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March 23, 2016

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

Approved by Fiscal Committee Date 4/25/16

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 \$70,000, 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 02-07-07-070010-1093, entitled "Contract Counsel" as follows:

Class/Expense	Class Title	Current Budget	Change	Revised Budget
102/500731	Provider Payments- Legal Services	\$1,824,243	\$70,000	\$1,894,243

EXPLANATION

This account funds the court-appointed lawyers who contract with the Judicial Council to provide legal representation to indigent defendants in criminal cases when the Public Defender Program is unavailable due to a conflict. The number of court-appointed cases has increased this year over last year, leading to the likelihood that there will be insufficient funds in this account at the end of the fiscal year.

N.H.R.S.A. 604-A:2-b provides that "[t]he state of New Hampshire, by the judicial council and with the approval of governor and council, may, within the limits of available appropriations, contract with any qualified attorney in the state to provide for the representation of indigents in circumstances where, pursuant to RSA 604-B, the public defender program is unavailable to provide such representation. The executive director of the judicial council shall authorize payments to contract attorneys provided for under this section."

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 \$1,700,000 in this account. Encumbered funds in the amount of \$74,343 carried forward from FY 2015 in this line. In addition, on March 9, 2016, the Judicial Council transferred \$49,900 from account 02-07-07-070010-1092 into this account under the authority of RSA 9:16-a. The funds currently available in account 02-07-07-070010-1093 are insufficient to fund contract attorney appointments through the end of the fiscal year. If additional funds are not added to this account, then the court-ordered appointments of counsel would go to the more-expensive assigned counsel system. Based on the anticipated utilization of contract-attorney services, the account will require the addition of \$70,000 to meet the anticipated expenditures in this line through June 30, 2016 so as to avoid the obligation of paying higher rates for these legal services.

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,



Nina C. Gardner
Chair