

Ohio Public Defender Commission

OVERVIEW

Criminal defendants have a constitutional right to court appointed attorneys if the accused are financially unable to retain private counsel, a right guaranteed by the Sixth and Fourteenth Amendments to the U.S. Constitution. The right to counsel extends from the time that judicial proceedings have been initiated against the accused, whether by way of formal charge, preliminary hearing, indictment, information or arraignment, through sentencing and appeal. There is no absolute right to appointed counsel in postconviction proceedings.

The Ohio Public Defender Commission, which was created effective January 13, 1976 pursuant to Am. Sub>H.B. 164 of the 111th General Assembly, provides, supervises, and coordinates legal representation for persons who cannot afford to hire an attorney to represent them in criminal court. The commission's largest activity in that regard is the administration of a subsidy program that partially reimburses counties for indigent defense expenditures related to the operation of local public defender offices or the use of appointed counsel. The commission also provides legal services to inmates at the state's correctional facilities, trial level representation in some capital cases, and appellate and post-appeals representation in capital and non-capital cases. Additionally, the commission acts as a conduit to pass funds to the Ohio Legal Assistance Foundation (OLAF) for the purpose of providing financial assistance to legal aid societies throughout the state.

The Ohio Public Defender Commission itself consists of nine appointed members. The Governor appoints five of the members, including the chair. The Supreme Court of Ohio appoints the other four members. To foster a non-partisan structure, no more than five commission members can be from one of the two major political parties. The commission appoints a State Public Defender who maintains and administers the Office of the Ohio Public Defender. The commission and the Office of the Public Defender share a common state budget.

In meeting the right to counsel obligations in criminal matters, each county has the option of establishing a county public defender system, a joint county public defender system, adopting a schedule to pay private appointed counsel, contracting with the State Public Defender, or contracting with a non-profit corporation. A county may use one or any combination of these options, and, in point of fact, most opt to utilize county public defender offices or appointed counsel systems.

The statutory responsibilities performed by the commission continue to be financed primarily through the GRF, although its percentage of the commission's total annual budget has shrunk in recent years. Whereas GRF spending comprised almost 80 percent of total commission expenditures in FYs 1992 and 1993, it has since dropped into the 70 percent range. Over that time period, around 75 percent of the

commission's total GRF budget has been committed to the state's County Reimbursement program. Also of note is that approximately 25 percent of the commission's total annual budget has been used to provide non-GRF support to legal aid societies around the state through the Ohio Legal Assistance Foundation.

The executive funding recommendation for the commission's next two fiscal years contains what can perhaps at best be termed a no-growth GRF budget. In FY 2002, total recommended GRF funding is \$1.2 million, or 2.6 percent less than the commission's estimated FY 2001 GRF spending. This is followed in FY 2003 by total recommended GRF funding that represents an increase of \$984,930, or 2.2 percent, from the FY 2002 recommended level of total GRF funding. In light of this very tight fiscal condition, the commission will most likely find itself trying to negotiate a very precarious balance between performing its own legal defense services and getting the reimbursement rate for county-provided indigent defense services close to 50 percent.

In its original budget submission to the Office of Budget and Management (OBM), the commission requested a core funding level that would have reimbursed counties at a rate of 40 percent in each of the next two fiscal years. The total amounts requested for county reimbursement were below the level needed to reach the full 50 percent reimbursement rate target in permanent law because these amounts would have exceeded the maximum funding allowable within the commission's budget cap as set by OBM. The commission also requested supplemental GRF funding of \$6.7 million and \$10.3 million in FYs 2002 and 2003, respectively, that were projected to get the county reimbursement rate up to between 48 percent and 50 percent. The executive budget essentially recommended a level of GRF funding that the commission believes will permit a county reimbursement rate in the range of between 40 percent and 42 percent in each year of the upcoming biennium.

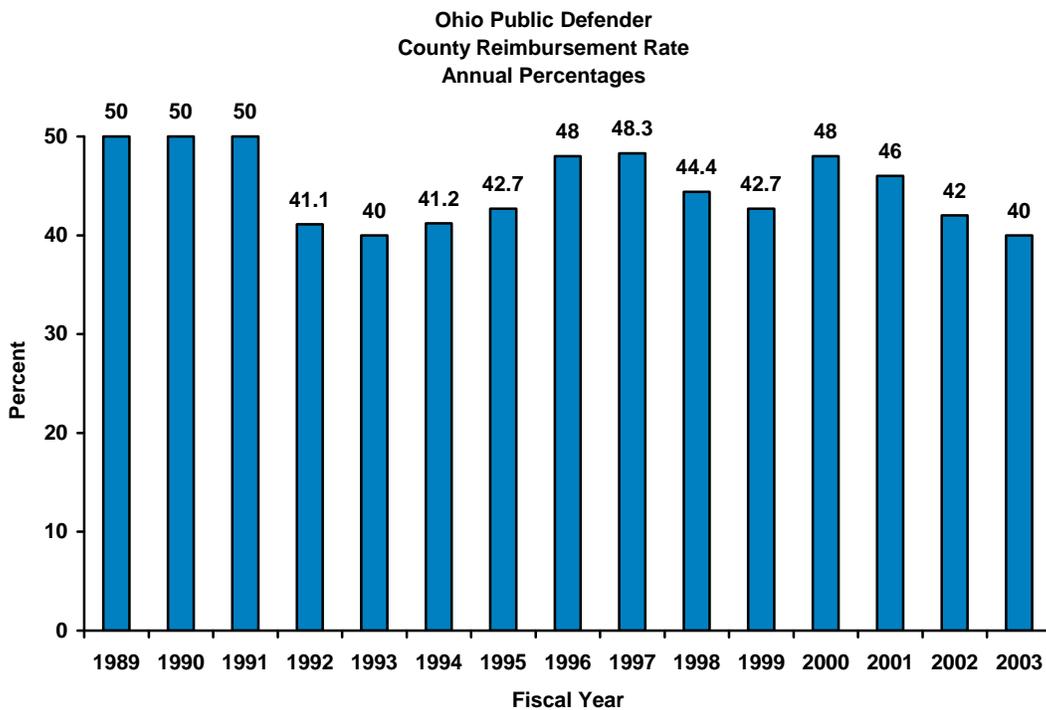
It is difficult to predict an exact reimbursement rate since the cost to counties for providing indigent defense services is not a stable variable. In fact, over recent years the cost of indigent defense services has been increasing. The rising legal costs are primarily the result of legislation enacted over the past few years, which create new sentencing procedures and other due process of law requirements that increase the amount of time spent on each case. While the commission has raised the maximum rates for attorney reimbursement, this remains a less proximate cause of increased costs, as counties are not required to pay the maximum rates to local attorneys providing indigent defense services. The commission only sets the maximum rate; counties only have to pay what they can afford.

ADDITIONAL FACTS AND FIGURES

| Ohio Public Defender Commission Staffing Levels* | | | | | | | | |
|--|--------------|--------------|--------------|--------------|--------------|--------------|--------------|--------------|
| Program Area | FY 1996 | FY 1997 | FY 1998 | FY 1999 | FY 2000 | FY 2001 | FY 2002 | FY 2003 |
| State Legal Defense Services | 89.0 | 109.7 | 103.5 | 107.5 | 110.5 | 115.0 | 102.0 | 102.0 |
| County-Level Indigent Defense | 26.5 | 30.0 | 29.0 | 29.0 | 31.5 | 31.5 | 33.0 | 33.0 |
| Administration | 29.0 | 34.3 | 29.0 | 31.0 | 31.5 | 31.5 | 37.0 | 37.0 |
| Totals | 144.5 | 174.0 | 161.5 | 167.5 | 173.5 | 178.0 | 172.0 | 172.0 |

*The staffing levels displayed in the above table represent full-time equivalents (FTEs). The number of FTEs for FYs 2001, 2002, and 2003 are estimates.

- The recommended funding level for the Ohio Public Defender Commission in FYs 2002 and 2003 will likely mean a staff reduction of as many as twelve FTEs. Since these decisions have yet to be made, the reduction of staff is not fully reflected in the table above for FYs 2002 and 2003.



- Since FY 1992, the state’s reimbursement rate for county indigent defense services has varied from between 40 percent and 48 percent. A downward slope is estimated for FYs 2001 through 2003.
- In FY 2000, Ohio’s indigent defense system completed 318,952 cases. These numbers reflect cases handled by the Office of the Ohio Public Defender, county public defenders, and court appointed counsel.
- When the Ohio Public Defender Law was enacted in 1976, it was required that the state reimburse counties for 50 percent of the costs associated with the provision of legal counsel to indigents. However, Am. Sub. H.B. 204 of the 113th General Assembly, effective July 1, 1979, amended state

law to allow the commission to provide a proportionally reduced amount if the state is unable to fulfill the 50 percent goal. The last time the state hit the 50 percent reimbursement rate target was 1991.

| County-Level Indigent Defense Closed Cases Subject to State Reimbursement & Branch Office Caseloads | | | | | | |
|--|--------------------------|------------------------|----------------------|---------------------|------------------------|--------------------|
| Fiscal Year* | Appointed Counsel | Public Defender | Death Penalty | Multi-County | Trumbull County | Total Cases |
| FY 1992 | 65,126 | 143,044 | 107 | 5,172 | □ 3,081 | 216,530 |
| FY 1993 | 67,321 | 151,676 | 129 | 5,370 | □ 3,091 | 227,587 |
| FY 1994 | 68,740 | 156,523 | 106 | 5,910 | □ 3,066 | 234,345 |
| FY 1995 | 68,738 | 170,668 | 111 | 6,929 | □ 3,488 | 249,934 |
| FY 1996 | 75,351 | 164,008 | 122 | 7,156 | □ 3,265 | 249,902 |
| FY 1997 | 72,883 | 184,519 | 120 | 7,660 | □ 4,139 | 269,271 |
| FY 1998 | 76,199 | 180,957 | 147 | 7,966 | □ 4,160 | 269,321 |
| FY 1999 | 88,738 | 189,787 | 140 | 10,197 | □ 4,753 | 293,615 |
| FY 2000 | 95,305 | 207,718 | 133 | 11,013 | □ 4,783 | 318,952 |
| FY 2001 | 102,929 | 224,335 | 144 | 11,894 | □ 5,166 | 344,468 |
| FY 2002 | 111,164 | 242,282 | 155 | 12,845 | 5,579 | 372,025 |
| FY 2003 | 120,057 | 261,665 | 168 | 13,873 | 6,025 | 401,788 |

*The data associated with FYs 2001, 2002, and 2003 are estimates.

- The number of cases that are subject to the commission’s County Reimbursement program (appointed counsel, public defender, and death penalty cases in the above table) have grown steadily since at least FY 1992. In the nine-year period covering FYs 1992 through 2000, the number of annual cases eligible for state reimbursement has increased by 94,879, or 45.6 percent. If the commission’s estimates through FY 2003 hold true, then that number of annual cases eligible for state reimbursement will have risen by 173,613, or 83.4 percent

| County-Level Indigent Defense Amount Subject to State Reimbursement & Branch Office Costs | | | | | |
|--|--------------------------|----------------------|---------------------|------------------------|--------------------|
| Fiscal Year* | Non-Capital Cases | Capital Cases | Multi-County | Trumbull County | Total Cases |
| FY 1992 | \$39,829,961 | \$1,863,669 | \$1,022,538 | \$481,055 | \$43,197,223 |
| FY 1993 | \$42,970,070 | \$2,370,609 | \$1,343,043 | \$657,937 | \$47,341,659 |
| FY 1994 | \$45,297,398 | \$1,851,788 | \$1,466,811 | \$574,328 | \$49,190,325 |
| FY 1995 | \$46,006,401 | \$1,940,440 | \$1,550,604 | \$638,865 | \$50,136,310 |
| FY 1996 | \$47,134,045 | \$1,822,116 | \$1,641,873 | \$661,383 | \$51,259,417 |
| FY 1997 | \$49,294,565 | \$1,915,573 | \$1,851,456 | \$698,931 | \$53,760,525 |
| FY 1998 | \$54,973,281 | \$2,479,280 | \$2,052,513 | \$732,528 | \$60,237,602 |
| FY 1999 | \$57,887,608 | \$2,074,700 | \$2,091,608 | \$756,009 | \$62,809,925 |
| FY 2000 | \$65,038,160 | \$1,766,673 | \$2,359,659 | \$819,094 | \$69,983,586 |
| FY 2001 | \$75,417,391 | \$2,000,000 | \$2,466,437 | \$851,200 | \$80,735,028 |
| FY 2002 | \$80,941,680 | \$2,225,000 | \$2,665,229 | \$875,451 | \$86,707,360 |
| FY 2003 | \$86,474,078 | \$2,500,000 | \$2,779,837 | \$915,569 | \$92,669,484 |

*The data associated with FY's 2001, 2002, and 2003 are estimates.

- The cost of running county-operated indigent defense systems that are eligible for reimbursement from the state have steadily grown since at least FY 1992 when the total cost of capital and non-capital cases was \$41.7 million. By the close of FY 2000, that total cost had rolled up to \$66.8 million, an increase of \$25.1 million, or 60.2 percent, from FY 1992. If the commission's estimates through FY 2003 hold true, then the total cost will hit almost \$89 million, an increase of \$47.3 million, or 113.4 percent, since FY 1992.
- The state's goal is to hit a 50 percent county reimbursement rate, subject to available appropriations. In recent years, the state's reimbursement rate has fluctuated from a high of 50 percent in FY 1991 to a low of 40 percent in FY 1993. The executive-recommended level of funding for FYs 2002 and 2003 are predicted to result in a reimbursement rate of between 40 percent and 42 percent.

ANALYSIS OF EXECUTIVE PROPOSAL

Our analysis of the Ohio Public Defender Commission's biennial budget is organized around the following four programmatic areas or activities:

- **State Legal Defense Services**
- **Public Defender Administration**
- **County-Level Indigent Defense**
- **Legal Aid Societies**

STATE LEGAL DEFENSE SERVICES

Purpose To provide legal representation to indigent adults, juveniles, and incarcerated individuals in all courts when the United States Constitution requires representation, or when requested by the court, the county or joint county public defender, or an inmate.

STATE LEGAL DEFENSE SERVICES

Program Description: The State Legal Defense Services program provides legal representation to indigent adults, juveniles, and incarcerated individuals in all courts when the United States Constitution requires representation, or when it is requested by the court, the county or joint county public defender, or an inmate. Most legal matters in which the state provides direct representation involve appeals or death penalty cases. Indigent defense for most other cases is provided by local public defenders. The subprograms in this area include the commission's Legal and Death Penalty divisions, its Legal Resource Center and Trial Section, as well as educational seminars and publication activities.

Funding Source: 1) GRF; 2) federal grants and reimbursements; 3) legal services payments transferred from the Department of Rehabilitation and Correction and the Department of Youth Services; 4) client payments; and 5) educational seminar fees and publication sales.

Line Items: 019-401, State Legal Defense Services; 019-602, Inmate Legal Assistance; 019-603, Training and Publications; 019-604, County Representation; 019-607, Juvenile Legal Assistance; 019-608, Federal Representation; 019-614, Juvenile JAIBG Grant; 019-615, Juvenile Challenge Grant.

Implication of the Executive Recommendation: The following table shows the line items that are used to fund the commission's State Legal Defense Services program, as well as the Governor's recommended funding levels.

| Fund | ALI | Title | FY 2002 | FY 2003 |
|--|---------|------------------------------|--------------------|--------------------|
| GRF | 019-401 | State Legal Defense Services | \$6,983,914 | \$7,259,931 |
| Total funding: GRF | | | \$6,983,914 | \$7,259,931 |
| GSF | 019-602 | Inmate Legal Assistance | \$ 67,172 | \$ 71,020 |
| GSF | 019-603 | Training and Publications | \$ 16,000 | \$ 16,000 |
| GSF | 019-604 | County Representation | \$ 213,778 | \$ 240,556 |
| GSF | 019-607 | Juvenile Legal Assistance | \$ 458,767 | \$ 481,462 |
| Total funding: GSF | | | \$ 755,717 | \$ 809,038 |
| FED | 019-608 | Federal Representation | \$ 564,929 | \$ 594,247 |
| FED | 019-614 | Juvenile JAIBG Grant | \$ 51,516 | \$ 54,601 |
| FED | 019-615 | Juvenile Challenge Grant | \$ 118,658 | \$ 124,984 |
| Total funding: FED | | | \$ 735,103 | \$ 773,832 |
| Total funding: STATE LEGAL DEFENSE SERVICES | | | \$8,474,734 | \$8,842,801 |

The executive–recommended funding levels for the commission’s GRF line item 019–401 is less than what was requested by \$620,592 in FY 2002 and \$677,592 in FY 2003. The amounts requested by the commission reflected its calculation of the cost of providing the current level of GRF funded state legal defense services in each of the next two fiscal years. Roughly 80 percent of the line item’s appropriation is allocated for employee salaries and fringe benefits. Presumably, the commission will have to cut or constrain the amount of spending that it had planned to allocate from this line item for personal services, purchased personal services contracts, maintenance, and equipment. This could be accomplished by delaying purchases, holding vacant staff positions open, shifting necessary expenditures to other line items, or some mix of these fiscal strategies.

The executive budget fully funded the commission’s requested levels of appropriation authority for its various non–GRF revenue streams, including federal grants and reimbursements.

Earmarking: None.

Permanent and Temporary Law: Temporary law states that federal line item 019–608, Federal Representation, is to serve as the depository for reimbursement payments received by the commission from the federal courts for providing legal representation in federal court cases at the request of the federal courts. The temporary law was first inserted in the commission’s budget by Am. Sub. H.B. 283 of the 123rd General Assembly, the main appropriations act covering FYs 2000 and 2001.

PUBLIC DEFENDER ADMINISTRATION

Purpose To provide quality support services that are responsive to the commission’s needs, goals and objectives.

PUBLIC DEFENDER ADMINISTRATION

Program Description: The commission’s administrative component provides services necessary for continued operations that are common to most state agencies, including fiscal and accounting, personnel and training, computer information systems, and general office services, such as purchasing, inventory, records management, fleet, and delivery. In

addition, the administrative component handles matters specifically mandated in Chapter 120. of the Revised Code, which also includes collecting reimbursements from counties, processing reimbursements paid to counties, producing educational seminars and conferences, and maintaining a library.

Funding Source: 1) Primarily GRF; and 2) smaller amounts of reimbursement payments collected from counties.

Line Items: 019–321, Public Defender Administration; 019–605, Client Payments; 019–606, Legal Services Corporation.

Implication of the Executive Recommendation: The following table shows the line items that are used to fund these administrative tasks, as well as the Governor’s recommended funding levels.

| Fund | ALI | Title | FY 2002 | FY 2003 |
|--|------------|--------------------------------|--------------------|--------------------|
| GRF | 019-321 | Public Defender Administration | \$1,853,758 | \$1,885,181 |
| SSR | 019-606 | Legal Services Corporation | \$ 25,233 | \$ 25,558 |
| GSF | 019-605 | Client Payments | \$ 260,584 | \$ 285,533 |
| Total funding: PUBLIC DEFENDER ADMINISTRATION | | | \$2,139,575 | \$2,196,272 |

The executive–recommended funding level for the commission’s GRF line item 019–321 is less than what was requested by \$79,830 in FY 2002 and \$146,630 in FY 2003. This is a line item that is heavily loaded with funding to cover employee salaries and fringe benefits. Presumably, as a result of the executive recommended level of funding, the commission will have to curb maintenance and equipment spending, not fill vacant staff positions, shift certain expenditures to non–GRF line items, or some mix of all of these fiscal strategies.

Earmarking: None.

Permanent and Temporary Law: None.

COUNTY–LEVEL INDIGENT DEFENSE

Purpose To provide, facilitate, and improve the delivery of criminal defense services to indigent persons accused of crimes handled by common pleas, municipal, and county courts.

Specific programs within the County–Level Indigent Defense program series that this analysis will focus on include:

- **COUNTY REIMBURSEMENT**
- **COUNTY BRANCH OFFICE**
- **PRO BONO TRAINING**

The following table shows the line items that are used to fund the commission’s County–Level Indigent Defense program series, as well as the Governor’s recommended funding levels.

| Fund | ALI | Title | FY 2002 | FY 2003 |
|-------------|------------|--------------|----------------|----------------|
|-------------|------------|--------------|----------------|----------------|

| | | | | |
|---|---------|--|---------------------|---------------------|
| GRF | 019-403 | Multi-County: State Share | \$ 1,110,254 | \$ 1,104,920 |
| GRF | 019-404 | Trumbull County: State Share | \$ 364,686 | \$ 363,917 |
| GRF | 019-405 | Training Account | \$ 48,000 | \$ 48,000 |
| GRF | 019-501 | County Reimbursement – Non-Capital Cases | \$33,893,062 | \$34,512,523 |
| GRF | 019-503 | County Reimbursements – Capital Cases | \$ 935,868 | \$ 1,000,000 |
| Total funding: GRF | | | \$36,351,870 | \$37,029,360 |
| SSR | 019-601 | Multi-County: County Share | \$ 1,603,064 | \$ 1,714,575 |
| SSR | 019-610 | Trumbull County – County Share | \$ 526,560 | \$ 564,714 |
| Total funding: SSR | | | \$ 2,129,624 | \$ 2,279,289 |
| Total funding: COUNTY–LEVEL INDIGENT DEFENSE | | | \$38,481,494 | \$39,308,649 |

COUNTY REIMBURSEMENT

Program Description: The County Reimbursement program is responsible, under existing law, for providing up to 50 percent reimbursement to counties for the cost of providing attorneys to represent indigent persons who are charged with a crime or are appealing their conviction(s). The program also establishes standards (including indigence), guidelines, and maximum fees for state reimbursement of county–level indigent defense services, and monitors county compliance with these standards. The program was established under the Ohio Public Defender Law of 1976 and was subsequently modified by Am. Sub. House Bill 291 of the 115th General Assembly.

In Ohio, counties are required to provide and pay for legal counsel for indigent persons where a right to counsel exists, and are reimbursed a portion of these costs by the state. The Revised Code allows counties to use one or more of five different types of legal services delivery systems. These include: 1) setting up a county public defender office; 2) setting up a joint county public defender office; 3) utilization of private appointed counsel; 4) contracting with the State Public Defender; or 5) contracting with a non-profit corporation. Most counties use a county public defender office and/or appointed counsel systems.

Funding Source: GRF.

Line Items: 019–501, County Reimbursement – NonCapital Cases; 019–503, County Reimbursements – Capital Cases.

Implication of the Executive Recommendation: The executive recommendation appropriates a combined total of \$34.8 million in FY 2002 and \$35.5 million in FY 2003. This level of funding is expected to allow the commission to hit a county reimbursement rate in the range of 40 percent to 42 percent in the next biennium. Also of note is that the capital case component of the County Reimbursement program (line item 019–503) has been cut relative to estimated FY 2001 expenditures. This was done under the belief that the amount needed to reimburse counties for their capital cases will drop. If that does not happen and a shortage develops during the fiscal year, the commission will seek Controlling Board approval for a transfer from the much larger non–capital cases line item to make up the difference. Even though these two line items are separate, the commission typically moves appropriation authority between them almost as though they were a single program line item.

The commission has calculated that it would need additional GRF funding in the amount of

\$6.75 million in FY 2002 and \$8.97 million in FY 2003 to close in on the 50 percent reimbursement rate target.

Earmarking: None.

Permanent and Temporary Law: None.

COUNTY BRANCH OFFICES

Program Description: The County Branch Offices program provides local indigent defense services by the State Public Defender as an alternative to traditional appointed counsel or county public defender offices. The commission currently operates two such offices: Trumbull County and the Multi-County office. The Trumbull County Branch Office, established in FY 1985, provides local indigent defense services for Trumbull County. The Multi-County Branch Office provides local indigent defense services to ten counties in the south and southeastern part of Ohio. The ten counties are Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington, with public defender offices located in Athens, Ross and Washington counties. The Multi-County Branch Office was established in January 1991. These State Public Defender-operated offices are authorized under section 120.04(C)(7) of the Revised Code.

Funding Source: 1) GRF; and 2) payments from participating counties.

Line Items: 019-403, Multi-County: State Share; 019-404, Trumbull County – State Share; 019-601, Multi-County: County Share; 019-610, Trumbull County – County Share.

Implication of the Executive Recommendation: The County Branch Office program receives funding from two GRF line items, which represent the state's share of the cost of running local public defender offices. There are also two non-GRF line items, which represent the portion of each branch office's costs that are covered by each participating county. The effect of the executive recommendation will be to reduce the fiscal burden on the state's GRF while increasing the fiscal burden associated with these offices for the 11 participating counties. As the commission apportions the costs associated with these branch offices in a manner that mirrors its County Reimbursement program, this level of recommended funding should result in the state's share being in the range of 40 percent to 42 percent.

The commission has calculated that it would need additional GRF funding in the amount of \$295,401 in FY 2002 and \$378,867 in FY 2003 to close in on a 50/50 split between the state and county shares.

Earmarking: None.

Permanent and Temporary Law: Temporary law stipulates that the moneys contained in GRF line item 019-404, Trumbull County – State Share, and State Special Revenue line item 019-610, Trumbull County – County Share, be used for the purpose of supporting an indigent defense office for Trumbull County. The commission currently maintains a branch office in the City of Warren that provides indigent defense services in Trumbull County. Funding for the Trumbull office is drawn solely from these two line items. Trumbull County's contribution to the indigent defense office is deposited in the state treasury to the credit of Fund 4X7 (line item 019-610, Trumbull County – County Share). This temporary law first appeared in Am. Sub. H.B. 215 of the 122nd General Assembly, the main

appropriations act covering FYs 1998 and 1999. Prior to that time, the indigent defense office also served several courts in neighboring Mahoning County.

Temporary law stipulates that the moneys contained in GRF line item 019-403, Multi-County: State Share, and State Special Revenue line item 019-601, Multi-County: County Share, be used for the purpose of supporting the commission's Multi-County Branch Office program. Although the program has been in place since January 1991, this is the first time that temporary law specifying its funding arrangement has been inserted in the commission's budget. Under the program, the commission provides indigent defense services to a ten-county region that covers the south and southeastern part of Ohio, including Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington counties. The program's regional office is located in Athens County, with branch offices situated in Ross and Washington counties. Funding for the Multi-County Branch Office program is drawn solely from these two line items. The local contribution provided by each of the ten participating counties is deposited in the state treasury to the credit of Fund 4C7 (line item 019-601, Multi-County: County Share).

PRO BONO TRAINING

Program Description: Under the commission's Pro Bono Training program, it contracts with private and non-profit training companies to provide continuing legal education (CLE) certified seminars to attorneys who practice criminal indigent defense law. The commission pays the seminar companies a fee for each attorney who attends a seminar under the program. The seminar companies presently charge \$125 per attorney for a regular one-day seminar and \$250 per attorney for the two-day Rule 20 seminars.

The commission allows private attorneys to attend seminars at no cost to the attorney. In exchange for free attendance, each attorney must provide one pro bono (for free) case for every seminar attended. Pro bono cases must be provided within one year of the seminar date, and pro bono attorneys are limited to two seminars per year. Public defenders also are limited to two seminars per year.

Funding Source: GRF.

Line Items: 019-405, Training Account.

Implication of the Executive Recommendation: The executive recommendation is \$500 short of what the commission requested in each fiscal year, which was \$48,500 in each of FYs 2002 and 2003. The commission had estimated that its requested amount of funding would have enabled 344 attorneys to obtain training in each of the next two fiscal years. Presumably, the executive-recommended funding levels, although a little less than that amount, will still permit the commission to offer training to around 344 attorneys in FYs 2002 and 2003.

Earmarking: None.

Permanent and Temporary Law: None

LEGAL AID SOCIETIES

Purpose To administer and fund the state’s civil legal services program.

LEGAL AID SOCIETIES

Program Description: The Ohio Legal Assistance Foundation (OLAF) is a non–profit entity, created by statute, and charged with administering state funds for Ohio’s legal aid societies. OLAF was established by Am. Sub. H.B. 152 of the 120th General Assembly, effective July 1993. OLAF develops financial support and solicits financial contributions for use in providing assistance to Ohio's legal aid societies. Moneys in the commission’s fund are passed through the Ohio Public Defender to the foundation. OLAF then administers payments to non–profit legal aid societies that provide legal representation to indigent persons in civil cases. These payments are distributed to legal aid societies throughout the state pursuant to a statutory formula based on poverty population. Every county is served by one or more legal aid societies.

Funding Source: 1) interest–bearing trust accounts established and maintained by attorneys, law firms, or legal professional associations pursuant to sections 4705.09 and 4705.10 of the Revised Code; 2) interest–bearing trust accounts established and maintained by title insurance agents or title insurance companies pursuant to section 3953.231 of the Revised Code; 3) additional filing fees collected by municipal, county, and common please courts on each new civil action or proceeding pursuant to sections 1901.26, 1907.24, and 2303.201 of the Revised Code; and 4) gifts, bequests, donations, contributions, and income from investments.

Line Items: 019–606, Legal Services Corporation.

Implication of the Executive Recommendation: The following table shows the line item that is used to fund this program, as well as the Governor’s recommended funding levels.

| Fund | ALI | Title | FY 2002 | FY 2003 |
|---|---------|----------------------------|---------------------|---------------------|
| 574 | 019-606 | Legal Services Corporation | \$15,725,233 | \$16,275,558 |
| Total funding: LEGAL AID SOCIETIES | | | \$15,725,233 | \$16,275,558 |

The executive budget fully funded the commission’s OLAF request, which essentially means that \$15.0 million in FY 2002 and \$15.5 million in FY 2003 will be allocated for distribution to the state’s legal aid societies. The remaining portion of each fiscal year’s appropriation will be allocated to cover administrative costs. Pursuant to permanent law, 4.5 percent of the moneys in the fund will be reserved for the foundation’s actual, reasonable costs in administering the program. This amounts to \$700,000 in FY 2002 and \$750,000 in FY 2003. In addition, another \$25,233 in FY 2002 and \$25,558 in FY 2003 will be charged as commission administrative costs.

Earmarking: None.

Permanent and Temporary law: The executive budget contains a permanent law change that would allow the collection of the current additional filing fee in civil cases that is used for legal aid societies to continue after December 31, 2002. Under current law, that additional filing fee on civil cases was to be reduced to \$4 effective January 1, 2003. If the

civil case filing fee were to be reduced, as will happen under current law, then the amount of revenue collected for the purpose of providing financial assistance to legal aid societies will drop by approximately \$4.5 million annually. By proposing to eliminate the provisions in law that would have reduced the additional filing fee amount, the executive budget preserves the roughly \$4.5 million annual revenue stream.

Prior to 1991, municipal, county, and common pleas courts were required to collect an additional \$4 filing fee on each new civil action or proceeding for the purpose of providing financial assistance to legal aid societies. In 1991, that additional filing fee was increased by \$11 for all courts other than small claims divisions and by \$3 for the small claims divisions in municipal and county courts. The new totals became \$15 and \$7, respectively. The surcharge was designated to support the work of Ohio's legal aid societies, which rely on state funds administered through Ohio Legal Assistance Foundation (OLAF) to support their work of providing access to justice for the poor. These increases of \$3 and \$11 were originally scheduled to sunset at the end of 1997, at which time they were extended for an additional five years. Since that time multiple unsuccessful efforts have been undertaken to garner GRF moneys, rather than filing fee surcharges, to support Ohio's legal aid societies. Since it appears unlikely that GRF funds will ever be used in this capacity, OLAF is requesting that the sunset language be removed and that the filing fee surcharge be recognized as a permanent long-term source of funds for Ohio's legal aid societies.

PERMANENT AND TEMPORARY LAW

This section describes permanent and temporary law provisions contained in the executive budget that will affect the Ohio Public Defender Commission's activities and spending decisions.

Permanent Law Provisions

Updated Reference to the Supreme Court's Rule of Superintendence (ORC 120.06(F), 120.16(G), 120.26(G), 120.33(C), and 2953.21(I)(2))

In July 1977, the Supreme Court of Ohio updated, renumbered, and renamed its rules. What was previously Rule 65 is now Rule 20. The body of rules previously titled *Rules of Superintendence for Courts of Common Pleas* is now titled *Rules of Superintendence for the Courts of Ohio*. To be eligible for reimbursement, counties must assure that attorneys appointed to represent indigent clients in capital cases are certified under Rule 20. If attorneys are not certified as such, reimbursement is denied. Existing law refers to an outdated Supreme Court of Ohio rule number (Rule 65). The executive budget proposes to update the Revised Code so that it refers to the correct Rule of Superintendence. Rule 20 is identical to former Rule 65. If this rule reference is not updated, it could be confusing to readers of the public defender statute, and may cause disputes regarding reimbursement in capital cases.

Maintenance of Filing Fee Amount for Legal Aid Societies (ORC 1901.26(C), 1907.24(C), and 2303.201(C))

The executive budget contains a permanent law change that would allow the collection of the current additional filing fee in civil cases that is used for legal aid societies to continue after December 31, 2002. Under current law, that additional filing fee on civil cases was to be reduced to \$4 effective January 1, 2003. If the civil case filing fee were to be reduced, as will happen under current law, then the amount of revenue collected for the purpose of providing financial assistance to legal aid societies will drop by approximately \$4.5 million annually. By proposing to eliminate the provisions in law that would have reduced the additional filing fee amount, the executive budget preserves the roughly \$4.5 million annual revenue stream.

Prior to 1991, municipal, county, and common pleas courts were required to collect an additional \$4 filing fee on each new civil action or proceeding for the purpose of providing financial assistance to legal aid societies. In 1991, that additional filing fee was increased by \$11 for all courts other than small claims divisions and by \$3 for the small claims divisions in municipal and county courts. The new totals became \$15 and \$7, respectively. The surcharge was designated to support the work of Ohio's legal aid societies, which rely on state funds administered through Ohio Legal Assistance Foundation (OLAF) to support their work of providing access to justice for the poor. These increases of \$3 and \$11 were originally scheduled to sunset at the end of 1997, at which time they were extended for an additional five years. Since that time multiple unsuccessful efforts have been undertaken to garner GRF moneys, rather than filing fee surcharges, to support Ohio's legal aid societies. Since it appears unlikely that GRF funds will ever be used in this capacity, OLAF is requesting that the sunset language be removed and that the filing fee surcharge be recognized as a permanent long-term source of funds for Ohio's legal aid societies.

Temporary Law Provisions

Indigent Defense Office (Section 85)

Temporary law stipulates that the moneys contained in GRF line item 019–404, Trumbull County – State Share, and State Special Revenue line item 019–610, Trumbull County – County Share, be used for the purpose of supporting an indigent defense office for Trumbull County. The commission currently maintains a branch office in the City of Warren that provides indigent defense services in Trumbull County. Funding for the Trumbull office is drawn solely from these two line items. Trumbull County’s contribution to the indigent defense office is deposited in the state treasury to the credit of Fund 4X7 (line item 019–610, Trumbull County – County Share). This temporary law first appeared in Am. Sub. H.B. 215 of the 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999. Prior to that time, the indigent defense office also served several courts in neighboring Mahoning County.

Multi–County Office (Section 85)

Temporary law stipulates that the moneys contained in GRF line item 019–403, Multi–County: State Share, and State Special Revenue line item 019–601, Multi–County: County Share, be used for the purpose of supporting the commission’s Multi–County Branch Office program. Although the program has been in place since January 1991, this is the first time that temporary law specifying its funding arrangement has been inserted in the commission’s budget. Under the program, the commission provides indigent defense services to a ten–county region that covers the south and southeastern part of Ohio, including Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington counties. The program’s regional office is located in Athens County, with branch offices situated in Ross and Washington counties. Funding for the Multi–County Branch Office program is drawn solely from these two line items. The local contribution provided by each of the ten participating counties is deposited in the state treasury to the credit of Fund 4C7 (line item 019–601, Multi–County: County Share).

Training Account (Section 85)

Temporary law specifies that the commission use the moneys contained in GRF line item 019–405, Training Account, to provide legal training programs at no cost for private appointed counsel who represent at least one indigent person at no cost (*pro bono*), and for state and county public defenders and attorneys who contract with the commission to provide indigent defense services. The GRF line item essentially supports the commission’s Pro Bono Training program that uses contracts with private and non–profit training companies to provide continuing legal education (CLE) certified seminars to attorneys who practice criminal indigent defense law. The temporary law was first inserted in the commission’s budget by Am. Sub. H.B. 171 of the 117th General Assembly, the main appropriations act covering FYs 1988 and 1989, and spoke only of attorneys willing to then provide indigent defense services for one person. In Am. Sub. H.B. 283 of the 123rd General Assembly, the main appropriations act covering FYs 2000 and 2001, the temporary law was modified to open the training program to private appointed counsel, state and county defenders and attorneys who contract with the Ohio Public Defender.

Federal Representation (Section 85)

Temporary law states that federal line item 019–608, Federal Representation, is to serve as the depository for reimbursement payments received by the commission from the federal courts for providing legal representation in federal court cases at the request of the federal courts. The temporary law was first

inserted in the commission's budget by Am. Sub. H.B. 283 of the 123rd General Assembly, the main appropriations act covering FYs 2000 and 2001.

REQUESTS NOT FUNDED

The difference, or variance, between what the Ohio Public Defender Commission requested for its biennial GRF budget and the Governor’s recommended funding level is summarized in the tables below and organized along the lines of the commission’s funding priorities.

| County-Level Indigent Defense | | | | | | |
|--------------------------------------|--------------------------|----------------------------|----------------------|--------------------------|----------------------------|----------------------|
| <i>Line Item</i> | FY 2002 Requested | FY 2002 Recommended | Difference | FY 2003 Requested | FY 2003 Recommended | Difference |
| 019-403 | \$ 1,278,249 | \$ 1,110,254 | (\$ 167,995) | \$ 1,387,805 | \$ 1,104,920 | (\$ 282,885) |
| 019-404 | \$ 419,868 | \$ 364,686 | (\$ 55,182) | \$ 457,088 | \$ 363,917 | (\$ 93,171) |
| 019-501 | \$38,707,289 | \$33,893,062 | (\$4,814,227) | \$43,053,806 | \$34,512,523 | (\$8,541,283) |
| 019-503 | \$ 1,067,114 | \$ 935,868 | (\$ 131,246) | \$ 1,248,100 | \$ 1,000,000 | (\$ 248,100) |
| Totals | \$41,472,520 | \$36,303,870 | (\$5,168,650) | \$46,146,799 | \$36,981,360 | (\$9,165,439) |

The requested amounts in the above table represent the commission’s calculation of the costs to the GRF were the state and county shares in its County Reimbursement and Branch Office programs both set at 50 percent. The recommended amounts in the above table signal the executive’s intent that this split reduce the fiscal burden on the state and increase the fiscal burden carried by counties. The projected result is that the state’s portion of the costs in both programs will be in the neighborhood of 40 percent to 42 percent.

| Public Defender Administration | | | | | | |
|---------------------------------------|--------------------------|----------------------------|-------------------|--------------------------|----------------------------|--------------------|
| <i>Line Item</i> | FY 2002 Requested | FY 2002 Recommended | Difference | FY 2003 Requested | FY 2003 Recommended | Difference |
| 019-321 | \$1,933,588 | \$1,853,758 | (\$79,830) | \$2,031,811 | \$1,885,181 | (\$146,630) |
| Totals | \$1,933,588 | \$1,853,758 | (\$79,830) | \$2,031,811 | \$1,885,181 | (\$146,630) |

The difference between the amount requested by the commission for its administrative component and the amount recommended by the executive was intended to cover minor personnel and maintenance expenses. This small funding difference should not have a significant fiscal effect on the commission’s administrative apparatus.

| State Legal Defense Services | | | | | | |
|-------------------------------------|--------------------------|----------------------------|--------------------|--------------------------|----------------------------|--------------------|
| <i>Line Item</i> | FY 2002 Requested | FY 2002 Recommended | Difference | FY 2003 Requested | FY 2003 Recommended | Difference |
| 019-401 | \$7,604,506 | \$6,983,914 | (\$620,592) | \$7,937,915 | \$7,259,931 | (\$677,984) |
| Totals | \$7,604,506 | \$6,983,914 | (\$620,592) | \$7,937,915 | \$7,259,931 | (\$677,984) |

The amounts in the above table depict the difference between what the commission requested to provide direct legal representation to indigent adults, juveniles, and incarcerated individuals and what the executive recommended. The commission’s requested amounts reflected its calculation of the cost of delivering its current level of direct legal representation services in each of the next two fiscal years. Thus, the executive-recommended amounts create a fiscal shortfall that will primarily affect contracts with attorneys, the use of expert witnesses, travel, and perhaps most significantly, payroll attrition from unfilled vacancies.

LSC Budget Spreadsheet by Line Item, FY 2002 - FY 2003

| Fund | ALI | ALI Title | 2000 | Estimated 2001 | Executive 2002 | % Change 2001 to 2002 | Executive 2003 | % Change 2002 to 2003 |
|---|---------|--|----------------------|----------------------|----------------------|--------------------------|----------------------|--------------------------|
| PUB Public Defender Commission, Ohio | | | | | | | | |
| GRF | 019-321 | Public Defender Administration | \$ 1,661,190 | \$1,808,544 | \$ 1,853,758 | 2.5% | \$ 1,885,181 | 1.7% |
| GRF | 019-401 | State Legal Defense Services | \$ 7,007,257 | \$6,993,291 | \$ 6,983,914 | -0.1% | \$ 7,259,931 | 4.0% |
| GRF | 019-403 | Multi-County: State Share | \$ 1,089,431 | \$1,280,291 | \$ 1,110,254 | -13.3% | \$ 1,104,920 | -0.5% |
| GRF | 019-404 | Trumbull County - State Share | \$ 386,362 | \$429,680 | \$ 364,686 | -15.1% | \$ 363,917 | -0.2% |
| GRF | 019-405 | Training Account | \$ 45,575 | \$48,500 | \$ 48,000 | -1.0% | \$ 48,000 | 0.0% |
| GRF | 019-501 | County Reimbursement - Non-Capital Cases | \$ 31,772,111 | \$34,600,011 | \$ 33,893,062 | -2.0% | \$ 34,512,523 | 1.8% |
| GRF | 019-503 | County Reimbursements - Capital Cases | \$ 874,588 | \$1,257,059 | \$ 935,868 | -25.6% | \$ 1,000,000 | 6.9% |
| General Revenue Fund Total | | | \$ 42,836,514 | \$ 46,417,376 | \$ 45,189,542 | -2.6% | \$ 46,174,472 | 2.2% |
| 101 | 019-602 | Inmate Legal Assistance | \$ 57,776 | \$56,422 | \$ 67,172 | 19.1% | \$ 71,020 | 5.7% |
| 101 | 019-607 | Juvenile Legal Assistance | \$ 419,835 | \$447,565 | \$ 458,767 | 2.5% | \$ 481,462 | 4.9% |
| 406 | 019-603 | Training and Publications | \$ 1,200 | \$10,000 | \$ 16,000 | 60.0% | \$ 16,000 | 0.0% |
| 407 | 019-604 | County Representation | \$ 151,806 | \$145,374 | \$ 213,778 | 47.1% | \$ 240,556 | 12.5% |
| 408 | 019-605 | Client Payments | \$ 112,634 | \$131,453 | \$ 260,584 | 98.2% | \$ 285,533 | 9.6% |
| General Services Fund Group Total | | | \$ 743,251 | \$ 790,814 | \$ 1,016,301 | 28.5% | \$ 1,094,571 | 7.7% |
| 3H4 | 019-609 | Death Penalty Resource Center | \$ 37,758 | \$0 | \$ 0 | N/A | \$ 0 | N/A |
| 3S8 | 019-608 | Federal Representation | \$ 233,176 | \$495,000 | \$ 564,929 | 14.1% | \$ 594,247 | 5.2% |
| 3U7 | 019-614 | Juvenile JAIBG Grant | --- | \$58,500 | \$ 51,516 | -11.9% | \$ 54,601 | 6.0% |
| 3U8 | 019-615 | Juvenile Challenge Grant | --- | \$113,162 | \$ 118,658 | 4.9% | \$ 124,984 | 5.3% |
| Federal Special Revenue Fund Group Total | | | \$ 270,934 | \$ 666,662 | \$ 735,103 | 10.3% | \$ 773,832 | 5.3% |
| 4C7 | 019-601 | Multi-County- County Share | \$ 1,214,356 | \$1,429,566 | \$ 1,603,064 | 12.1% | \$ 1,714,575 | 7.0% |
| 4X7 | 019-610 | Trumbull County - County Share | \$ 429,860 | \$469,317 | \$ 526,560 | 12.2% | \$ 564,714 | 7.2% |
| 574 | 019-606 | Legal Services Corporation | \$ 14,568,109 | \$16,850,000 | \$ 15,725,233 | -6.7% | \$ 16,275,558 | 3.5% |
| State Special Revenue Fund Group Total | | | \$ 16,212,325 | \$ 18,748,883 | \$ 17,854,857 | -4.8% | \$ 18,554,847 | 3.9% |
| Total All Budget Fund Groups | | | \$ 60,063,024 | \$ 66,623,735 | \$ 64,795,803 | -2.7% | \$ 66,597,722 | 2.8% |

General Revenue Fund

GRF 019-100 Personal Services

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-----------|---------|------|---------------|-------------------------|-------------------------|
| \$172,505 | \$0 | \$0 | \$0 | \$0 | \$0 |
| | -100.0% | N/A | N/A | N/A | N/A |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 191 of the 112th G.A., the main appropriations act covering FYs 1977 and 1978.

Purpose: The GRF line item essentially provided funding to cover the salary and fringe benefit costs associated with the commission's administrative and state legal defense services staff. Pursuant to Am. Sub. H.B. 215 of the 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999, the line item was eliminated and its purpose and funding were moved into two newly-created GRF line items: 019-321, Public Defender Administration; and 019-401, State Legal Defense Services. This change was part of a restructuring of the commission's personal services, maintenance, and equipment costs along more programmatic lines.

GRF 019-200 Maintenance

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|---------|------|---------------|-------------------------|-------------------------|
| \$88,389 | \$0 | \$0 | \$0 | \$0 | \$0 |
| | -100.0% | N/A | N/A | N/A | N/A |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 191 of the 112th G.A., the main appropriations act covering FYs 1977 and 1978.

Purpose: The GRF line item originally provided funding to cover the maintenance expenses associated with the commission's administrative and state legal defense services staff. Pursuant to Am. Sub. H.B. 215 of the 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999, the line item was eliminated and its purpose and funding were moved into two newly-created GRF line items: 019-321, Public Defender Administration; and 019-401, State Legal Defense Services. This change was part of a restructuring of the commission's personal services, maintenance, and equipment costs along more programmatic lines.

GRF 019-300 Equipment

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|---------|------|------------------|----------------------------|----------------------------|
| \$32,191 | \$0 | \$0 | \$0 | \$0 | \$0 |
| | -100.0% | N/A | N/A | N/A | N/A |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 191 of the 112th G.A., the main appropriations act covering FYs 1977 and 1978.

Purpose: The GRF line item originally provided funding to cover the equipment costs associated with the commission's administrative and state legal defense services staff. Pursuant to Am. Sub. H.B. 215 of the 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999, the line item was eliminated and its purpose and funding were moved into two newly-created GRF line items: 019-321, Public Defender Administration; and 019-401, State Legal Defense Services. This change was part of a restructuring of the commission's personal services, maintenance, and equipment costs along more programmatic lines.

GRF 019-321 Public Defender Administration

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-------------|-------------|-------------|------------------|----------------------------|----------------------------|
| \$1,577,698 | \$1,593,982 | \$1,661,190 | \$1,808,544 | \$1,853,758 | \$1,885,181 |
| | 1.0% | 4.2% | 8.9% | 2.5% | 1.7% |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main appropriations act covering FYs 1998 and 1999.

Purpose: This GRF line item provides funding for the commission's administrative operation, including payroll, maintenance, and equipment costs. Prior to FY 1998, these operating costs were funded from three separate GRF line items: 1) 019-100, Personal Services; 2) 019-200, Maintenance; and 3) 019-300, Equipment. Pursuant to Am. Sub. H.B. 215 of the 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999, these three GRF line items were eliminated and their purposes and funding were moved into two newly-created GRF line items: 019-321, Public Defender Administration, and 019-401, State Legal Defense Services. This change was part of a restructuring of the commission's personal services, maintenance, and equipment costs along more programmatic lines.

GRF 019-401 State Legal Defense Services

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-------------|-------------|-------------|------------------|----------------------------|----------------------------|
| \$6,195,294 | \$6,456,852 | \$7,007,257 | \$6,993,291 | \$6,983,914 | \$7,259,931 |
| | 4.2% | 8.5% | -0.2% | -0.1% | 4.0% |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main appropriations act covering FYs 1998 and 1999.

Purpose: This GRF line item provides funding for the payroll, maintenance, and equipment costs associated with the commission's Legal Division, Death Penalty Division, Legal Resource Center, and County Representation Program/Trial Section. Roughly 90 percent of the line item's appropriation is split more or less evenly between two of those functional areas: 1) the Legal Services Division; and 2) the Death Penalty Division. The Legal Services Division provides direct legal representation primarily to persons who claim that they are unlawfully imprisoned or detained in a state correctional institution and to persons who have been charged with violating conditions of their release on parole or post release control. The Death Penalty Division provides, coordinates, and supervises legal representation for indigent criminal defendants in capital cases.

Prior to FY 1998, these operating costs associated with state legal defense services were funded from three separate GRF line items: 1) 019-100, Personal Services; 2) 019-200, Maintenance; and 3) 019-300, Equipment. Pursuant to Am. Sub. H.B. 215 of the 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999, these three GRF line items were eliminated and their purposes and funding were moved into two newly-created GRF line items: 019-321, Public Defender Administration; and 019-401, State Legal Defense Services. This change was part of a restructuring of the commission's personal services, maintenance, and equipment costs along more programmatic lines.

GRF 019-403 Multi-County: State Share

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-------------|-----------|-------------|------------------|----------------------------|----------------------------|
| \$1,011,216 | \$935,049 | \$1,089,431 | \$1,280,291 | \$1,110,254 | \$1,104,920 |
| | -7.5% | 16.5% | 17.5% | -13.3% | -0.5% |

Source: GRF

Legal Basis: originally established by Controlling Board on December 17, 1990; statutory authority for contractual arrangement resides in various sections of the Revised Code, including 120.04, 120.06, and 120.33.

Purpose: This GRF special purpose account provides funding for the commission's Multi-County Branch Office which began operation on January 1, 1991. This branch office provides local indigent defense services to ten counties in south and southeastern Ohio. The ten counties are Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington. These ten participating counties have essentially each entered into a contract with the commission to provide indigent defense services in their county. Branch offices are located in Athens, Ross, and Washington counties. In addition to employing state public defenders, the branch office contracts with private attorneys in all ten counties. Each county's contribution to the branch office is deposited in the state treasury to the credit of Fund 4C7 (line item 019-601, Multi-County: County Share). The funding split between the state and county shares is the same as it is for the commission's much larger statewide County Reimbursement program under which the state is responsible for up to 50 percent of a county's indigent defense costs.

GRF 019-404 Trumbull County - State Share

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-----------|-----------|-----------|---------------|-------------------------|-------------------------|
| \$352,707 | \$350,679 | \$386,362 | \$429,680 | \$364,686 | \$363,917 |
| | -0.6% | 10.2% | 11.2% | -15.1% | -0.2% |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 291 of the 115th G.A., the main appropriations act covering FYs 1984 and 1985; statutory authority for contractual arrangement resides in various sections of the Revised Code, including 120.04, 120.06, and 120.33.

Purpose: This GRF special purpose account provides funding for the commission's Trumbull County Branch Office, which provides local indigent defense services in Trumbull County. The county has essentially each entered into a contract with the commission to provide indigent defense services. Services are provided through a branch office located in the City of Warren and through contracts with local attorneys. The county's contribution to the branch office is deposited in the state treasury to the credit of Fund 4X7 (line item 019-610, Trumbull County - County Share). The funding split between the state and county shares is the same as it is for the commission's much larger statewide County Reimbursement program under which the state is responsible for up to 50 percent of a county's indigent defense costs.

The name of this GRF special purpose account was changed from Indigent Defense Office in Am. Sub. H.B. 215 of the 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999, to reflect the fact that the office no longer served several courts in neighboring Mahoning County.

GRF 019-405 Training Account

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|----------|----------|---------------|-------------------------|-------------------------|
| \$49,925 | \$39,325 | \$45,575 | \$48,500 | \$48,000 | \$48,000 |
| | -21.2% | 15.9% | 6.4% | -1.0% | 0.0% |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 171 of the 117th G.A., the main appropriations act covering FYs 1988 and 1989; statutory authority for the program resides in ORC 120.03(D)(2)(c).

Purpose: This GRF special purpose account is used exclusively for the commission's Pro Bono Training program, under which it contracts with private and non-profit training companies to provide continuing legal education (CLE) certified seminars to attorneys who practice criminal indigent defense law. The commission pays the seminar companies a fee for each attorney who attends a seminar under the program. The seminar companies presently charge \$125 per attorney for a regular one-day seminar and \$250 per attorney for the two-day Rule 20 seminars.

The commission allows private attorneys to attend seminars at no cost to the attorney. In exchange for free attendance, each attorney must provide one pro bono (for free) case for every seminar attended. Pro bono cases must be provided within one year of the seminar date, and pro bono attorneys are limited to two seminars per year. Public defenders also are limited to two seminars per year.

GRF 019-501 County Reimbursement - Non-Capital Cases

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|--------------|--------------|--------------|------------------|----------------------------|----------------------------|
| \$24,509,691 | \$24,517,431 | \$31,772,111 | \$34,600,011 | \$33,893,062 | \$34,512,523 |
| | 0.0% | 29.6% | 8.9% | -2.0% | 1.8% |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 164 of the 111th G.A., the act establishing state, county, and joint county public defenders; statutory authority and guidelines for the reimbursement program reside in various sections of the Revised Code, including 120.04, 120.18, 120.28, 120.33, 2941.51, and 2949.19.

Purpose: This GRF subsidy account is used to reimburse counties for up to 50 percent of their costs of operating county public defender offices, joint county public defender offices, and appointed counsel systems. Expenditures incurred for capital cases, however, are reimbursed through the commission's GRF line item 019-503, County Reimbursements – Capital Cases. If funding in this subsidy account is insufficient to reimburse 50 percent of the costs for non-capital cases, then the reimbursement percentage for each of the public defender offices and appointed counsel systems is reduced equally.

GRF 019-503 County Reimbursements - Capital Cases

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-------------|-----------|-----------|------------------|----------------------------|----------------------------|
| \$1,144,919 | \$904,054 | \$874,588 | \$1,257,059 | \$935,868 | \$1,000,000 |
| | -21.0% | -3.3% | 43.7% | -25.6% | 6.9% |

Source: GRF

Legal Basis: originally established by Am. Sub. H.B. 291 of the 115th G.A., the main appropriations act covering FYs 1984 and 1985; the statutory authority for this reimbursement program resides in ORC 120.35.

Purpose: The GRF subsidy account is used to reimburse counties for up to 50 percent of their costs of defending persons accused of capital crimes. The separate subsidy is intended to make it easier to track the costs of capital cases. If funding in this subsidy account is insufficient to reimburse 50 percent of the costs for capital cases, then the reimbursement percentage is reduced equally for all counties.

General Services Fund Group

101 019-602 Inmate Legal Assistance

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|----------|----------|------------------|----------------------------|----------------------------|
| \$51,190 | \$52,445 | \$57,776 | \$56,422 | \$67,172 | \$71,020 |
| | 2.5% | 10.2% | -2.3% | 19.1% | 5.7% |

Source: GSF: quarterly legal services payments transferred from the GRF maintenance budget of the Ohio Department of Rehabilitation and Correction's Marion Correctional Institution.

Legal Basis: originally established by Controlling Board in 1978.

Purpose: This special account currently funds an inmate legal assistance program at the state's Marion Correctional Institution, a purpose it has served since 1991. Specifically covered are the payroll, maintenance, and equipment costs associated with one commission attorney. The program started at the Marion Correctional Institution in response to a court case that led to a mandate that one attorney be located at the institution to run the prison's law library. In 1987, the program shifted to one that utilized law school interns to provide more general legal assistance, before taking on its current focus in 1991, in which the attorney running the institution's law library would also provide representation to inmates at parole revocation hearings.

101 019-607 Juvenile Legal Assistance

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-----------|-----------|-----------|------------------|----------------------------|----------------------------|
| \$343,732 | \$355,843 | \$419,835 | \$447,565 | \$458,767 | \$481,462 |
| | 3.5% | 18.0% | 6.6% | 2.5% | 4.9% |

Source: GSF: funding provided by the Ohio Department of Youth Services.

Legal Basis: originally established by Controlling Board on August 16, 1993.

Purpose: The special account captures the funding from an interdepartmental agreement whereby the Department of Youth Services provides moneys for the operation of the commission's Juvenile Legal Assistance program. Under the program, which the commission administers by hiring staff and providing the necessary equipment, legal assistance is provided to juveniles placed in DYS institutions so that they can gain access to the courts for appeals. The program was established in FY 1994 in response to a decision by the U.S. Court of Appeals for the Sixth Circuit in the case of John L. v. Adams holding that juveniles have a constitutional right of access to the courts through attorneys provided by the state.

406 019-603 Training and Publications

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|---------|---------|---------|---------------|-------------------------|-------------------------|
| \$2,650 | \$9,077 | \$1,200 | \$10,000 | \$16,000 | \$16,000 |
| | 242.5% | -86.8% | 733.3% | 60.0% | 0.0% |

Source: GSF: 1) fees received by the commission for conducting educational seminars; and 2) the sale of publications on topics concerning criminal law and procedure.

Legal Basis: ORC 120.03(E); codified by Am. Sub. H.B. 291 of the 115th G.A., the main appropriations act covering FYs 1984 and 1985.

Purpose: The commission is required to expend the money from this special account for the sole purpose of conducting programs having a general objective of training and educating attorneys and others in the legal representation of indigent persons.

407 019-604 County Representation

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|-----------|-----------|---------------|-------------------------|-------------------------|
| \$27,573 | \$380,722 | \$151,806 | \$145,374 | \$213,778 | \$240,556 |
| | 1280.8% | -60.1% | -4.2% | 47.1% | 12.5% |

Source: GSF: payments received from counties for 50 percent of the actual cost of legal representation when the State Public Defender is designated by a court or requested by a county public defender or joint county public defender to provide legal representation of an indigent person.

Legal Basis: ORC 120.06(D); originally established by Am. Sub. H.B. 291 of the 115th G.A., the main appropriations act covering FYs 1984 and 1985.

Purpose: This special account can only be used by the State Public Defender to provide legal representation for indigent persons when designated by the court or requested by a county or joint county public defender. When the State Public Defender is so designated or requested, the appropriate county is billed for 50 percent of the cost of this representation and the reimbursement payments are deposited in the state treasury to the credit of Fund 407 (line item 019-604, County Representation).

407 019-610 Trumbull County Office

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|---------|------|---------------|-------------------------|-------------------------|
| \$16,448 | \$0 | \$0 | \$0 | \$0 | \$0 |
| | -100.0% | N/A | N/A | N/A | N/A |

Source: GSF: previously received revenue under a contract with Trumbull County for operation of the Trumbull County Branch Office.

Legal Basis: originally established by Am. Sub. H.B. 152 of the 120th G.A., the main appropriations act covering FYs 1994 and 1995; the statutory authority for this contractual relationship resides in ORC 120.04(C)(7) and 120.33(B).

Purpose: The special account captured the local contribution that assisted in financing the commission's Trumbull County Branch Office, which provided legal indigent defense services to Trumbull County and some neighboring areas in Mahoning County. Pursuant to Am. Sub. H.B. 215 of 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999, this revenue stream and its purpose were moved from Fund 407, County Representation, into new Fund 4X7 (line item 019-610, Trumbull County-County Share). This accounting change was made in order to separate the Trumbull County Branch Office's finances from the other revenue streams that the commission was collecting under its County Representation program. The state's share of those office costs was, and still is, drawn from the commission's GRF line item 019-404.

408 019-605 Client Payments

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|----------|-----------|---------------|-------------------------|-------------------------|
| \$16,394 | \$83,732 | \$112,634 | \$131,453 | \$260,584 | \$285,533 |
| | 410.7% | 34.5% | 16.7% | 98.2% | 9.6% |

Source: GSF: all moneys due the state for reimbursement for indigent defense legal services where defendants are ordered to pay back all or part of the costs of the representation.

Legal Basis: ORC 120.04(B)(5); originally established by Am. H.B. 291 of the 115th G.A., the main appropriations act covering FYs 1984 and 1985.

Purpose: Pursuant to the permanent law that created the fund, all of its moneys shall be used: 1) to appoint assistant state public defenders and to provide other personnel, equipment, and facilities necessary for the commission's operation; 2) to reimburse counties for the operation of county public defender offices, joint county public defender offices, and county appointed counsel system pursuant to sections 120.18, 120.28, and 120.33 of the Revised Code; and 3) to provide assistance to counties in the operation of county indigent defense systems.

Federal Special Revenue Fund Group

3H4 019-609 Death Penalty Resource Center

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|------|----------|----------|------------------|----------------------------|----------------------------|
| \$0 | \$13,514 | \$37,758 | \$0 | \$0 | \$0 |
| | N/A | 179.4% | -100.0% | N/A | N/A |

Source: FED: grant from the Administrative Office of the United States Courts, Defender Services Division; no direct state match required to receive this federal money, however, made with the condition that the state expend a designated amount of money on death penalty appeals and post-conviction cases.

Legal Basis: originally established by Controlling Board on September 24, 1990.

Purpose: The commission was awarded this federal funding for the purpose of operating a resource center staffed by around 5 people, mostly assistant state public defenders. The center provided legal representation and resources in death penalty federal habeas corpus actions. The awarding of the grant was a result of the commission being designated the Federal Death Penalty Resource Center for the Northern and Southern Districts in Ohio by the Sixth Circuit Task Force for Death Penalty Habeas Corpus. The federal grant started around FY 1992 and effectively ended around March of 1996.

3M8 019-611 PD Case Management

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|----------|---------|------------------|----------------------------|----------------------------|
| \$37,491 | \$23,661 | \$0 | \$0 | \$0 | \$0 |
| | -36.9% | -100.0% | N/A | N/A | N/A |

Source: FED: CFDA #16.579, Byrne Memorial Criminal Justice Block Grant.

Legal Basis: originally established by Controlling Board on December 20, 1993.

Purpose: This fund was used to handle a one-time federal grant awarded by the state's Office of Criminal Justice Services. The commission used this federal funding for two primary purposes: 1) automated case management; and 2) technical assistance. Specifically, the commission provided all county public defender offices with a computer, case management software, and training to improve operational efficiencies at the local level. A county outreach program was also developed under which staff, at the request of a county, provided information and resources to improve indigent defense delivery systems.

3M9 019-612 Community Reconciliation

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|----------|--------|---------|---------------|-------------------------|-------------------------|
| \$27,003 | \$889 | \$0 | \$0 | \$0 | \$0 |
| | -96.7% | -100.0% | N/A | N/A | N/A |

Source: FED: CFDA #16.579, Byrne Memorial Criminal Justice Block Grant.

Legal Basis: originally established by Controlling Board on December 20, 1993.

Purpose: This fund was used to handle a one-time federal grant awarded by the state's Office of Criminal Justice Services. Using these grant funds, the commission developed a model community reconciliation program, based in Athens, Ohio, where defendants and their victims met face-to-face to attempt to make things right between themselves.

3S8 019-608 Federal Representation

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|------|--------|-----------|---------------|-------------------------|-------------------------|
| \$55 | \$130 | \$233,176 | \$495,000 | \$564,929 | \$594,247 |
| | 136.4% | 179266.2% | 112.3% | 14.1% | 5.2% |

Source: FED: partial reimbursement payments received from federal courts as a result of federal courts appointing the commission to provide legal representation in federal habeas corpus death penalty cases.

Legal Basis: originally established by Controlling Board on March 2, 1998.

Purpose: All of the moneys in the fund are used by the Death Penalty Division to support its litigation activity in the area of federal habeas corpus.

3U7 019-614 Juvenile JAIBG Grant

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|------|------|------|---------------|-------------------------|-------------------------|
| \$0 | \$0 | \$0 | \$58,500 | \$51,516 | \$54,601 |
| | N/A | N/A | N/A | -11.9% | 6.0% |

Source: FED: CFDA #16.523, Juvenile Accountability Incentive Block Grant (JAIBG).

Legal Basis: originally established by Controlling Board on February 28, 2000.

Purpose: The commission uses the JAIBG grant to bolster its Juvenile Legal Assistance program, which provides a means for incarcerated juveniles to gain access to the courts for appeals. The JAIBG funds employ an assistant state public defender who interviews and screens juveniles at Department of Youth Services' institutions, answers case related questions, and provides direct representation on appeal or other collateral pleadings in cases of arguable merit.

3U8 019-615 Juvenile Challenge Grant

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|------|------|------|---------------|-------------------------|-------------------------|
| \$0 | \$0 | \$0 | \$113,162 | \$118,658 | \$124,984 |
| | N/A | N/A | N/A | 4.9% | 5.3% |

Source: FED: CFDA #16.549, State Challenge Activities.

Legal Basis: originally established by Controlling Board on February 28, 2000.

Purpose: The commission uses the State Challenge grant to bolster its Juvenile Legal Assistance program, which provides a means for incarcerated juveniles to gain access to the courts for appeals. The State Challenge funds employ one assistant state public defender and one dispositional advocate who focus on coordinating services and resources to children charged with crime. Specific activities include providing direct representation to juvenile clients, providing training and technical assistance to public defenders and court appointed counsel, assisting courts and attorneys in finding alternatives to traditional incarceration for juveniles, expanding non-lawyer related support services and resources to public defenders and appointed counsel, offering public defenders and private counsel access to a centralized research brief bank, and distributing educational materials about juvenile due process rights to juveniles and their families.

State Special Revenue Fund Group

4C7 019-601 Multi-County- County Share

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-------------|-------------|-------------|---------------|-------------------------|-------------------------|
| \$1,038,357 | \$1,137,576 | \$1,214,356 | \$1,429,566 | \$1,603,064 | \$1,714,575 |
| | 9.6% | 6.7% | 17.7% | 12.1% | 7.0% |

Source: SSR: payments from ten counties in south and southeastern Ohio for their portion of the costs of operating the commission's Multi-County Branch Office.

Legal Basis: originally established by Controlling Board on December 17, 1990; the statutory authority for this contractual relationship resides in ORC 120.04(C)(7).

Purpose: This special account provides funding for the commission's Multi-County Branch Office which began operation on January 1, 1991. This branch office provides local indigent defense services to ten counties in south and southeastern Ohio. The ten counties are Adams, Athens, Brown, Fayette, Jackson, Meigs, Pickaway, Pike, Ross, and Washington. These ten participating counties have essentially each entered into a contract with the commission to provide indigent defense services in their county. Branch offices are located in Athens, Ross, and Washington counties. In addition to employing state public defenders, the branch office contracts with private attorneys in all ten counties. Each county's contribution to the branch office is deposited in the state treasury to the credit of Fund 4C7 (line item 019-601, Multi-County: County Share). The state's contribution is drawn from the commission's GRF line item 019-403, Multi-County: State Share. The funding split between the state and county shares is the same as it is for the commission's much larger statewide County Reimbursement program under which the state is responsible for up to 50 percent of a county's indigent defense costs.

4X7 019-610 Trumbull County - County Share

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|-----------|-----------|-----------|------------------|----------------------------|----------------------------|
| \$358,099 | \$407,822 | \$429,860 | \$469,317 | \$526,560 | \$564,714 |
| | 13.9% | 5.4% | 9.2% | 12.2% | 7.2% |

Source: SSR: payments from Trumbull County for their portion of the costs of operating the commission's Trumbull County Branch Office.

Legal Basis: originally established by Am. Sub. H.B. 215 of the 122nd G.A., the main appropriations act covering FYs 1998 and 1999; the statutory authority for this contractual relationship resides in ORC 120.04(C)(7).

Purpose: This special account captures the local contribution that assists in financing the commission's Trumbull County Branch Office, which provides legal indigent defense services to Trumbull County. Prior to Am. Sub. H.B. 215 of 122nd General Assembly, the main appropriations act covering FYs 1998 and 1999, this revenue stream and its purpose resided in Fund 407, County Representation. Starting with FY 1998, Fund 4X7 was created along with associated line item 019-610, Trumbull County - County Share. This accounting change was made in order to separate the Trumbull County Branch Office's finances from the other revenue streams that the commission was collecting under its County Representation program. The state's share of those office costs was, and still is, drawn from the commission's GRF line item 019-404.

574 019-606 Legal Services Corporation

| 1998 | 1999 | 2000 | 2001 Estimate | 2002 Executive Proposal | 2003 Executive Proposal |
|--------------|--------------|--------------|------------------|----------------------------|----------------------------|
| \$13,623,708 | \$14,509,545 | \$14,568,109 | \$16,850,000 | \$15,725,233 | \$16,275,558 |
| | 6.5% | 0.4% | 15.7% | -6.7% | 3.5% |

Source: SSR: 1) interest-bearing trust accounts established and maintained by attorneys, law firms, or legal professional associations pursuant to ORC 4705.09 and 4705.10; 2) interest-bearing trust accounts established and maintained by title insurance agents or title insurance companies pursuant to ORC 3953.231; 3) additional filing fees collected by municipal, county, and common please courts on each new civil action or proceeding pursuant to ORC 1901.26, 1907.24, and 2303.201; and 4) gifts, bequests, donations, contributions, and income from investments.

Legal Basis: ORC 120.52

Purpose: Moneys in the fund are used principally for the charitable purpose of distributing financial assistance to legal aid societies that provide civil legal services to indigents. Prior to FY 1994, the commission was permitted to assess the fund for the reasonable costs of administering the state's legal aid society law, with the remainder of the revenue to be distributed to legal aid societies. Pursuant to Am. Sub. H.B. 215 of the 120th General Assembly, the main appropriations act covering FYs 1994 and 1995, the Ohio Legal Assistance Foundation, a charitable, tax exempt foundation, was created to administer the legal program and 4.5 percent of the money in the fund was reserved for the foundation's actual, reasonable costs of program administration.

Amended Substitute Senate Bill 219 of the 115th General Assembly, effective April 4, 1985, established the fund and its revenue stream, which was composed of a temporary additional filing fee on new civil actions and interest-bearing trust accounts established and maintained by attorneys, law firms, and professional legal associations. The temporary additional filing fee was \$5 for new civil actions in municipal and county courts and \$10 in new civil actions in common pleas courts. The temporary additional filing fee was eliminated effective January 1, 1987. In July 1, 1987, a \$1 additional filing fee was instituted on new civil actions.

The main appropriations act covering FYs 1990 and 1991, Am. Sub. H.B. 111 of the 118th General Assembly, increased the additional filing on new civil actions to \$4.

An exemption from the additional filing fee for new civil actions handled by the small claims divisions of municipal and county courts was removed starting in FY 1992.

Amended Substitute House Bill 405 of the 119th General Assembly, effective January 1, 1993, temporarily increased the pre-existing \$4 additional filing fee on new civil actions to: \$15 in municipal, county, and common pleas courts; and \$7 for the small claims divisions in municipal and county courts. These temporary filing fee increases are scheduled to be eliminated effective January 1, 2003, which would reduce the additional filing fee back to its pre-existing \$4 on all new civil actions and proceedings.

The main appropriations act covering FYs 1996 and 1997, Am. Sub. H.B. 117 of the

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121st General Assembly, effective January 1, 1996, increased the fund's revenue stream by including interest-bearing accounts established and maintained by title insurance agents or title insurance companies.

The executive budget proposed for FYs 2002 and 2003, as contained in H.B. 95 of the 124th General Assembly, eliminates the existing permanent law that would otherwise reduce the additional filing fee on new civil actions and proceedings to \$4. Thus, all courts would continue to collect the \$7 and \$15 additional filing fees on all new civil actions and proceedings.