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THE STATE OF NEW HAMPSHIRE
 JUDICIAL COUNCIL
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March 21, 2019

The Honorable Mary Jane Wallner, Chairman
 Fiscal Committee of the General Court
 State House
 Concord, N.H. 03301

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

REQUESTED ACTION

Pursuant to RSA 604-A:1-b, Additional Funding, authorize the Judicial Council to receive an additional appropriation from funds not otherwise appropriated in the total amount of \$50,000, upon Fiscal Committee and Governor and Council approval, through June 30, 2019. Source of funds is 100% General Fund.

Funding is to be budgeted in account 02-07-07-070010-1093, titled "Contract Counsel" as follows:

AU	Title	Class	Account	Current Budget	Requested Change	Adjusted Budget
10930000	Contract Counsel	102	500732	\$2,117,092	\$50,000	\$2,167,092

EXPLANATION

Under RSA 604-A:2, II, when the Public Defender program is unable to accept an appointment, the case will be assigned to contract counsel. RSA 604-A:1-b provides that "in the event that expenditures for indigent defense by the Judicial Council are greater than amounts appropriated in the operating budget, the Judicial Council may request, with prior approval of the Fiscal Committee of the General Court, that the Governor and Council authorize additional funding. For funds requested and approved, the Governor is authorized to draw a warrant from any money in the treasury not otherwise appropriated."

The Public Defender reviews each indigent defense appointment, and if an ethical conflict exists, the case is then assigned to a contract attorney. Contract attorneys are paid a flat fee and serve as the back-up to the Public Defender. If contract counsel is unavailable assigned counsel is then

appointed to the case. The assigned counsel system is based on an hourly rate of payment, with a structure of fee caps in place through court rules.

Total FY 18 expenditures for this line were \$2,300,927. The current unencumbered balance is \$97,117. Due to the unique nature of this program, most of the appropriation in this accounting unit is encumbered under existing contracts. Additional funding will be used to provide more units to attorneys in geographic areas that have seen high caseloads during this fiscal year. Without additional units for these areas, new cases will have to be appointed to private attorneys under the costlier assigned counsel program. Under the contract program, representation of a misdemeanor case is reimbursed at \$300. Under the assigned counsel program, there is a maximum fee of \$1,400 for a misdemeanor.

This Agency will remain at your service to provide any requested information concerning the critical importance of this additional funding to the orderly administration of justice.

Thank you for your consideration.

Respectfully Submitted,



Sarah T. Blodgett
Executive Director