public defender offices completed fewer cases in FY 2021 and 2022 as a direct result of the pandemic. However, by FY 2023, cases had largely returned to typical pre-pandemic caseload levels.

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### **Third Judicial District Public Defender Office (Topeka)**

This office was one of three pilot public defender programs begun in 1972. The office currently has 13 attorneys with seven support positions assisting the office.

#### *Historical Office Caseload Statistics*

<b>FISCAL YEAR</b>	<b>CASES OPENED</b>	<b>CASES COMPLETED</b>
2018	1,176	1,247
2019	1,210	1,177
2020*	974	963
2021*	1,034	888
2022	751	980
2023	880	775
2024	695	839
2025	754	704

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and subsequent prolonged slowdown of the Kansas Judicial System.

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### **Salina Regional Public Defender Office**

The Salina Regional Public Defender's Office began defending the indigent in Saline and Ottawa counties in 1972. One attorney handled the trial and appellate caseload until around 1986 when a second attorney was added to the staff. In 1988 the office was combined with the Junction City Public Defender Office to form the North Central Regional Public Defender Office. With regionalization, the territory served by the office was significantly enlarged from Saline, Ottawa, and (later) Lincoln counties to also include Cloud, Mitchell, Jewell, and Washington counties in the Twelfth Judicial District. A third attorney was added around 1990. In 1997 the board separated the Salina and Junction City offices in order to streamline management efficiencies. The office currently has five attorney FTEs and five support staff.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2018	1,272	1,270
2019	959	1,013
2020*	729	757
2021*	501	580
2022	386	503
2023	238	172
2024	301	291
2025	304	323

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### North Central Regional Public Defender Office (Junction City)

The North Central Regional Public Defender Office in Junction City was formerly part of a regional office in combination with the Salina Public Defender Office. As of June 1997, the office became independent serving the 8<sup>th</sup> and 21<sup>st</sup> Judicial Districts. The 8<sup>th</sup> Judicial District consists of Geary, Dickinson, Marion and Morris counties. The 21<sup>st</sup> Judicial District is comprised of Riley and Clay counties. This office has eight attorneys and is supported by eight staff.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2018	1,435	1,360
2019	1,224	1,253
2020*	1,228	1,168
2021*	1,122	1,079
2022	896	952
2023	879	909
2024	908	924
2025	926	910

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### **Sedgwick County Public Defender Office (Wichita)**

The Legislature authorized funding for the largest office in the state in Sedgwick County in October 1983. The office began taking cases in June 1984. The office has thirteen attorneys and is supported by nine staff.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2018	4,852	4,897
2019	4,711	4,458
2020*	3,842	3,630
2021*	1,054	2,054
2022	1,454	1,399
2023	1,424	1,532
2024	1,626	1,626
2025	1,142	1,403

\*Caseloads during these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### **Reno County Regional Defender Office (Hutchinson)**

A satellite office in Reno County was established in FY 1997 and was established as a separate regional office in FY 2001. This office is currently staffed with five attorneys and two staff members.

#### *Historical Office Caseload Statistics*

<b>FISCAL YEAR</b>	<b>CASES OPENED</b>	<b>CASES COMPLETED</b>
2018	1,030	1,080
2019	851	874
2020*	793	681
2021*	778	724
2022	738	745
2023	780	685
2024	713	717
2025	666	788

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### **Tenth Judicial District Public Defender Office (Olathe)**

The office began accepting cases in July of 1989. In addition to serving Johnson County, the office is responsible for handling off-grid cases in Miami, Linn, and Franklin counties. However, due to caseloads now this office primarily only accepts Johnson County cases and Miami, Linn, and Franklin counties are covered by the assigned counsel panel attorneys. The office is currently staffed by eighteen attorneys and thirteen support staff.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2018	2,789	2,667
2019	2,686	2,754
2020*	2,533	2,324
2021*	2,784	2,611
2022	2,230	2,306
2023	2,257	2,465
2024	2,128	2,174
2025	2,118	1,990

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### **Western Kansas Regional Public Defender Office (Garden City)**

The Garden City office, established in January of 1994, serves the 25<sup>th</sup> Judicial District, which includes Finney, Kearny, Hamilton, Greeley, Wichita, and Scott counties. The staff includes two attorneys and three support staff.

The Liberal office opened in August of 1996 in response to requests from the Administrative Judge in the 26<sup>th</sup> district because all private attorneys had removed their names from the appointment list due to dissatisfaction with the rate of compensation. The 26<sup>th</sup> Judicial District included Seward, Stevens, Morton, Stanton, Grant, and Haskell counties. The hourly rate paid to assigned counsel was increased from \$50/hour to \$80/hour in 2006 but this did not bring an increase in the number of assigned counsel. The Liberal office was closed September 1, 2009, due to the inability to keep the office staffed with an experienced attorney.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2018	651	683
2019	423	475
2020*	357	231
2021*	365	426
2022	415	371
2023	316	379
2024	306	311
2025	171	160

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### **Southeast Kansas Public Defender Office (Chanute & Independence)**

The Chanute office began accepting cases in September of 1997. The office located in Chanute was established in response to a lack of local attorneys willing to represent indigent defendants. The Thirty-first Judicial District includes Allen, Neosho, Wilson, and Woodson counties. The office is currently staffed by four attorneys and two support staff.

#### *Historical Office Caseload Statistics: Chanute Office*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2018	594	540
2019	549	552
2020*	432	387
2021*	203	296
2022	588	414
2023	641	518
2024	276	566
2025	424	459

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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The Independence branch of the Southeast Kansas Public Defender Office was opened on September 1, 2004, also in response to a lack of local attorneys willing to represent indigent defendants. This office is staffed by two attorneys and one support staff and is responsible for all cases in Montgomery and Chautauqua Counties.

### *Historical Office Caseload Statistics: Independence Satellite Office*

<b>FISCAL YEAR</b>	<b>CASES OPENED</b>	<b>CASES COMPLETED</b>
2018	469	465
2019	364	343
2020*	226	298
2021*	97	145
2022	370	277
2023	340	297
2024	227	251
2025	107	252

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### **Northeast Kansas Conflict Office (Topeka)**

The office, located in Topeka, began accepting cases on July 1, 1997. The office was established primarily in response to the large number of conflict cases generated in Shawnee County and the relatively high costs associated with these cases. This office is currently staffed by seven attorneys and four support staff.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2018	564	593
2019	638	600
2020*	687	614
2021*	443	514
2022	385	472
2023	361	314
2024	394	251
2025	529	482

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### Sedgwick County Conflict Public Defender Office (Wichita)

At the start of FY 2009, the Sedgwick County Conflict Office was opened to handle trial cases on which the public defender office has a conflict. This enables additional cases to be defended cost-effectively by public defenders and replaces a private attorney contract. This office is staffed by five attorneys and three support staff.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2018	481	516
2019	573	508
2020*	479	404
2021*	335	386
2022	381	387
2023	496	461
2024	394	446
2025	293	367

\*Caseloads in these years were substantially affected agency-wide by the onset of the COVID-19 global pandemic and the subsequent prolonged slowdown of the Kansas Judicial System.

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### 7<sup>th</sup> Judicial District Public Defender (Lawrence)

On October 1, 2023, the 7<sup>th</sup> Judicial District Public Defender Office was opened to handle trial cases in Douglas County, Kansas. This office currently has six attorneys who are supported by six staff.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2024*	351	158
2025	452	416

\*Caseloads in this year was substantially affected by the fact that this new office opened during the second quarter of the fiscal year.

## NARRATIVE INFORMATION – DA 400

DIVISION OF THE BUDGET  
STATE OF KANSAS

AGENCY NAME: Kansas State Board of Indigents' Defense Service  
AGENCY NUMBER: 328-00 FUNCTION NO. 01  
PROGRAM TITLE AND NUMBER: AID TO INDIGENTS DEFENSE  
SUBPROGRAM TITLE AND NUMBER: DEATH PENALTY DEFENSE UNIT

### 29<sup>th</sup> Judicial District Public Defender (Kansas City)

In 2024, the 29<sup>th</sup> Judicial District Public Defender Office was opened to handle trial cases in Wyandotte County, Kansas. This office currently has 12 attorneys who are supported by 11 staff.

#### *Historical Office Caseload Statistics*

FISCAL YEAR	CASES OPENED	CASES COMPLETED
2025*	494	249

\*Caseloads in this year were affected by the fact that this new office accepted limited caseloads while staffing the office for some of FY 2025.

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PROGRAM TITLE AND NUMBER: AID TO INDIGENTS DEFENSE  
SUBPROGRAM TITLE AND NUMBER: DEATH PENALTY DEFENSE UNIT

### **EXPENDITURE JUSTIFICATION:**

#### **Salaries and Wages:**

##### **FTE: 174.0**

The administrative office reassigned positions between trial level offices as needed to efficiently accommodate fluctuating caseloads.

##### **Current Year FY 2026: \$18,486,671**

The agency estimate includes a full-year staffing of 174.0 FTE. Shrinkage is based on 3.5%. Benefit amounts are based on cost indices. No overtime expenses are included.

##### **Budget Year FY 2027: \$18,625,192**

This estimate includes maintaining current staff of 174.0 FTE. Shrinkage is based on 3.3% reflecting retention efforts. Benefit amounts are based on cost indices. No overtime expenses are included.

#### **Contractual Services:**

The largest contractual services costs for the Trial Offices program are building rent, expert witnesses, telecommunications, Westlaw, the monumental building surcharge, janitorial, lodging and travel, the state APB system for accounting, attorney registration, and utilities, among others.

##### **Current Year FY 2026: \$2,203,514**

Changes from the approved budget are:

##### Increases

- Building rent and document storage costs (\$100,086, accommodating the full cost of a new previously-budgeted building that is split with a capital defense office, the opening of the Wyandotte/Habeas and Pittsburg office, and increased storage costs as documents are moved to the storage vendor)
- Westlaw costs due to budgeting these costs within the office where the costs originate (\$54,502 across the object code that also includes internet)
- Lodging travel costs (\$31,000, reflecting actual usage)
- Janitorial (\$29,100, reflecting actual contracts)

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- Attorney registration (\$18,550, previously budgeted within Admin)
- Parking (\$16,923, reflecting actual usage)
- Department of Administration fees for statewide SMART accounting system (\$16,400)
- Other fees (\$15,302, largely due to the monumental building surcharge but also includes the lease administration fee from the Department of Administration and shredding contracts)
- Postage (\$9,250, reflecting actual usage)
- Current cell phone billing (\$9,000, previously budgeted within Admin)
- Moving costs (\$7,500 due to moving offices including Wyandotte into permanent space in October 2025)

### Decreases

- Utilities (-\$12,936, reflecting actual costs)
- Telecommunications (-\$10,116, reflecting negotiated rates)
- Court reporters and transcripts (-\$5,363, reflecting actual costs)

### **Budget Year FY 2027: \$2,215,651**

The FY 2027 budget request is an increase of \$12,137, or 0.6%, above the FY 2026 budgeted amount. The majority of this change is attributable to cost indices for the Department of Administration SMART accounting system (\$8,250), but also includes expert witnesses (\$4,545<sup>10</sup>), Westlaw (\$3,534), and utilities (\$1,000).

These increases are offset by building rent (-\$4,253, attributable to no longer paying rent for a temporary space for the Wyandotte office) and moving costs (-\$1,500, since the Wyandotte office move is a one-time cost in FY 2026).

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<sup>10</sup> This is not nearly enough to meet actual expert witness costs, since those were artificially deflated in previous budget requests due to the availability of shrinkage funds. Enhancement Package #2 addresses this need.

## NARRATIVE INFORMATION – DA 400

DIVISION OF THE BUDGET  
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AGENCY NAME: Kansas State Board of Indigents' Defense Service  
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PROGRAM TITLE AND NUMBER: AID TO INDIGENTS DEFENSE  
SUBPROGRAM TITLE AND NUMBER: DEATH PENALTY DEFENSE UNIT

### **Commodities:**

The largest commodity costs for trial offices are office supplies, printer supplies, and gasoline.

#### **Current Year FY 2026: \$96,550**

Commodities budgets are set to account for current usage. This request is an increase of \$22,620, or 30.6%, above the approved amount. These increases are in line with actual FY 2025 expenditures, and include increases in water (\$7,650), printer supplies like toner (\$7,000), office supplies (\$3,070), and computer parts (\$2,675).

#### **Budget Year FY 2027: \$96,550**

Commodities are unchanged from the FY 2026 budget request.

### **Capital Outlay:**

Capital outlay in the trial program typically includes furniture, some computer equipment and some telecommunications equipment.

#### **Current Year FY 2026: \$80,000**

This request is a decrease of \$6,500, or 7.5%, below the approved budget. Current projected need is less than previously approved.

#### **Budget Year FY 2027: \$80,000**

This amount is unchanged from the FY 2026 budget request.

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DIVISION OF THE BUDGET  
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### FY 2025 Trial Office Closed Cases

<b>Trial Office</b>	<b>Attorney FTEs*</b>	<b>Cases Completed**</b>	<b>Cases Completed Per Attorney FTE</b>
Third Judicial Dist. Defender (Topeka)	13	704	54
Salina Public Defender	5	323	65
North Central Reg. Defender (Junction City)	8	924	114
Sedgwick County Public Defender (Wichita)	13	1,403	108
Reno County Public Defender (Hutchinson)	5	788	158
Tenth Judicial Dist. Public Defender (Olathe)	18	1,990	111
Seventh Judicial District Public Defender (Lawrence)	6	416	69
Western Regional Public Defender (Garden City)	2	160	80
SE KS Public Defender (Chanute)	4	459	115
SE KS Public Defender Satellite (Independence)	2	252	126
Northeast KS Conflicts Defender (Topeka)	7	482	69
Sedgwick County Conflicts Defender (Wichita)	5	367	74
29 <sup>th</sup> Judicial Dist. Public Defender (Kansas City)	12	249	21
<b>Total Trial Offices</b>	<b>100</b>	<b>8,517</b>	<b>85</b>

\*Represents attorney positions in each office in FY 2025. Actual number of active attorneys handling cases may differ because of vacant positions.

\*\*Includes only cases closed in FY 2025. Cases closed does not represent the full caseloads held by individual offices in FY 2025.

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### Death Penalty Defense Program

#### History of Death Penalty Defense

The Board of Indigents' Defense Services established the Capital Defense Coordinator Office in FY 1995 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 FY 1996 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 FY 2016 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.

In FY 2020, there were seven new capital cases filed in Kansas. The Death Penalty Defense Unit accepted appointments on six of those cases. The seventh was contracted out to private counsel due to a co-defendant conflict. In FY 2021, the DPDU accepted capital appointments on three new cases. In FY 2022, the DPDU accepted capital appointments on 2 new capital cases. In FY 2023, DPDU accepted capital appointments on three new capital cases. In FY 2024, the DPDU accepted capital appointments on 4 new capital cases.

Costs associated with the death penalty were examined by Legislative Post Audit in their "Costs Incurred for Death Penalty Cases" report issued in December 2003, and by the Judicial Council in their study issued in January 2004. The Judicial Counsel again reviewed death penalty cost issues in a 2009 study and again in 2014. Generally, it was determined that Kansas is experiencing the same issues and costs experienced by other states that have the death penalty. Legislative Post Audit made three recommendations in their report:

The first Legislative Post Audit recommendation was to make sure the Death Penalty Defense Unit had a sufficient number of qualified attorneys so that death penalty cases did not have to be assigned to private attorneys. Toward this recommendation, in 2003, two attorney positions from the Topeka workstation were moved to Wichita. Additionally, the two Wichita based attorneys can handle homicides in rural areas without public defender offices as

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well as the case overflow from the Wichita Public Defenders and the Wichita Conflict Public Defenders. In 2012, through grant funding received for training, all additional experienced defenders who were willing to provide capital defense received capital training, expanding the qualified attorney numbers. In FY 2022, a new capital appellate defender position was created. In July 2022, five new capital attorney positions were created by moving vacant trial-level attorney positions and their funding to the DPDU, Capital Appeals and Conflicts, and Capital Habeas.

The second Legislative Post Audit recommendation was to look into the feasibility of establishing a conflicts office. Funds were requested from the legislature to accomplish that recommendation but funding was not approved. Nevertheless, in order to provide appellate counsel in-house for each of the Carr brothers, an additional capital appellate team was established in 2002.

The third recommendation was to look at cost control measures in other states. This was a specific assignment to the Judicial Council, who found that other states' efforts were essentially the same as ours.

Costs will continue to rise as more as more cases are added. Only a handful of capital cases have been finalized. All other cases are continuing through the legal process to the State Capital Habeas proceedings and new cases are added each year.

A new level of casework, unique to the death penalty, began at the very end of FY 2007. This casework – the post-conviction state habeas, was contracted out to experienced private counsel for cost efficiency. However, as more and more death penalty cases move into the habeas stage, some of that work has been brought back in house as part of the Capital Habeas Office. Post-conviction contract services include the cost of re-investigating the case, hiring expert witnesses, travel, mitigation costs and attorney fees. The cost estimates shift from one year to the other depending upon how fast or slow the matter is scheduled in the district court. Additionally, this request has been formulated applying the standards mandated by the American Bar Association Guidelines for the Appointment and Performance of Defense Counsel in Death Penalty Cases.

New capital cases are added and few are resolved. Therefore, the costs of these account codes will continue to rise.

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### **Capital Appeals and Conflicts Office & Capital Appeals Office**

In FY 2002, the Capital Appeals and Conflicts Office (CA&C) and the Capital Appeals Office (CA) 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 time allows.

### **State Habeas Office**

In FY 2015, the State Habeas office was established to prepare for the next stage of death penalty defense after a death sentence is upheld by the Kansas Supreme Court and any petition for certiorari has been unsuccessful for the defense.

### **EXPENDITURE JUSTIFICATION:**

#### **Salaries and Wages:**

**FTE: 41.0**

These offices are each regularly staffed by a Chief Defender, multiple capital public defenders, legal assistants, mitigation specialists and investigators, depending on their case needs. When necessary, trial office public defenders may be assigned to defend capital cases when conflicts arise to ease the reliance on private attorneys. The funding source for salaries is then adjusted according to the percentage of time spent on capital defense and the time spent on non-capital cases.

#### **Current Year FY 2026: \$4,688,645**

The agency estimate includes a full-year staffing of 40 FTE. Shrinkage is based on 3.5%. Benefit amounts are based on cost indices. No overtime expenses are included. This amount represents a decrease of \$342,615, or 6.8%, below the approved amount, largely attributable to turnover.

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### **Budget Year FY 2027: \$4,702,346**

The agency estimate includes a full year staffing of 40 FTE. Shrinkage is based on 3.3% reflecting retention efforts. Benefit amounts are based on cost indices. No overtime expenses are included. This amount is an increase of \$13,701, or 0.3%, above the FY 2026 amount, attributable to fringe benefit changes.

#### **Contractual Services:**

The largest contractual services expenses are building rent, contracted assigned counsel, Westlaw, parking, travel, the monumental building surcharge, transcripts, telecommunications, and internet.

#### **Current Year FY 2026: \$1,206,001**

The FY 2026 budget request represents an increase of \$558,820, or 86.3%, above the approved amount. Over 80% of this increase is attributable to contracting assigned counsel to assist with or handle capital defense cases (\$449,916).

Other increases include lodging and travel to match actual need (\$32,075), Westlaw costs that were previously allocated largely within the Admin program (\$29,882), building rent because of a short transition period between the Habeas temporary office and permanent space (\$11,984), the monumental building surcharge (\$10,270), transcripts (\$9,700), vehicle mileage (\$8,850), moving costs due to the move to the permanent office (\$4,500), and telecommunications (\$3,788).

Decreases include internet costs arising from ending OITS-provided AT&T internet service at the temporary Habeas office space that was very expensive (-\$9,977) and parking (-\$3,900).

#### **Budget Year FY 2027: \$1,169,864**

The FY 2027 budget request is a decrease of \$36,137, or 3.0%, below the FY 2026 request. This decrease is mostly attributable to building rent (-\$29,374) after the Habeas office's transition to the building shared with the Wyandotte public defender office, further internet cost savings from ending OITS-provided AT&T internet service (an additional -\$4,607 in FY 2027), and moving expenses since the Habeas office move is a one-time cost (-\$4,000). These decreases are slightly offset by small increases in the state accounting system cost from the Department of Administration and Westlaw (total \$1,844).

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### **Commodities:**

The largest commodity costs for capital defense offices are office supplies and gasoline.

#### **Current Year FY 2026: \$22,750**

This is a decrease of \$15, or less than 0.1%, below the approved amount. These costs are largely office supplies, gasoline, water, and printer supplies.

#### **Budget Year FY 2027: \$22,750**

The FY 2027 commodities budget is unchanged from the FY 2026 request.

### **Capital Outlay:**

Capital outlay costs for capital defense are generally furniture but can include IT or telecommunications equipment. The approved and requested budget is nearly all budgeted as furniture.

#### **Current Year FY 2026: \$23,000**

The FY 2026 budget request is unchanged from the approved amount.

#### **Budget Year FY 2027: \$23,000**

The FY 2027 budget request is unchanged from the FY 2026 requested amount.

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## REVENUE ESTIMATE

### **INDIGENTS' DEFENSE SERVICES FUND:**

Pursuant to L. 1996 S.B. No. 95, Sec. 134(b) Created by K.S.A. 22-4526

The revenues in this account are remitted by Clerks of the District Courts as part of an assessment or docket fee (\$0.50 per case filed with the courts – including non-indigent cases), an application fee, and a bond forfeiture program. An administrative fee as well as the bond forfeiture program was statutorily implemented by the 1997 legislature. The Board requested and legislation was passed changing the Board's fee from an "administrative" fee to an "application" fee, to be paid at the front end of a case and increasing the amount from \$50 to \$100 per case. All three components, docket fee, application fee and bond forfeiture, are paid by the court to the State Treasurer. In FY 2014, a statutory change eliminated payment of docket fees to the Board of Indigents' Defense Services. The loss of these funds was replaced with state general funds in a separate funding line entitled "Indigents' Defense Services Operations." In FY 2013 the process for allocating bond forfeiture proceeds was modified. This modification reduced revenue to the Indigents' Defense Services Fund. The agency historically projected conservatively due to the volatility of this revenue source. Beginning in the budget submitted for consideration by the 2026 Legislature, BIDS is moving away from conservative modeling, favoring standard forecasting methodology.

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### **INDIGENTS' DEFENSE SERVICES FUND**

Total Fee Fund Revenue	
2018	\$825,021
2019	\$854,275
2020	\$888,427
2021	\$865,910
2022	\$973,710
2023	\$1,017,052
2024	\$1,071,750
2025	\$953,045
2026 (Estimate)	\$1,065,411
2027 (Estimate)	\$1,091,538

Historically, this fund was used to partially pay assigned counsel expenditures. Since FY 2006, this fund has also been used to pay expert service and transcriptionist costs supplemented by state general funds.

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### DOCKET FEE:

Effective July 1, 2014 the agency no longer receives any docket fees.

### APPLICATION FEE:

Legislation was proposed and passed by the 2003 session to direct that the administrative fee, usually assessed at the end of the case, would be replaced by an application fee to be paid when an accused person requests representation by the Board of Indigents' Defense Services. The amount was increased from \$35 to \$50 for FY 2004 and to \$100 for FY 2005.

In an effort to increase collection of the administrative fee, we have revised forms, mailed a reminder to assigned counsel attorneys, and reinforced the issue with our own public defender offices. In late FY 2002, Assigned Counsel claim forms were revised to include a field to capture data regarding the ordering of the \$35 fee. The Assigned Counsel claim form was revised again in FY 2005 to reflect the \$100 application fee and to provide the statutory reference. The Order Appointing Counsel form was also revised to include a notation regarding the fee with statutory reference. The Financial Affidavit form was also revised to address the ordering of the fees at the time indigency is determined. Forms were redesigned for FY 2007 in an attempt to increase this revenue. In 2012, the legislation allowed funding for an auditor position to review the assessment of the application fee by the court as part of sentencing. Additionally, the Sentencing Commission has complied with our request to include the ordering of the application fee in its sentencing forms.

### BOND FORFEITURE FEE:

The revenue collected from this fee will vary from year to year based on the number of bonds that are forfeited and the amount of the bond.

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### **INSERVICE EDUCATION WORKSHOP FEE FUND:**

Per K.S.A. 22-4523(c), the State Board of Indigents' Defense Services may conduct programs having a general objective of training and educating attorneys and other persons involved in the legal representation of indigent persons. The agency offers two continuing legal education workshops for public defenders and assigned counsel each year. The agency does not typically charge for these workshops.

Revenue is forecasted with standard methodologies. The agency utilizes these funds to offset costs incurred for providing training services, such as site rental, printing, mailing, staff travel, and for providing additional training to public defenders.

Total Fee Fund Revenue	
2018	\$10,300
2019	\$11,250
2020	\$7,472
2021	\$4,400
2022	\$10,835
2023	\$10,945
2024	\$8,425
2025	\$8,750
2026 (Estimate)	\$8,326
2027 (Estimate)	\$8,543

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### STATE OF KANSAS REVENUE ESTIMATE – DEFENDANT RECOUPMENTS

The Board of Indigents' Defense Services processes funds from the Courts on behalf of defendants as repayment for legal and expert services. These recoupments are ordered by the Judge at the time of sentencing. The funds are collected by the Courts and submitted to the Board of Indigents' Defense Services. They are receipted and processed by the administrative accounting staff and deposited into the State General Fund through the State Treasurer after an audit conducted by the BIDS accounting team. These funds are available revenue to the State of Kansas, not to the agency.