



STATE OF NEW HAMPSHIRE

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GOVERNOR'S OFFICE  
for

EMERGENCY RELIEF AND RECOVERY

October 7, 2021

His Excellency, Governor Christopher T. Sununu  
And the Honorable Executive Council  
State House  
Concord, N.H. 03301

REQUESTED ACTION

Authorize the Governor's Office for Emergency Relief and Recovery (GOFERR) to amend an allocation of \$395,885 of Coronavirus Aid, Relief and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) to the Judicial Council by amending the end date for the reimbursement of eligible COVID-19 related increase in expenses for indigent defense contract attorney costs from July 1, 2020 to October 31, 2021, and also to expand the scope to allow for the payment of temporary, increased administrative fees to be paid to contract attorneys that have accepted indigent defense cases between March 1, 2021 through October 31, 2021, effective upon Governor and Council approval through December 31, 2021. The original allocation was approved on June 10, 2021 by the Governor through executive order authority. There is no increase in funding being requested at this time. Source of funds is 100% Federal Funds.

EXPLANATION

States across the country are struggling with a significant indigent defense crisis. The Judicial Council has advised that New Hampshire is unable to meet the current need for indigent defense representation. Hundreds of defendants – including incarcerated individuals – are waiting to have an attorney appointed to their case as required by both the United States and New Hampshire Constitutions. Extending this deadline and allowing the temporary administrative fee payment to be retroactive will provide much needed relief to the contract attorney program.

Several contract attorneys have stopped taking new cases (unless the defendant is a current client) because of their significant workloads. Approximately 968 additional cases were assigned to contract attorneys in FY21, compared to FY20. It is expected that contract attorneys will continue to absorb an increased percentage of cases. Moreover, many of these attorneys are solo practitioners who do not have support staff. This administrative fee assistance will allow contract attorneys to take on future cases rather than appointing to more costly assigned counsel.

This authorization revision will allow the Judicial Council to provide a temporary administrative fee increase to compensate contract attorneys for increased caseloads: Contract attorneys would receive an additional \$70 for misdemeanor and juvenile assistance, an additional \$105 for felony assistance, and an additional \$140 for serious felonies. This reflects the court rule which allows up to \$35/hour reimbursement for paralegal assistance. This portion of the authorization would be retroactive to March 1, 2021 and go through October 31, 2021.

Judicial Council would also be permitted to use any remaining funds from this authorization to continue the purpose of the original June 10, 2021 Governor's Authorization, now allowing funds to be used to cover indigent defense costs that Judicial Council incurred between July 1, 2020 and October 31, 2021

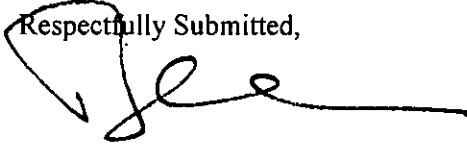
His Excellency, Governor Christopher T. Sununu  
And the Honorable Executive Council

that are in excess of what was budgeted as a result of COVID-19 for costs Judicial Council is statutorily required to pay to acquire indigent defense counsel.

Judicial Council would retain authority to pay for and get reimbursed for the above expenses through December 31, 2021.

In the event that federal funds are no longer available, General Funds will not be used.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Taylor Caswell', with a long horizontal line extending to the right.

Taylor Caswell,  
Executive Director, GOFERR



**STATE OF NEW HAMPSHIRE  
OFFICE OF THE GOVERNOR**

**CHRISTOPHER T. SUNUNU**  
Governor

June 10, 2021

Taylor Caswell  
Director  
Governor's Office of Emergency Relief and Recovery  
100 North Main Street, Suite 100  
Concord, N.H. 03301

Dear Director Caswell,

Pursuant to my authority under RSA 21-P:43; RSA 4:45; RSA 4:47; and Executive Order 2020-04, as extended by Executive Orders 2020-05, 2020-08, 2020-09, 2020-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, 2021-02, 2021-04, 2021-05, 2021-06, 2021-08, and 2021-10 I have approved your written request, in attachment, to take the following actions related to the CARES Act Coronavirus Relief Funds:

1. Authority for the Governor's Office for Emergency Relief and Recovery (GOFERR) to transfer up to \$395,885 in Coronavirus Aid, Relief, and Economic Security (CARES) Act Coronavirus Relief Funds (CRF) to the New Hampshire Judicial Council to cover eligible COVID-19 related increased expenses for indigent defense costs incurred from July 1, 2020 to June 30, 2021. Budgeted consistent with the request, in attachment, effective through December 31, 2021. (100% Federal Funds)
2. Authority for New Hampshire Judicial Council to accept and expend up to \$395,885 in CARES Act CRF funds from GOFERR for increased indigent defense costs that are in excess of the amount budgeted as a result of increased need for these services due to COVID-19. Budgeted consistent with the request, in attachment, effective through December 31, 2021. (100% Federal Funds)

The Department of Administrative Services is authorized to take the actions necessary to effectuate this authorization.

Sincerely,

A handwritten signature in black ink that reads "Christopher T. Sununu".

Christopher T. Sununu  
Governor

CC: Charles Arlinghaus, Commissioner, Department of Administrative Services  
Sarah Blodgett, Executive Director, New Hampshire Judicial Council



**STATE OF NEW HAMPSHIRE**



**GOVERNOR'S OFFICE**

*for*

**EMERGENCY RELIEF AND RECOVERY**

June 9, 2021

His Excellency, Governor Christopher T. Sununu  
State House  
Concord NH 03301

**REQUESTED ACTION UNDER RSA 21-P:43, RSA 4:45, RSA 4:47, AND EXECUTIVE ORDER 2020-04, AS EXTENDED BY EXECUTIVE ORDER 2020-05, 2020-08, 2020-09, 2010-10, 2020-14, 2020-15, 2020-16, 2020-17, 2020-18, 2020-20, 2020-21, 2020-23, 2020-24, 2020-25, 2021-01, AND 2021-02, 2021-04, 2021-05, 2021-06, 2021-08 AND 2021-10**

Dear Governor Sununu:

1. The Governor's Office for Emergency Relief and Recovery (GOFERR) requests that the Governor authorize the allocation and grant authority to transfer up to \$395,885.00 in Coronavirus Aid, Relief, and Economic Security (CARES) Act Funding to the New Hampshire Judicial Council (NHJC), vendor# 177871, Concord, NH, to cover eligible COVID-19 related increased expenses for indigent defense costs incurred from July 1, 2020 to June 30, 2021. 100% Federal Funds.

Funds for this transfer are available in 01-02-002-020210 - Governor's Office for Emergency Relief & Recovery, 19110000 - Office of the Director, as follows:

085-588507 - Inter-Agency Transfer of Federal Funds

**FY2021**  
**\$395,885.00**

2. Contingent upon approval of Requested Action #1, authorize the NHJC to accept and expend up to \$395,885.00 from the GOFERR for increased indigent defense costs that are in excess of the amount budgeted as a result of a spike in the need for these services due to COVID-19. These appropriation will be budgeted in FY2022 as allocated below:

Class	Account	Requested Budget
02-07-07-070010-19380000 CONTRACT COUNSEL	500731	
102 - CONTRACTS FOR PROGRAM SERVICES		\$ 395,885.00
Total		\$ 395,885.00
Source of Funds		
00D - INTERAGENCY TRANSFER OF FUNDS	488502	\$ 395,885.00

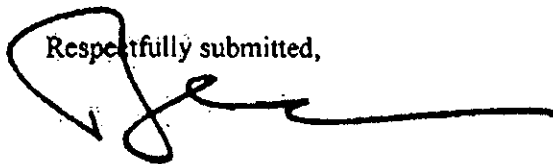
### EXPLANATION

This request asks the Governor to authorize the emergency allocation and expenditure of up to \$395,885.00 to Judicial Council, to cover increased indigent defense costs that the Judicial Council will incur that are in excess of the amount budgeted due to a spike in the need for such services due to COVID-19 that are incurred from July 1, 2020 to June 30, 2021.

The Judicial Council estimates that there will be an increase of at least \$395,885.00 in costs that it must pay by statute to acquire indigent defense counsel between what was paid in FY 2019 and FY 2021. This increase is directly tied to the public health emergency because courts around the state had to suspend most in-person proceedings including jury and bench trials. Because many cases did not resolve during the state of emergency, New Hampshire Public Defender (NHPD) caseloads exceeded contractual limits, resulting in an unprecedented closure to new appointments. These new cases had to be assigned to the contract attorney program. The increase in contract attorney appointments resulted in unanticipated and unbudgeted expenses.

All unbudgeted expenses due to COVID-19 must be incurred by the recipient before December 31, 2021.

Respectfully submitted,



Taylor Caswell,  
Executive Director, GOFERR