

# BOARD OF INDIGENTS' DEFENSE SERVICES

## FY 2023 – FY 2025 BUDGET ANALYSIS

FIGURE 1  
**BUDGET OVERVIEW, FY 2023 – FY 2025**

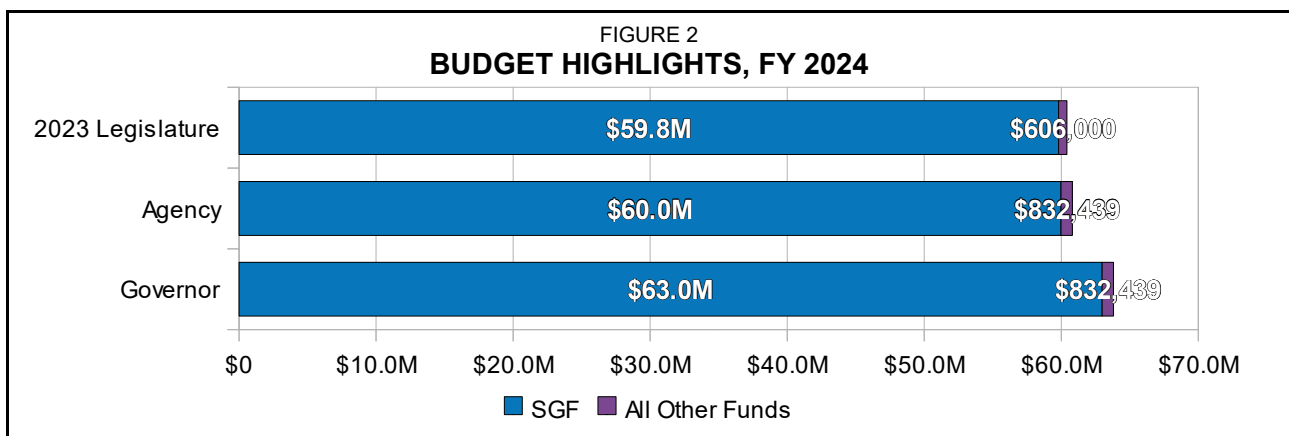
	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
<b>Operating Expenditures:</b>					
State General Fund	\$ 47,512,897	\$ 59,981,055	\$ 62,981,055	\$ 70,905,122	\$ 60,030,353
Federal Funds	-	-	-	-	-
All Other Funds	1,011,971	832,439	832,439	806,000	806,000
<i>Subtotal</i>	<i>\$ 48,524,868</i>	<i>\$ 60,813,494</i>	<i>\$ 63,813,494</i>	<i>\$ 71,711,122</i>	<i>\$ 60,836,353</i>
<b>Capital Improvements:</b>					
State General Fund	\$ -	\$ -	\$ -	\$ -	\$ -
Federal Funds	-	-	-	-	-
All Other Funds	-	-	-	-	-
<i>Subtotal</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ -</i>	<i>\$ -</i>
<b>TOTAL</b>	<b>\$ 48,524,868</b>	<b>\$ 60,813,494</b>	<b>\$ 63,813,494</b>	<b>\$ 71,711,122</b>	<b>\$ 60,836,353</b>
<b>Percentage Change:</b>					
State General Fund	36.5 %	26.2 %	32.6 %	18.2 %	(4.7) %
All Funds	35.6 %	25.3 %	31.5 %	17.9 %	(4.7) %
FTE Positions	289.2	289.2	289.2	314.2	289.2

The Board of Indigents' Defense Services (BIDS) is tasked with providing and supervising constitutionally and statutorily required legal services for indigents accused of felonies. BIDS fulfills this mission by overseeing a statewide system of public defender offices and by compensating assigned counsel when public defenders are unavailable. The agency also serves as the pass-through agency for funding for Legal Services for Prisoners, Inc., a nonprofit corporation providing legal assistance to indigent inmates of Kansas correctional institutions.

### EXECUTIVE SUMMARY

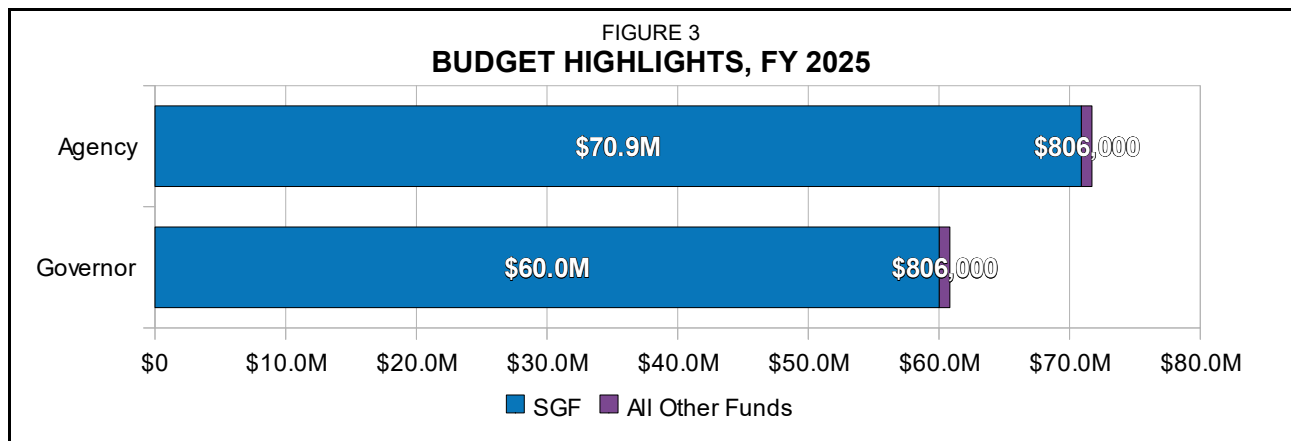
The 2023 Legislature approved a budget of \$60.4 million, including \$59.8 million from the State General Fund (SGF), for the Board of Indigents' Defense Services for FY 2024. One adjustment has been made subsequently to that amount, which changes the current year approved amount without any legislative action required.

- **SGF REAPPROPRIATION.** The agency carried over approximately \$3.8 million SGF in reappropriated funds from FY 2023. This amount is entirely from unspent funds for salaries and wages for unfilled positions.



The **agency** requests a revised estimate of \$60.8 million, including \$60.0 million SGF, in expenditures and 289.2 FTE positions in FY 2024. This is an all funds increase of \$403,438, or 0.7 percent, and an SGF increase of \$176,999, or 0.3 percent, above the FY 2024 approved amount. The increase is attributable to the agency's supplemental request for the 2023 Legislative Pay Plan shortage, and increases in the following programs: trial public defenders (\$4.4 million), assigned counsel (\$1.6 million), capital defense (\$1.3 million), and the appellate defender program (\$295,103). The increase is partially offset by an overall decrease in expenditures for salaries and wages in FY 2024.

The **Governor** recommends expenditures of \$63.8 million, including \$63.0 million SGF, and 289.2 FTE positions in FY 2024. This is an increase of \$3.0 million SGF, or 4.9 percent, above the agency's FY 2024 revised estimate. The increase is entirely attributable to increased assigned counsel caseload expenditures in accordance with the fall 2023 consensus caseload estimates for FY 2024.



The **agency** requests \$71.7 million, including \$70.9 million SGF, in expenditures and 314.2 FTE positions for FY 2025. This is an all funds increase of \$10.9 million, or 17.9 percent, and an SGF increase of \$10.9 million, or 18.2 percent, and an FTE increase of 25.0 positions above the FY 2024 revised estimate.

The request includes \$15.0 million for the following enhancement requests: recruitment and retention (\$6.7 million), next step compensation for selective salary increases and bonuses (\$1.2 million), ethical caseload and staffing (\$2.7 million), basic infrastructure (\$475,862), assigned counsel hourly rate increase (\$3.8 million), and Legal Services for Prisoners salary adjustments (\$112,790).

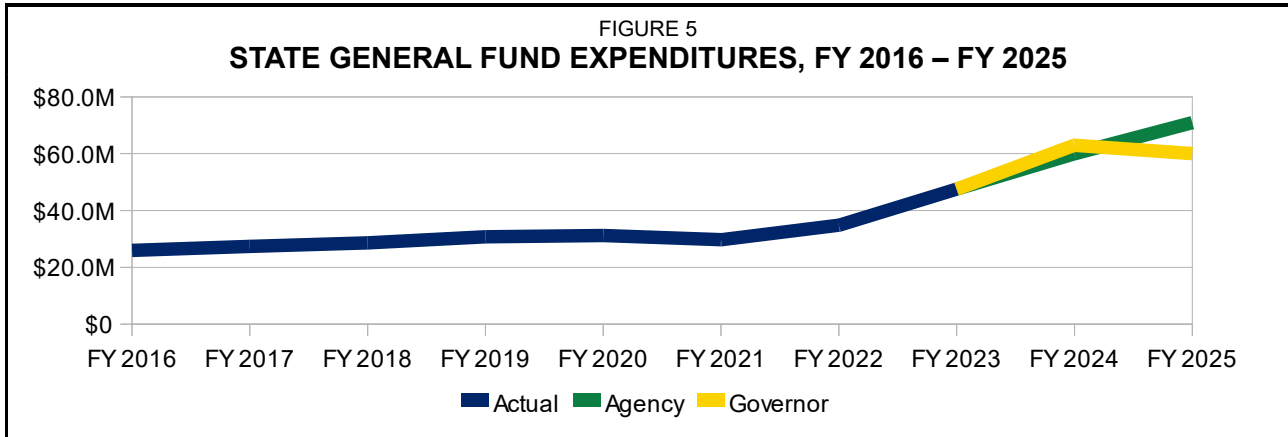
The **Governor** recommends expenditures of \$60.8 million, including \$60.0 million SGF, and 289.2 FTE positions for FY 2025. This is a decrease of \$10.9 million SGF, or 15.3 percent, and 25.0 FTE positions below the agency's FY 2025 request. The decrease is due to the Governor not recommending the agency's enhancement requests for recruitment and retention (\$6.7 million), next step compensation for selective salary increases and bonuses (\$1.2 million), ethical caseload and staffing (\$2.7 million), basic infrastructure (\$475,862), and assigned counsel hourly rate increase (\$3.8 million). The recommendation includes the agency's enhancement request for Legal Services for Prisoners salary adjustments (\$112,790), as well as \$3.0 million SGF for assigned counsel expenditures in accordance with the fall 2023 consensus caseload estimates.

## EXPENDITURES AND FINANCING

FIGURE 4  
**BUDGET SUMMARY BY CATEGORY OF EXPENDITURE, FY 2023 – FY 2025**

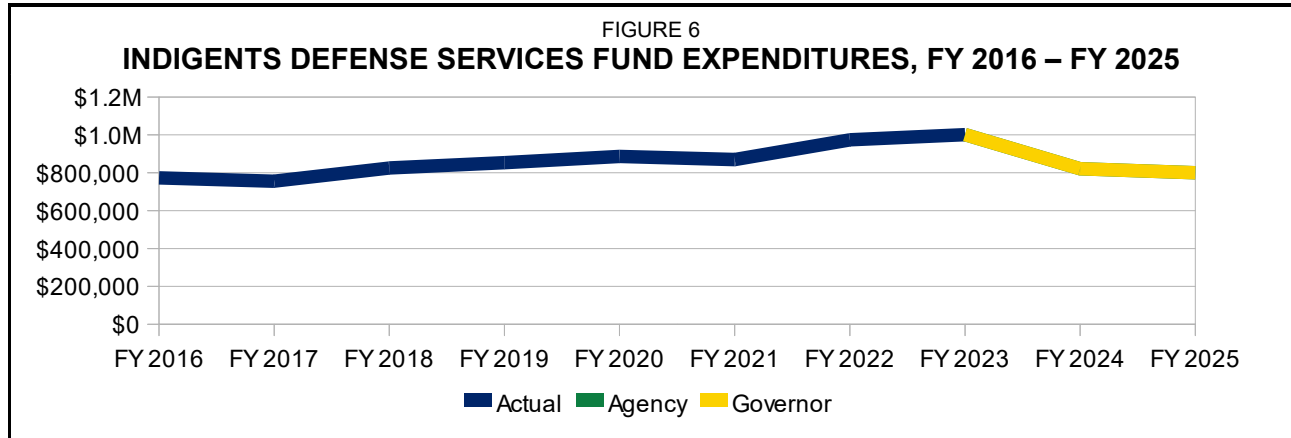
Category of Expenditure:	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
Salaries and Wages	\$ 18,486,049	\$ 27,953,164	\$ 27,953,164	\$ 38,444,334	\$ 27,838,787
Contractual Services	29,502,064	30,855,329	33,855,329	32,836,803	32,567,581
Commodities	111,991	166,691	166,691	124,772	124,772
Capital Outlay	424,764	1,838,310	1,838,310	305,213	305,213
Debt Service Interest	-	-	-	-	-
<i>Subtotal</i>	<u>\$ 48,524,868</u>	<u>\$ 60,813,494</u>	<u>\$ 63,813,494</u>	<u>\$ 71,711,122</u>	<u>\$ 60,836,353</u>
Aid to Local Units	-	-	-	-	-
Other Assistance	-	-	-	-	-
<i>Subtotal—Operating</i>	<u>\$ 48,524,868</u>	<u>\$ 60,813,494</u>	<u>\$ 63,813,494</u>	<u>\$ 71,711,122</u>	<u>\$ 60,836,353</u>
Capital Improvements	-	-	-	-	-
Debt Service Principal	-	-	-	-	-
<b>TOTAL</b>	<u><b>\$ 48,524,868</b></u>	<u><b>\$ 60,813,494</b></u>	<u><b>\$ 63,813,494</b></u>	<u><b>\$ 71,711,122</b></u>	<u><b>\$ 60,836,353</b></u>
<b>Financing:</b>					
State General Fund	\$ 47,512,897	\$ 59,981,055	\$ 62,981,055	\$ 70,905,122	\$ 60,030,353
Federal Funds	-	-	-	-	-
All Other Funds	1,011,971	832,439	832,439	806,000	806,000
<b>TOTAL</b>	<u><b>\$ 48,524,868</b></u>	<u><b>\$ 60,813,494</b></u>	<u><b>\$ 63,813,494</b></u>	<u><b>\$ 71,711,122</b></u>	<u><b>\$ 60,836,353</b></u>
FTE Positions	289.2	289.2	289.2	314.2	289.2

### STATE GENERAL FUND



For the Board of Indigents' Defense Services, SGF moneys are the primary source of funding. For FY 2024, the SGF expenditure increase is primarily due to the Legislative Pay Plan increase and subsequent supplemental request to account for the pay plan shortfall. Additionally, the 2023 Legislature added language to the appropriations bill to fund the assigned counsel rate at \$120 per hour for FY 2024 and FY 2025. For FY 2025, the SGF increase is due to the agency's enhancement requests, totaling \$15.0 million SGF.

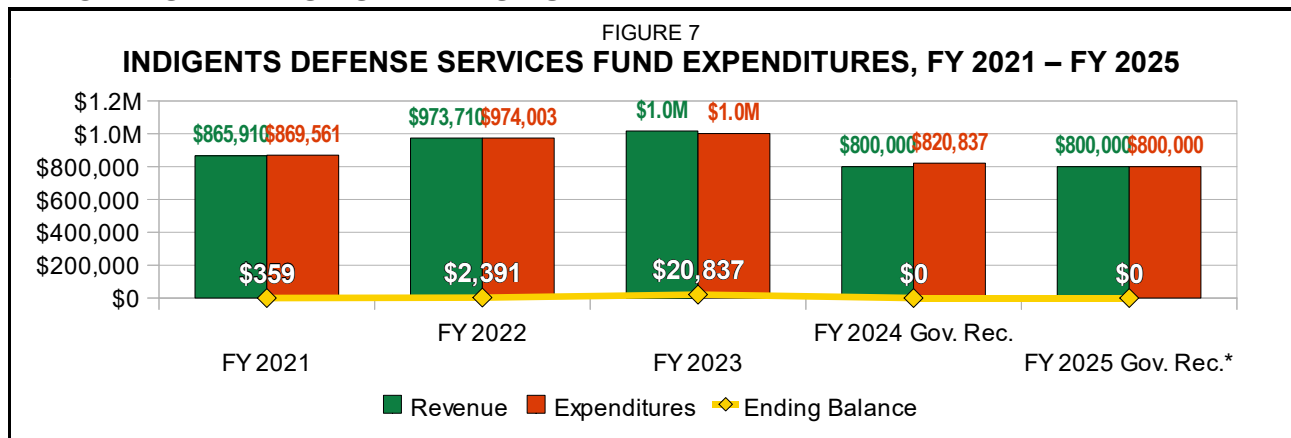
## INDIGENTS DEFENSE SERVICES FUND



The Indigents Defense Services Fund, per KSA 22-4526, receives revenues from application fees and the bond forfeiture program. Defendants seeking legal counsel through the agency pay an application fee between \$50 to \$100.

Since FY 2006, this fund has been used to pay expert service and transcriptionist costs, supplemented by SGF moneys. In FY 2023, the fund received \$719,233 from application fees and \$297,819 from the bond forfeiture program.

## INDIGENTS DEFENSE SERVICES FUND



\* For FY 2025, the lowest month ending balance for the Indigents Defense Services Fund will occur in February, with a balance of \$0.

The Indigents Defense Services Fund moneys are deposited directly into the State Treasury each month as they become available. According to the agency, these monthly deposits are not always sufficient to fully cover the expert services expenses typically exhausted each month. Whenever the agency experiences a balance forward into the next month (or fiscal year), it is usually due to the timing of new funds being deposited into the Treasury.

## FY 2024 ANALYSIS

FIGURE 8

### SUMMARY OF BUDGET REQUEST, FY 2024

	SGF	All Funds	FTE
<b>Legislative Approved:</b>			
Amount Approved by 2023 Legislature	\$ 55,963,255	\$ 56,569,255	288.2
1. SGF Reappropriation	3,840,801	3,840,801	--
<i>Subtotal—Legislative Approved</i>	\$ 59,804,056	\$ 60,410,056	288.2
<b>Agency Revised Estimate:</b>			
Supplemental Requests:			
2. Pay Plan Shortfall	\$ 176,999	\$ 176,999	--
<i>Subtotal—Supplemental Requests Only</i>	\$ 176,999	\$ 176,999	--
3. All Other Adjustments	-	226,439	1.0
<i>Subtotal—Agency Revised Estimate</i>	\$ 59,981,055	\$ 60,813,494	289.2
<b>Governor's Recommendation:</b>			
4. Assigned Counsel Caseload Adjustment	\$ 3,000,000	\$ 3,000,000	--
<b>TOTAL</b>	<b>\$ 62,981,055</b>	<b>\$ 63,813,494</b>	<b>289.2</b>

### LEGISLATIVE APPROVED

Subsequent to the 2023 Session, one adjustment was made to the \$60.4 million appropriated to the Board of Indigents' Defense Services for FY 2024. This adjustment changed the current year approved amount without any legislative action required and includes the following:

1. **SGF REAPPROPRIATION.** The agency received approximately \$3.8 million SGF in reappropriated funds from FY 2023. This amount is entirely from unspent funds for salaries and wages.

### AGENCY ESTIMATE

The **agency** requests a revised estimate of \$60.8 million, including \$60.0 million SGF, and 289.2 FTE positions in FY 2024. This is an all funds increase of \$403,438, or 0.7 percent, and an SGF increase of \$176,999, or 0.3 percent, above the FY 2024 approved amount. The FTE increase is a technical adjustment.

The revised estimate includes \$176,999 for the following supplemental request:

2. **PAY PLAN SHORTFALL.** The revised estimate includes \$176,999 SGF in FY 2024 to account for a shortfall in appropriations for the Legislative Pay Plan in 2023 SB 25. The 2023 Legislature appropriated \$120.0 million, including \$46.0 million SGF, across all state agencies to provide salary adjustments for FY 2024 based on the Department of Administration Market Survey. This total amount was short by approximately \$11.8 million, including \$11.4 million SGF, statewide in FY 2024. To account for this, the State Finance Council prorated agency distribution of the available appropriations by approximately 20.0 percent. For the Board of Indigents' Defense Services, a supplemental appropriation of \$176,999 SGF in FY 2024 is required to achieve the intended effect of the Legislative Pay Plan in 2023 SB 25.

Absent the supplemental requests, the revised estimate includes an increase of \$226,439 in base budget expenditures. Significant adjustments are as follows:

3. **ALL OTHER ADJUSTMENTS.** The agency requests \$226,439, all from special revenue funds, for FY 2025. This increase includes \$220,837 from the Indigents Defense Services Fund and \$5,602 from the Inservice Education Workshop Fee Fund. These funds are typically used to pay for expert witnesses, transcription costs, attorney training, and education.

The base budget includes increases of \$360,000 for passenger vehicles, \$399,332 for software, \$1.8 million for expert fees, and \$453,929 for rent. These are partially offset by decreased expenditures of \$119,898 for job-related training and conference registrations, and \$262,612 for database access fee charges with suppliers other than OITS.

## **GOVERNOR'S RECOMMENDATION**

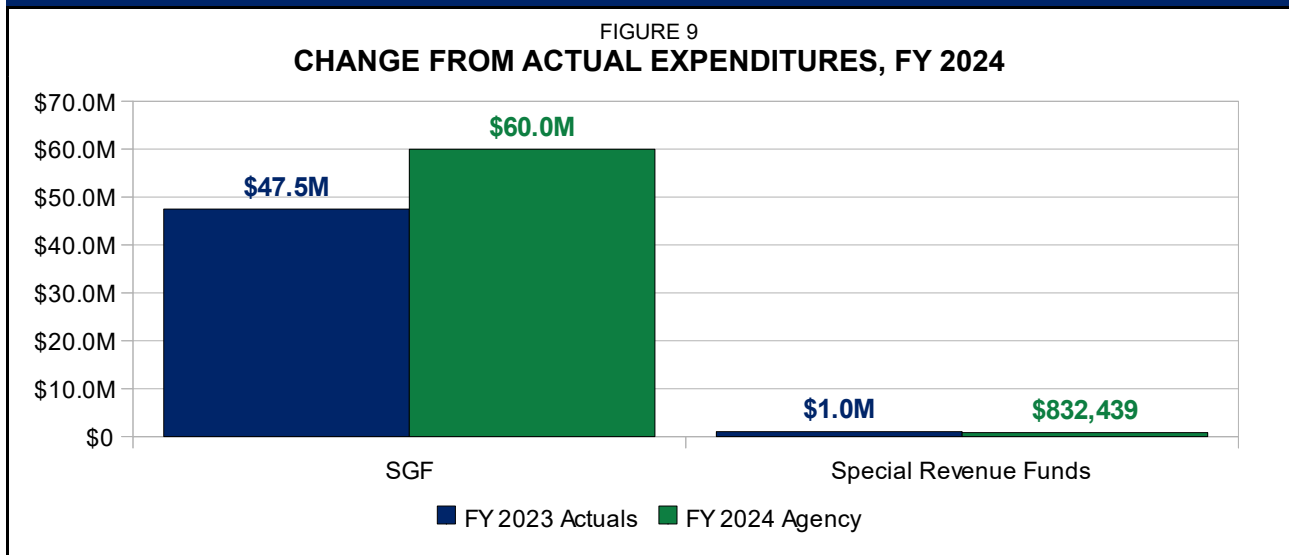
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The **Governor** recommends expenditures of \$63.8 million, including \$63.0 million SGF, and 289.2 FTE positions in FY 2024. This is an increase of \$3.0 million SGF, or 4.9 percent, above the agency's FY 2024 revised estimate.

The **Governor's** recommendation includes the following adjustments:

4. **ASSIGNED COUNSEL CASELOAD ADJUSTMENT.** The Governor's recommendation includes \$3.0 million SGF in accordance with the fall 2023 consensus caseload estimates for assigned counsel in FY 2024.

## FY 2024 CHANGE FROM ACTUAL EXPENDITURES



The **agency** estimates revised expenditures of \$60.8 million, including \$60.0 million SGF, in FY 2024. This is an all funds increase of \$12.3 million, or 25.3 percent, and an SGF increase of \$12.5 million, or 26.2 percent, above the FY 2023 actual expenditures. This includes \$3.8 million SGF and 30.0 FTE positions to fund the first year startup costs and staffing to establish public defender offices in the 29th Judicial District (Wyandotte County) and the 11th Judicial District (Crawford, Cherokee, and Labette counties) in FY 2024.

Additionally, the agency received funding for \$1.8 million SGF and 15.0 FTE positions for ethical caseloads staffing for FY 2024. This included 13.0 FTE public defender positions and 2.0 FTE administrative staff positions, and would support the agency’s priority staffing needs in areas with the highest caseloads and refusal of cases that lead to assigned counsel.

The agency received approximately \$3.8 million SGF in reappropriated funds in FY 2024 that were not spent in FY 2023. This amount is entirely from unspent funds for salaries and wages due to vacant positions.

## FY 2025 ANALYSIS

FIGURE 10

### SUMMARY OF BUDGET REQUEST, FY 2025

	SGF	All Funds	FTE
<b>Agency Request:</b>			
Request without Major Changes	\$ 55,917,563	\$ 56,723,563	289.2
Enhancement Requests:			
1. Recruitment and Retention	\$ 6,668,972	\$ 6,668,972	--
2. Next Step Compensation	1,189,121	1,189,121	--
3. Ethical Caseload and Staffing	2,747,454	2,747,454	25.0
4. Basic Infrastructure	475,862	475,862	--
5. Assigned Counsel Hourly Rate Increase	3,793,360	3,793,360	--
6. LSP Salary Adjustment	112,790	112,790	--
<i>Subtotal—Agency Requests</i>	<i>\$ 70,905,122</i>	<i>\$ 71,711,122</i>	<i>314.2</i>
<b>Governor’s Recommendation:</b>			
7. Enhancements Not Recommended	\$ (14,874,769)	\$ (14,874,769)	(25.0)
8. Assigned Counsel Caseload Adjustment	4,000,000	4,000,000	--
<b>TOTAL</b>	<b>\$ 60,030,353</b>	<b>\$ 60,836,353</b>	<b>289.2</b>

### AGENCY REQUEST

The **agency** requests \$71.7 million, including \$70.9 million SGF, and 314.2 FTE positions for FY 2025. This is an all funds increase of \$10.9 million, or 17.9 percent, and an SGF increase of \$10.9 million, or 18.2 percent, and 25.0 FTE positions above the FY 2024 revised estimate.

The request includes \$15.0 million for the following enhancement requests:

1. **RECRUITMENT AND RETENTION.** The estimate includes \$6.7 million SGF for recruitment and retention for FY 2025. The adjustment would create pay parity with prosecutor offices and includes a 28.0 percent adjustment for attorneys and a 10.0 percent average adjustment for non-attorney staff.
  
2. **NEXT STEP COMPENSATION.** The estimate includes \$1.2 million SGF for the agency's next step compensation adjustments for FY 2025. This includes a salary and wages adjustment of approximately 5.0 percent per employee and allows for 2.0 percent merit-based increases. The adjustments will be administered on an employee-by-employee basis.
  
3. **ETHICAL CASELOAD AND STAFFING.** The estimate includes 2.7 million SGF and 25.0 FTE positions for the ethical caseloads staffing and support plan for FY 2025. This includes 6.0 FTE positions for the capital offices (\$630,225), 10.0 FTE positions for the non-capital public defender offices (\$1,100,625), and 9.0 FTE positions for administrative operations (\$1,016,604). The additional staffing is to address immediate caseload needs and to build the agency's capacity to effectively recruit, hire, and support future necessary staffing.
  
4. **BASIC INFRASTRUCTURE.** The estimate includes \$475,862 SGF for basic infrastructure expenditures for FY 2025. This amount includes two parts:
  - First, the request includes \$352,500 SGF for new and additional lease space to accommodate the agency's current staff, including some vacant positions the agency cannot fill due to insufficient office space. In total, the funding would support



47.0 FTE positions across seven separate offices. The agency estimates it will need 300 square feet per employee, with an anticipated cost of \$25 per square foot per year.

- Second, the request includes an ongoing expenditure of \$123,362 SGF for the Training Division for attorney and non-attorney staff trainings, leadership training, continuing legal education, and an agency-wide conference, which includes assigned counsel from across the state.

5. **ASSIGNED COUNSEL HOURLY RATE INCREASE.** The estimate includes \$3.8 million SGF to increase the assigned counsel hourly rate to \$140 per hour for FY 2025. This is an increase of \$20 per hour above the current proviso of \$120 per hour added by the 2023 Legislature, and an increase of \$60 per hour above the statutory cap, which is set at \$80 per hour.

6. **LSP SALARY ADJUSTMENT.** The estimate includes \$112,790 SGF in ongoing expenditures for a salary adjustment in the Legal Services for Prisoners (LSP) program for FY 2025. According to the agency, the current 4.0 FTE positions earn approximately \$15,000 below new public defenders with no experience. Each attorney for LSP has more than 30 years of experience.

## **GOVERNOR'S RECOMMENDATION**

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The **Governor** recommends expenditures of \$60.8 million, including \$60.0 million SGF, and 289.2 FTE positions for FY 2025. This is a decrease of \$10.9 million SGF, or 15.3 percent, and 25.0 FTE positions below the agency's FY 2025 request.

The **Governor's** recommendation includes the following adjustments:

7. **ENHANCEMENTS NOT RECOMMENDED.** The Governor does not recommend adoption of the following enhancement requests:

- Recruitment and Retention (\$6.7 million SGF);
- Next Step Compensation (\$1.2 million SGF);
- Ethical Caseload and Staffing (\$2.7 million SGF and 25.0 FTE positions);
- Basic Infrastructure (\$475,862 SGF); and
- Assigned Counsel Hourly Rate Increase (\$3.8 million SGF).

8. **ASSIGNED COUNSEL CASELOAD ADJUSTMENT.** The Governor's recommendation includes an increase of \$4.0 million SGF in accordance with the fall 2023 consensus caseload estimates for assigned counsel for FY 2025.

## SUPPLEMENTAL AND ENHANCEMENT REQUESTS

FIGURE 11  
**SUPPLEMENTAL AND ENHANCEMENT REQUESTS, FY 2024 – FY 2025**

Request	Agency			Governor		
	SGF	All Funds	FTE	SGF	All Funds	FTE
<b>FY 2024 Supplementals:</b>						
1. Pay Plan Shortfall	\$ 176,999	\$ 176,999	-	\$ 176,999	\$ 176,999	-
2. Assigned Counsel Caseload Adjustment	-	-	-	3,000,000	3,000,000	-
<b>TOTAL</b>	<b>\$ 176,999</b>	<b>\$ 176,999</b>	<b>-</b>	<b>\$ 3,176,999</b>	<b>\$ 3,176,999</b>	<b>-</b>
<b>FY 2025 Enhancements:</b>						
3. Recruitment and Retention	\$ 6,668,972	\$ 6,668,972	-	\$ -	\$ -	-
4. Next Step Compensation	1,189,121	1,189,121	-	-	-	-
5. Ethical Caseload and Staffing	2,747,454	2,747,454	25.0	-	-	-
6. Basic Infrastructure	475,862	475,862	-	-	-	-
7. Assigned Counsel Hourly Rate increase	3,793,360	3,793,360	-	-	-	-
8. LSP Salary Adjustment	112,790	112,790	-	112,790	112,790	-
9. Assigned Counsel Caseload Adjustment	-	-	-	4,000,000	4,000,000	-
<b>TOTAL</b>	<b>\$ 14,987,559</b>	<b>\$ 14,987,559</b>	<b>25.0</b>	<b>\$ 4,112,790</b>	<b>\$ 4,112,790</b>	<b>-</b>

- PAY PLAN SHORTFALL.** The revised estimate includes \$176,999 SGF in FY 2024 to account for a shortfall in appropriations for the Legislative Pay Plan in 2023 SB 25. The 2023 Legislature appropriated \$120.0 million, including \$46.0 million SGF, across all state agencies to provide salary adjustments for FY 2024 based on the Department of Administration Market Survey. This total amount was short by approximately \$11.8 million, including \$11.4 million SGF, statewide in FY 2024. To account for this, the State Finance Council prorated agency distribution of the available appropriations by approximately 20.0 percent. For the Board of Indigents' Defense Services, a supplemental appropriation of \$176,999 SGF in FY 2024 is required to achieve the intended effect of the Legislative Pay Plan in 2023 SB 25.

**The Governor recommends adoption of this request.**

- ASSIGNED COUNSEL CASELOADS.** The Governor's recommendation includes \$3.0 million SGF in accordance with the fall 2023 consensus caseload estimates for assigned counsel in FY 2024.
- RECRUITMENT AND RETENTION.** The estimate includes \$6.7 million SGF for recruitment and retention in FY 2025. The adjustments would create pay parity with prosecutor offices and includes a 28.0 percent adjustment for attorneys and a 10.0 percent average adjustment for non-attorney staff.

During the summer of 2023, the agency filed Kansas Open Records Act requests with a number of regional prosecutors' offices and discovered that starting salaries for prosecutors' offices are approximately \$80,000 for new law school graduates. The agency's current starting salary for a new law school graduate is \$62,500, or 28.0 percent below competing prosecutors' offices around the state.

The agency notes that if this adjustment would be better implemented over a two-year

period, the adjustment would total approximately \$3.3 million for both FY 2025 and FY 2026.

**The Governor does not recommend adoption of this request.**

4. **NEXT STEP COMPENSATION.** The estimate includes \$1.2 million SGF for the agency's next step compensation adjustments in FY 2025. This includes a salary and wages adjustment of approximately 5.0 percent per employee and allows for 2.0 percent merit-based increases. The adjustments will be administered on an employee-by-employee basis.

**The Governor does not recommend adoption of this request.**

5. **ETHICAL CASELOAD AND STAFFING.** The estimate includes 2.7 million SGF and 25.0 FTE positions for the ethical caseloads staffing and support plan for FY 2025. This includes 6.0 FTE positions for the capital offices (\$630,225), 10.0 FTE positions for the non-capital public defender offices (\$1,100,625), and 9.0 FTE positions for administrative operations (\$1,016,604). The additional staffing is to address immediate caseload needs and to build the agency's capacity to effectively recruit, hire, and support future necessary staffing.

**The Governor does not recommend adoption of this request.**

6. **BASIC INFRASTRUCTURE.** The estimate includes \$475,862 SGF for basic infrastructure expenditures for FY 2025. This amount includes two parts:

First, the request includes \$352,500 SGF for new and additional lease space to accommodate the agency's current staff, including some vacant positions the agency cannot fill due to insufficient office space. In total, the funding would support 47.0 FTE positions across seven separate offices. The agency estimates it will need 300 square feet per employee, with an anticipated cost of \$25 per square foot per year.

Second, the request includes an ongoing expenditure of \$123,362 SGF for the Training Division for attorney and non-attorney staff trainings, leadership training, continuing legal education, and an agency-wide conference, which includes assigned counsel from across the state.

**The Governor does not recommend adoption of this request.**

7. **ASSIGNED COUNSEL HOURLY RATE INCREASE.** The estimate includes \$3.8 million SGF to increase the assigned counsel hourly rate to \$140 per hour for FY 2025. This is an increase of \$20 per hour above the current proviso of \$120 per hour added by the 2023 Legislature and \$60 per hour above the statutory cap, which is set at \$80 per hour.

The agency notes that the increase to \$100 per hour in FY 2022 helped retain current assigned counsel panel members, and the increase to \$120 per hour for both FY 2024 and FY 2025 has helped in recruitment efforts for new criminal defense attorneys. Additionally, the agency frequently stops taking new cases in their public defender offices due to turnover and caseload issues. These cases are then offloaded to the Assigned Counsel program.

**The Governor does not recommend adoption of this request.**

8. **LSP SALARY ADJUSTMENT.** The estimate includes \$112,790 SGF in ongoing expenditures for LSP salary adjustments for FY 2025. According to the agency, the current 4.0 FTE positions earn approximately \$15,000 below what new public defenders with no experience earn. The two attorneys for LSP have more than 30 years of experience each. There are serious concerns that LSP will not be able to hire replacement attorneys at their current salary rates.

LSP has accepted the responsibilities of being a reporting point for inmate complaints under the Prison Rape Elimination Act (PREA). For the Kansas Department of Corrections (KDOC) to be compliant with PREA, they must have a place, not a part of the KDOC, for inmates to submit their PREA complaints. LSP fulfills that duty.

**The Governor recommends adoption of this request.**

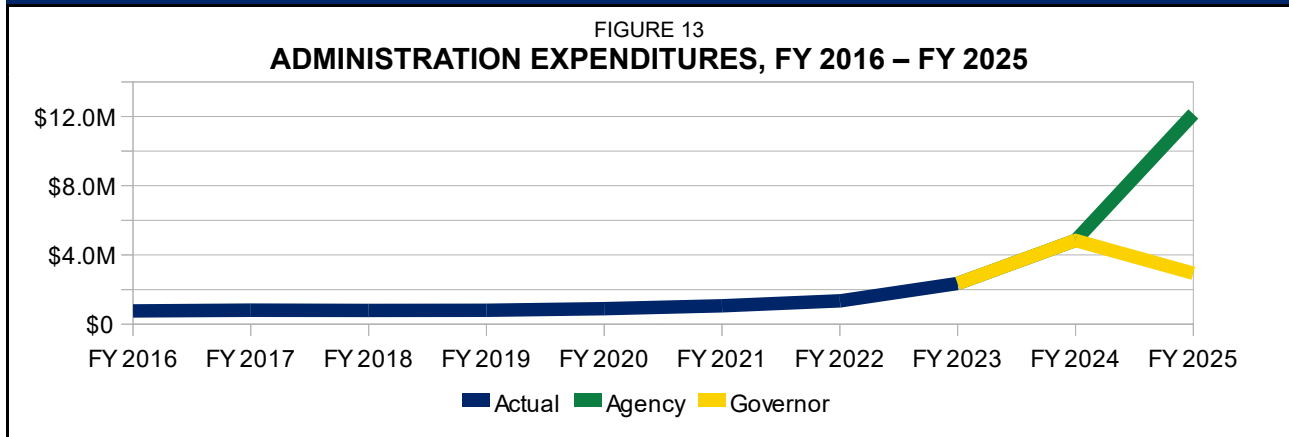
9. **ASSIGNED COUNSEL CASELOAD ADJUSTMENT.** The Governor's recommendation includes an increase of \$4.0 million SGF in accordance with the fall 2023 consensus caseload estimates for assigned counsel for FY 2025.

## PROGRAM OVERVIEW

FIGURE 12  
**EXPENDITURES AND FTE POSITIONS BY PROGRAM, FY 2023 – FY 2025**

Programs	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
<b>Expenditures:</b>					
Administration	\$ 2,351,176	\$ 4,835,988	\$ 4,835,988	\$ 12,146,201	\$ 2,941,231
Assigned Counsel	25,200,632	25,190,000	28,190,000	27,603,360	27,810,000
Legal Services for Prisoners	289,592	289,592	289,592	402,382	402,382
Appellate Defender	3,072,849	3,470,369	3,470,369	3,345,984	3,345,984
Trial Public Defenders	13,047,150	21,734,647	21,734,647	21,102,915	21,102,915
Capital Defense	4,563,469	5,292,898	5,292,898	7,110,280	5,233,841
<b>TOTAL</b>	<b>\$ 48,524,868</b>	<b>\$ 60,813,494</b>	<b>\$ 63,813,494</b>	<b>\$ 71,711,122</b>	<b>\$ 60,836,353</b>
<b>FTE Positions:</b>					
Administration	30.6	30.6	30.6	49.6	30.6
Assigned Counsel	-	-	-	-	-
Legal Services for Prisoners	-	-	-	-	-
Appellate Defender	27.0	27.0	27.0	27.0	27.0
Trial Public Defenders	195.6	195.6	195.6	195.6	195.6
Capital Defense	36.0	36.0	36.0	42.0	36.0
<b>TOTAL</b>	<b>289.2</b>	<b>289.2</b>	<b>289.2</b>	<b>314.2</b>	<b>289.2</b>

## ADMINISTRATION



**STATUTORY BASIS:** • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4519 through KSA 22-4523

**PROGRAM GOALS:** • Maintain statewide costs per case while maintaining quality service to clients.  
• Monitor caseload and performance of public defenders in all divisions.  
• Minimize the increase in cost of expert services.

The Administration program is responsible for supporting the statewide delivery of indigents' defense services. Funding for the program is from the SGF, except for a small amount that is from the Inservice Education Workshop Fee Fund.

FIGURE 14  
**ADMINISTRATION FINANCING, FY 2023 – FY 2025**

Fund	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
SGF	\$ 2,342,819	\$ 4,824,386	\$ 4,824,386	\$ 12,140,201	\$ 2,935,231
Federal Funds	-	-	-	-	-
All Other Funds	8,357	11,602	11,602	6,000	6,000
<b>TOTAL</b>	<b>\$ 2,351,176</b>	<b>\$ 4,835,988</b>	<b>\$ 4,835,988</b>	<b>\$ 12,146,201</b>	<b>\$ 2,941,231</b>
<b>Percent Change:</b>					
SGF	75.0 %	105.9 %	-- %	151.6 %	(75.8) %
All Funds	75.3 %	105.7 %	-- %	151.2 %	(75.8) %
FTE Positions	30.6	30.6	30.6	49.6	30.6

## BUDGET ANALYSIS

### FY 2024

The **agency's** revised estimate includes \$4.8 million, including 4.8 million SGF, and 30.6 FTE positions for the Administration program in FY 2024. This is an all funds decrease of \$3.4 million, or 41.0 percent, and an SGF decrease of \$3.4 million, or 41.1 percent, below the FY 2024 approved amount. This decrease is attributable to salaries and wages, including fringe benefits. The decrease is primarily due to unspent funds for salaries and wages.

The **Governor** concurs with the agency's FY 2024 revised estimate.

### FY 2025

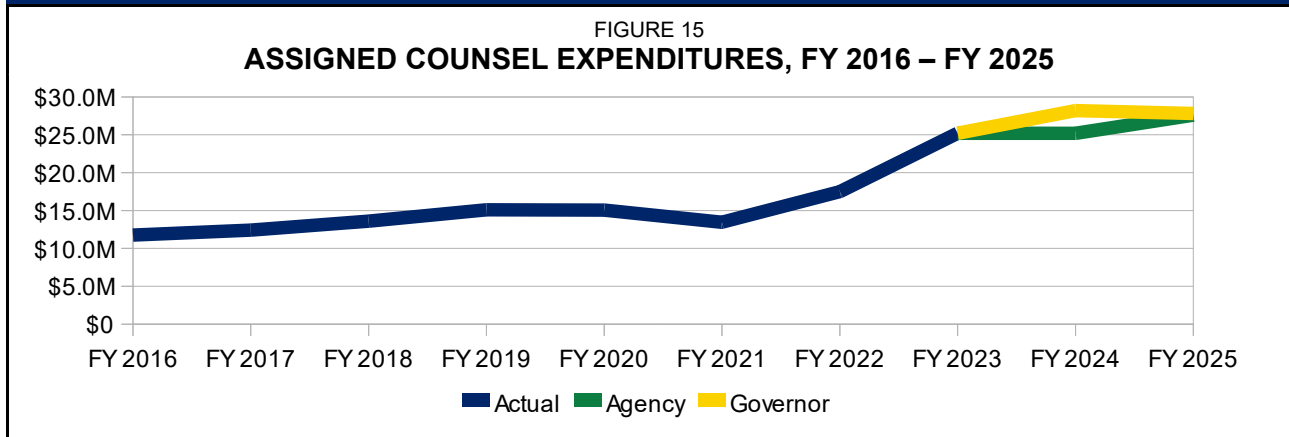
The **agency** requests Administration program expenditures of \$12.1 million, including \$12.1 million SGF, and 49.6 FTE positions for FY 2025. This is an all funds expenditure increase of \$7.3 million, or 151.2 percent, and an SGF increase of \$7.3 million, or 151.6 percent, and 19.0 FTE positions above the FY 2024 revised estimate. The increase is primarily attributable to the agency's enhancement requests for

recruitment and retention, compensation, additional staffing, and basic infrastructure.

The **Governor** recommends expenditures of \$2.9 million, including \$2.9 million SGF, and 30.6 FTE positions for FY 2025. This is a

decrease of \$9.2 million SGF, or 75.8 percent, and 19.0 FTE positions below the agency's FY 2025 request. The decrease is due to the governor not recommending the agency's enhancement requests for recruitment and retention, next step compensation, ethical caseload staffing, and basic infrastructure.

## ASSIGNED COUNSEL



**STATUTORY BASIS:** • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4501; KSA 22-4503c.

**PROGRAM GOALS:** • Manage the average annual cost of assigned counsel expenditures while maintaining quality defense services.

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 and are therefore unable to provide defense services. Attorneys are either selected and

assigned to cases by judges or are assigned by judges from a pool of attorneys with whom the agency has negotiated contracts. When contracts are involved, the agency is able to realize a cost savings, and so the agency has made a concerted effort to expand the number of assigned counsel who serve under contract.

FIGURE 16  
**ASSIGNED COUNSEL FINANCING, FY 2023 – FY 2025**

Fund	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
SGF	\$ 24,604,895	\$ 24,740,000	\$ 27,740,000	\$ 27,153,360	\$ 27,360,000
Federal Funds	-	-	-	-	-
All Other Funds	595,737	450,000	450,000	450,000	450,000
<b>TOTAL</b>	<b>\$ 25,200,632</b>	<b>\$ 25,190,000</b>	<b>\$ 28,190,000</b>	<b>\$ 27,603,360</b>	<b>\$ 27,810,000</b>
<b>Percent Change:</b>					
SGF	45.6 %	0.5 %	12.1 %	9.8 %	0.8 %
All Funds	44.1 %	-- %	11.9 %	9.6 %	0.7 %
FTE Positions	-	-	-	-	-

## BUDGET ANALYSIS

### FY 2024

The **agency's** revised estimate includes \$25.2 million SGF for the Assigned Counsel program in FY 2024. This is an all funds increase of 1.6 million, or 6.7 percent, and an SGF increase of \$1.4 million, or 5.9 percent, above the FY 2024 approved amount. This is attributable to an increase of \$1.5 million for expert witness fees and and \$100,000 for court reporter fees.

The **Governor** recommends expenditures of \$28.2 million, including 27.7 million SGF, for FY 2025. This is an increase of 3.0 million SGF, or 11.9 percent, above the agency's FY 2024 revised estimate. The increase is attributable to the fall 2023 assigned counsel consensus caseloads adjustment.

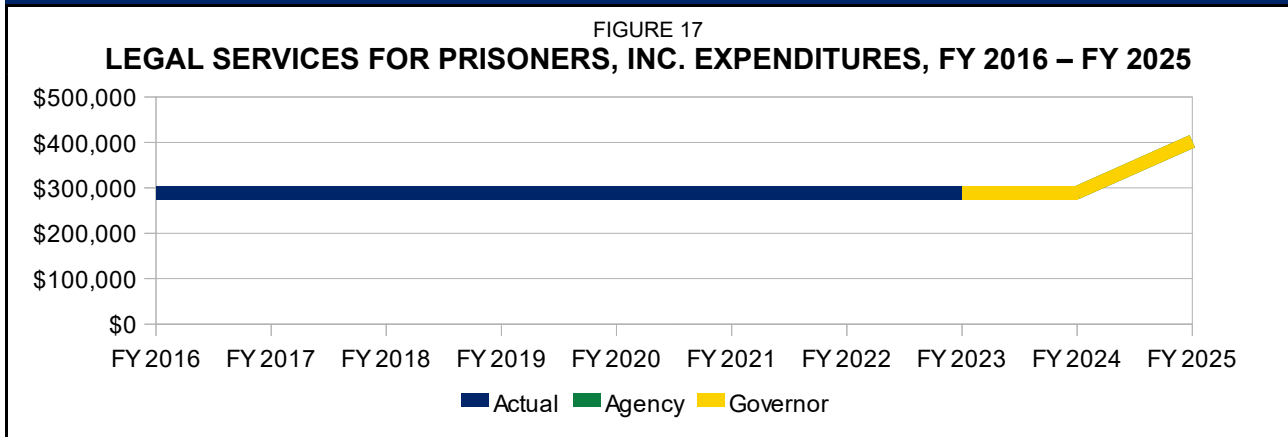


**FY 2025**

The **agency** requests Assigned Counsel program expenditures of 27.6 million, including \$27.2 million SGF, for FY 2025. This is an SGF increase of \$2.4 million, or 9.8 percent, above the FY 2024 revised estimate. The increase is primarily attributable to the agency's enhancement request to fund an assigned counsel rate increase up to \$140 per hour.

The **Governor** recommends expenditures of \$27.8 million, including \$27.4 million SGF, for FY 2025. This is an all funds increase of \$206,640, or 0.7 percent, and an SGF increase of the same amount, or 0.8 percent, above the agency's FY 2025 request. The increase is attributable to the fall 2023 assigned counsel consensus caseloads adjustment of \$4.0 million SGF. This is partially offset by the Governor not recommending the agency's enhancement request to fund the assigned counsel rate increase.

## LEGAL SERVICES FOR PRISONERS, INC.



- STATUTORY BASIS:** • KSA 22-4514a
- PROGRAM GOALS:**
- Provide individuals incarcerated in the Kansas Department of Corrections with constitutionally required meaningful access to the courts.
  - Identify and assist those incarcerated residents with real legal problems concerning the validity of convictions and sentences, civil rights, and conditions of confinement.
  - Discourage frivolous and unsubstantial litigation.
  - Assist state courts and the Board of Indigents' Defense Services in meeting their program goals.
  - 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.

Legal Services for Prisoners, Inc. is a nonprofit corporation organized to provide legal assistance to indigent inmates of Kansas correctional institutions. The Board of Indigents' Defense Services is a pass-through agency for funding purposes and has no administrative or policy control over the corporation. The corporation is governed by a board composed of a representative of each of the Kansas law schools, four representatives of the Kansas Bar

Association, one representative of the Kansas Trial Judges Association, and the Judicial Administrator of the Court. Expenditures for the corporation are from the SGF. Legal Services for Prisoners has an office in Topeka and offices in the correctional facilities located in Lansing and El Dorado. These offices also provide assistance to inmates at correctional facilities located in Ellsworth, Larned, Norton, Osawatomie, Wichita, and Winfield.

FIGURE 18  
**LEGAL SERVICES FOR PRISONERS, INC. FINANCING, FY 2023 – FY 2025**

Fund	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
SGF	\$ 289,592	\$ 289,592	\$ 289,592	\$ 402,382	\$ 402,382
Federal Funds	-	-	-	-	-
All Other Funds	-	-	-	-	-
<b>TOTAL</b>	<b>\$ 289,592</b>	<b>\$ 289,592</b>	<b>\$ 289,592</b>	<b>\$ 402,382</b>	<b>\$ 402,382</b>
<b>Percent Change:</b>					
SGF	-- %	-- %	-- %	38.9 %	-- %
All Funds	-- %	-- %	-- %	38.9 %	-- %
FTE Positions	-	-	-	-	-

## BUDGET ANALYSIS

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### FY 2024

The **agency's** revised estimate includes \$289,592 SGF for the Legal Services for Prisoners, Inc. program in FY 2024. This is the same as the FY 2024 approved amount.

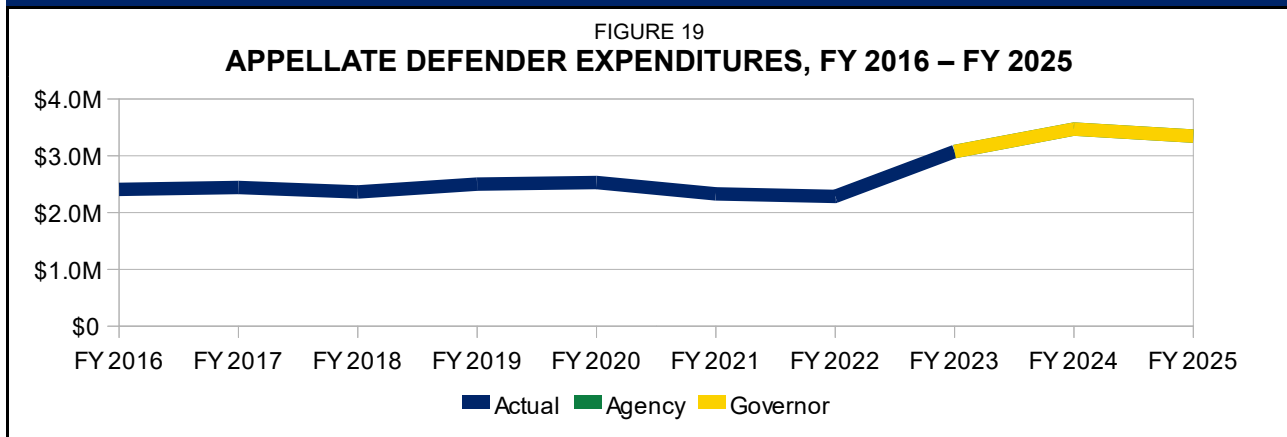
The **Governor** concurs with the agency's FY 2024 revised estimate.

### FY 2025

The **agency** requests Legal Services for Prisoners, Inc. program expenditures of \$402,382 SGF for FY 2025. This is an increase of \$112,790, or 38.9 percent, above the FY 2024 revised estimate. The increase is entirely due to the agency's enhancement request for salary increases for the program.

The **Governor** concurs with the agency's FY 2025 request.

## APPELLATE DEFENDER



**STATUTORY BASIS:** • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4522b; KSA 22-4505b

**PROGRAM GOALS:** • Provide high-quality and economically efficient constitutionally required defense services at the appellate level to clients.  
• Monitor caseloads of public defenders to ensure compliance with professional ethical rules.

The Appellate Defender Office is a statewide office located in Topeka that included in the budget for the Death Penalty represents indigent felony defendants on Defense Unit.

The Office makes use of appeal. Funding for death penalty appeals paralegals and law school interns.

FIGURE 20  
**APPELLATE DEFENDER FINANCING, FY 2023 – FY 2025**

Fund	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
SGF	\$ 2,861,304	\$ 3,220,369	\$ 3,220,369	\$ 3,095,984	\$ 3,095,984
Federal Funds	-	-	-	-	-
All Other Funds	211,545	250,000	250,000	250,000	250,000
<b>TOTAL</b>	<b>\$ 3,072,849</b>	<b>\$ 3,470,369</b>	<b>\$ 3,470,369</b>	<b>\$ 3,345,984</b>	<b>\$ 3,345,984</b>
<b>Percent Change:</b>					
SGF	35.4 %	12.5 %	-- %	(3.9) %	-- %
All Funds	34.5 %	12.9 %	-- %	(3.6) %	-- %
FTE Positions	27.0	27.0	27.0	27.0	27.0

### BUDGET ANALYSIS

#### FY 2024

The **agency's** revised estimate includes \$3.5 million, including \$3.2 million SGF, and 27.0 FTE positions for the Appellate Defender program in FY 2024. This is an increase of \$295,103, or 9.3 percent, and an SGF increase of the same amount, or 10.1 percent, and 2.0 FTE positions above the FY 2024 approved amount. The increases are primarily attributable to salaries and wages, court reporter fees, and office furniture. The FTE increase is due to

movement of agency staff between various departments to accommodate fluctuating caseloads.

The **Governor** concurs with the agency's FY 2024 revised estimate.

#### FY 2025

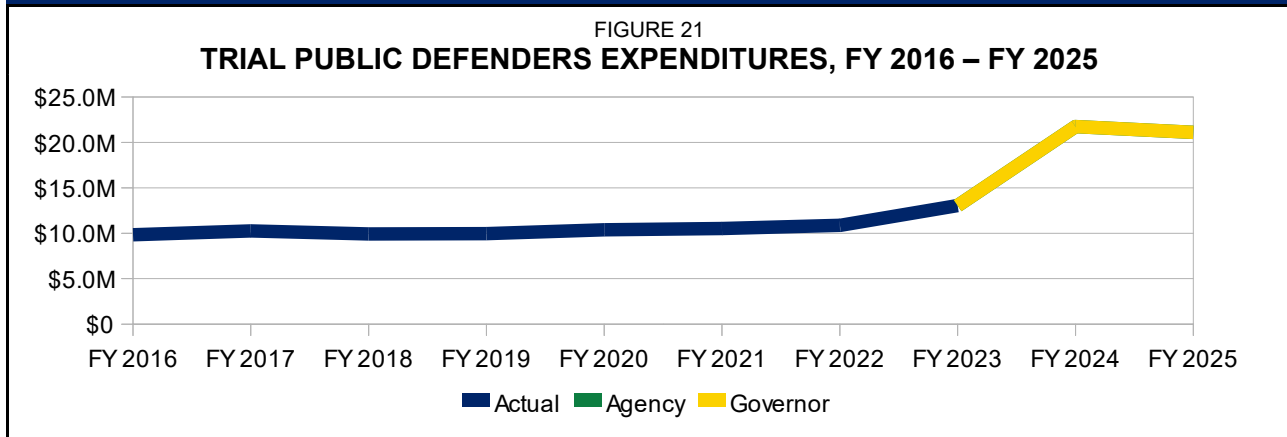
The **agency** requests Appellate Defender program expenditures of \$3.3 million, including \$3.1 million SGF, and 27.0 FTE positions for FY

2025. This is an all funds decrease of \$124,385, or 3.6 percent, and an SGF decrease of the same amount, or 3.9 percent, below the FY 2024 revised estimate. The decrease is primarily attributable to expenditures for

salaries and wages, including fringe benefits, court reporter fees, and office furniture.

The **Governor** concurs with the agency's FY 2025 request.

## TRIAL PUBLIC DEFENDERS



**STATUTORY BASIS:** • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4522b

**PROGRAM GOALS:** • Maintain statewide costs per case while maintaining quality service to clients.  
• Monitor caseloads and performance of public defenders for quality services.

The Trial Public Defenders offices are located around the state and provide services in counties to indigents on a regional basis. Offices are located in Chanute, Garden City, Hutchinson, Johnson County, Junction City, Salina, Topeka, and Wichita. There are two conflict offices: the Northeast Kansas Conflict Office in Topeka and the Sedgwick County Conflict Office in Wichita.

The Conflict Offices become involved in conflicts cases when there are multiple indigent defendants and one of the defendants is already being represented by a public defender or assigned counsel. Former Public Defender Offices that have been closed are the Johnson County Satellite Office in Miami County and the Southwest Public Defender Office in Liberal.

FIGURE 22  
TRIAL PUBLIC DEFENDERS FINANCING, FY 2023 – FY 2025

Fund	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
SGF	\$ 12,859,209	\$ 21,613,810	\$ 21,613,810	\$ 21,002,915	\$ 21,002,915
Federal Funds	-	-	-	-	-
All Other Funds	187,941	120,837	120,837	100,000	100,000
<b>TOTAL</b>	<b>\$ 13,047,150</b>	<b>\$ 21,734,647</b>	<b>\$ 21,734,647</b>	<b>\$ 21,102,915</b>	<b>\$ 21,102,915</b>
<b>Percent Change:</b>					
SGF	20.8 %	68.1 %	-- %	(2.8) %	-- %
All Funds	20.1 %	66.6 %	-- %	(2.9) %	-- %
FTE Positions	195.6	195.6	195.6	195.6	195.6

### BUDGET ANALYSIS

#### FY 2024

The **agency's** revised estimate includes \$21.7 million, including 21.6 million SGF, and 195.6 FTE positions for the Trial Public Defenders program in FY 2024. This is an all funds increase of \$4.4 million, or 25.5 percent, and an SGF increase of \$4.4 million, or 25.5 percent, and 30.6 FTE positions above the FY

2024 approved amount. The expenditure are primarily attributable to salaries and wages adjustments, building rent increases, office supplies, and office furniture. The FTE increase is due to movement of agency staff between various departments to accommodate fluctuating caseloads.

The **Governor** concurs with the agency's FY 2024 revised estimate.

**FY 2025**

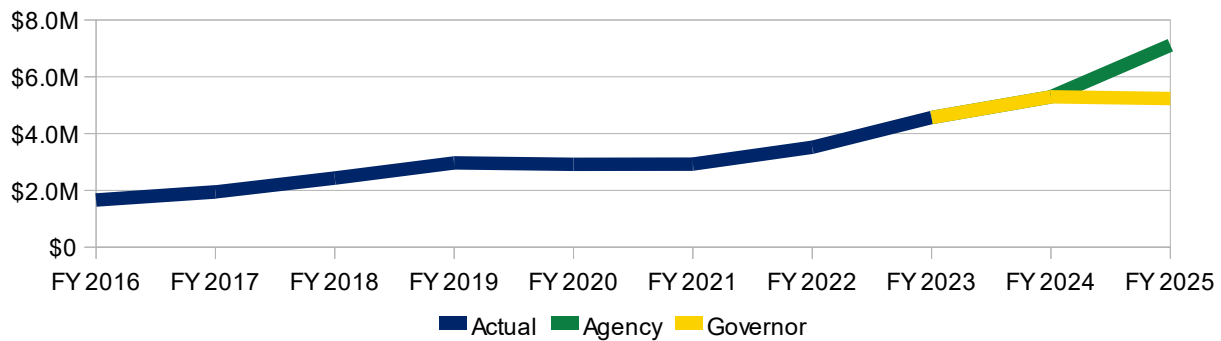
The **agency** requests Trial Public Defenders program expenditures of \$21.1 million, including \$21.0 million SGF, and 195.6 FTE positions for FY 2025. This is an all funds decrease of \$631,732, or 2.9 percent, and an SGF decrease

of \$610,895, or 2.8 percent, below the FY 2024 revised estimate. The decrease is primarily attributable to decreased expenditures for salaries and wages, including fringe benefits, rent, expert witness fees, office furniture, and database access fees.

The **Governor** concurs with the agency's FY 2025 request.

## CAPITAL DEFENSE

FIGURE 23  
CAPITAL DEFENSE EXPENDITURES, FY 2016 – FY 2025



**STATUTORY BASIS:** • 6th Amendment of the *U.S. Constitution*; Sections 5 and 10 of the *Kansas Constitution Bill of Rights*; KSA 22-4522b; KSA 22-4506d

**PROGRAM GOALS:** • Provide high-quality and economically efficient constitutionally required defense services to capital clients.  
• Monitor caseloads of public defenders to ensure compliance with professional ethical rules.

The Capital Defense program represents individuals charged with capital cases, administers a system by which courts may appoint qualified attorneys to represent indigents charged with capital offenses, serves as a resource for attorneys assigned to capital cases, develops training programs and materials for persons involved in capital cases, maintains statistical records about the use of capital punishment, and provides expert and investigative services to trial counsel in capital cases. Expenditures for the unit include costs of in-house defense, contracts with private attorneys in conflict cases or because of staff

overload, and costs associated with capital cases on appeal.

Attorneys can only defend capital cases when they meet the standards set by the American Bar Association. Previously, that standard included the requirement that an attorney have previously handled a death penalty case as a second chair. Currently, attorneys are qualified to defend a capital case when they have (1) experience defending homicide cases to a jury, and (2) taken specific continuing legal education coursework on capital defense.

FIGURE 24  
CAPITAL DEFENSE FINANCING, FY 2023 – FY 2025

Fund	Actual FY 2023	Agency FY 2024	Governor FY 2024	Agency FY 2025	Governor FY 2025
SGF	\$ 4,555,078	\$ 5,292,898	\$ 5,292,898	\$ 7,110,280	\$ 5,233,841
Federal Funds	-	-	-	-	-
All Other Funds	8,391	-	-	-	-
<b>TOTAL</b>	<b>\$ 4,563,469</b>	<b>\$ 5,292,898</b>	<b>\$ 5,292,898</b>	<b>\$ 7,110,280</b>	<b>\$ 5,233,841</b>
<b>Percent Change:</b>					
SGF	29.7 %	16.2 %	-- %	34.3 %	(26.4) %
All Funds	29.7 %	16.0 %	-- %	34.3 %	(26.4) %
FTE Positions	36.0	36.0	36.0	42.0	36.0



## BUDGET ANALYSIS

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### FY 2024

The **agency's** revised estimate includes \$5.3 million SGF and 36.0 FTE positions for the Capital Defense program in FY 2024. This is an increase of \$1.3 million SGF, or 33.2 percent, and 2.0 FTE positions above the FY 2024 approved amount. The expenditure increase is primarily attributable to salaries and wages, building space rent, subsistence, expert witness fees, and contract lawyers. The FTE increase is due to movement of agency staff between various departments to accommodate fluctuating caseloads.

The **Governor** concurs with the agency's FY 2024 revised estimate.

### FY 2025

The **agency** requests Capital Defense program expenditures of \$7.1 million SGF and 42.0 FTE positions for FY 2025. This is an increase of \$1.8 million SGF, or 34.3 percent, and 6.0 FTE positions above the FY 2024 revised estimate. The expenditure and FTE increase is due to the agency's enhancement request for additional staffing.

The **Governor** recommends expenditures of \$5.2 million SGF and 36.0 FTE positions for FY 2025. This is a decrease of \$1.9 million SGF, or 26.4 percent, and 6.0 FTE positions below the agency's FY 2025 request. The expenditure and FTE decreases are due to the Governor not recommending the agency's enhancement requests for recruitment and retention pay parity, next step compensation, ethical caseload and staffing, and basic infrastructure.