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January 25, 2016

The Honorable Neal M. Kurk, Chairman
Fiscal Committee of the General Court
State House
Concord, N.H. 03301

Approved by Fiscal Committee Date 2/12/16

Her Excellency, Governor Margaret Wood Hassan
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 amount of \$430,000, upon Fiscal Committee and Governor and Council approval, for the period effective July 1, 2015 through June 30, 2016. Source of funds is 100% General Fund.

Funding is to be budgeted in account 02-07-07-070010-1091, entitled "Assigned Counsel" as follows:

| Class/Expense | Class Title | Current Budget | Change | Revised Budget |
|---------------|-----------------------------------|----------------|-----------|----------------|
| 108/500751 | Provider Payments- Legal Services | \$900,000 | \$430,000 | \$1,330,000 |

EXPLANATION

This account funds the court-ordered payments made to attorneys providing legal representation to indigent defendants in criminal cases and to indigent parents in child abuse or neglect cases. Costs will run higher than anticipated in the criminal cases primarily because several homicide cases have involved multiple co-defendants and the representation has been handled by private attorneys, not by the less-expensive Public Defender Program. Costs will run higher than expected in the child abuse cases primarily because the heroin epidemic has led to more child-abuse cases being brought in the courts requiring the appointment of counsel to provide representation.

N.H.R.S.A. 604-A:1-a provides that "In cases involving a neglected or abused child, when an attorney is appointed to represent a parent determined to be indigent pursuant to RSA 169-C:10, II, ... the cost of such appointment shall be paid from funds appropriated for indigent defense pursuant to this chapter."

N.H.R.S.A. 604-B:2 provides that "Notwithstanding any other provisions of law to the contrary, when the appointment of counsel is required...for indigent defendants in criminal cases, or ... for juveniles charged as delinquents under RSA 169-B, the district, municipal, superior and supreme courts shall appoint the public defender program or a qualified attorney assigned by the court."

N.H.R.S.A. 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 Council received an original appropriation of \$900,000 in this account. Funds currently available in account 02-07-07-070010-1091 are insufficient to pay the court-approved invoices expected to arrive between now and the end of the current fiscal year. Based on the monthly average of expenditures since July 1, 2015, the account will require the addition of \$430,000 to meet the anticipated expenditures in this line through June 30, 2016.

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,



Christopher Keating
Executive Director