

<b>Judicial Department</b>					
	<b>2017-19 Actual</b>	<b>2019-21 Legislatively Adopted</b>	<b>2019-21 Legislatively Approved *</b>	<b>2021-23 Current Service Level</b>	<b>2021-23 Governor's Budget</b>
General Fund	452,089,382	519,823,309	521,726,139	590,689,470	575,497,680
Other Funds	242,363,787	217,814,418	128,103,433	41,741,842	474,946,372
Federal Funds	900,036	1,355,846	1,374,374	1,476,446	1,476,446
<b>Total Funds</b>	<b>695,353,205</b>	<b>738,993,573</b>	<b>651,203,946</b>	<b>633,907,758</b>	<b>1,051,920,498</b>
Positions	1,896	1,935	1,935	1,835	1,943
FTE	1,773.90	1,817.22	1,817.22	1,804.06	1,904.30
* Includes Emergency Board and administrative actions through January 2021					

### Program Description

The Judicial Department (OJD) includes the judges and administrative staff who operate general-jurisdiction circuit courts, a Tax Court, an intermediate Court of Appeals, and the Oregon Supreme Court. Oregon's 36 counties are consolidated into 27 judicial districts. Oregon's justice, county, and municipal courts fall outside the jurisdiction of the department.

The Department has no control over the number of case filings it receives, and has legal restrictions on its ability to manage its caseload. OJD workload is driven by a number of factors, including: the number and complexity of cases filed; the impact of social issues, such as drug abuse and family dissolution; crime rates; and the effect of new laws and regulations. Case types vary in their impact on judicial resources and staff. Criminal felony, misdemeanor, juvenile, and complex civil case types have the greatest workload impact on judicial and staff resources. Violations and Small Claims cases have a lower impact on such resources.

The budget is organized into the following program areas: trial courts; judicial compensation, administrative and central support, appellate and tax courts, mandated payments for jury trials and grand jurors, State Court Facilities Security Account, third party debt collection, pass-through payments, Oregon eCourt, capital construction, Oregon Courthouse Capital Construction and Improvement Fund, and debt service.

Pass-through payments include funding for: Legal Aid services, county law libraries, county mediation/conciliation programs, the Council on Court Procedures, and the Oregon Law Commission. Capital construction is for the Oregon Supreme Court Building, a state building, and the Oregon Courthouse Capital Construction and Improvement Fund is for the replacement funding of county courthouses. The State Court Facilities Security Account provides security improvements, emergency preparedness, and business continuity and associated facility upgrades for state and county courts.

The Department is responsible for the collection of certain money owed to the state from statutory filing fees and court-imposed financial obligations in violation and criminal cases. It collects most of its revenue directly and distributes the revenue according to statute. A majority of court-generated revenues are distributed to the General Fund and Criminal Fine Account, with lesser amounts going to victims of crime, to cities and counties, and for other state costs.

If the Department cannot directly collect the money owed it refers the delinquent accounts to contracted third-party collectors such as the Department of Revenue or private collections firms. Most of these third-party collections are for past-due fines in criminal cases and for restitution and compensatory fines owed to crime victims.

Federal Funds come from a continuing grant for a Juvenile Court Improvement Project and a new grant supporting Family Treatment Courts. Both grants have a 25% matching funds requirement.

As a constitutionally separate branch of government, OJD operates independent of the Governor and the Executive Branch. The Executive Branch makes no recommendation and exercises no budgetary control over OJD's budget. That responsibility falls solely to the Legislature. In addition, OJD is statutorily exempt from many statutes that apply to executive branch agencies, such as allotment authority, human resources, compensation, procurement, and information technology; however, OJD does try to maintain parity with Executive Branch statutory requirements.

#### CSL Summary and Issues

The 2021-23 current service level budget for the agency totals \$633.9 million total funds, which includes \$590.7 million General Fund, \$41.7 million Other Funds, and \$1.5 million Federal Funds. The budget includes 1,835 positions and 1,804.06 FTE. The CSL is \$14.2 million, or 2.1%, less than the 2019-21 legislatively approved budget of \$648.1 million. There are 100 fewer positions (13.16 less FTE), primarily due to a technical change that eliminated 82 position counts (no FTE) for Pro Tem and Plan B judges.

A reduction of \$18.5 million to the current services level General Fund debt service is needed due to account for a delayed Article XI-Q general obligation bond issuance from the spring of 2021 bond issuance to the spring of 2023 for several Oregon Courthouse Capital Construction and Improvement Fund projects (Clackamas, Lane, and Linn county court houses).

The modified current service level budget includes one revenue shortfall reduction of \$3.3 million Other Funds in services and supplies and which is related to the State Court Technology Fund used to pay for the maintenance and operations of the Oregon eCourt system and other state court technology services. The Department has introduced HB 2177, which would authorize a state court technology fee charged to counties based on the number of criminal cases filed in the previous year by the county district attorney. Public entities currently are not charged for electronic document filing, remote document access, and other services. OJD has estimated that this measure would raise an estimated \$3.3 million per biennium.

The Department has expressed concern about the adequacy of General Fund support for third-party debt collection payments, which in recent biennia has required supplemental funding in the form of an end-of-biennium rebalance to ensure funding successful collections already completed.

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Like the Legislative Branch, Judicial Branch agencies are allowed to keep any unspent General Fund balances at the end of a biennium.

### Policy Issues

The Legislature in 2021 will likely continue discussions around public safety system and policing reforms as well as the implementation of Ballot Measure 110 (2020) and the decriminalization of certain drug offenses. OJD-requested legislation for court collections, criminal case initiation fee, tax court fee, Aid-and-Assist reform, Chief Justice authority during declared emergencies, Judicial Marshall PERS retirement, and a general housekeeping measure.

### Pandemic

Courts have remained open during the pandemic and the Department has been able to conduct many circuit, appellate, and tax court proceedings remotely. Circuit courts are providing essential services such as hearings in emergency and routine protective orders and restraining orders; however, while bench and jury trials are taking place, courts are operating at approximately half their pre-pandemic capacity due to delays caused by longer remote proceeding processes and social distancing challenges. The growing backlog of cases due to the pandemic, and new case surges arising from the pandemic (e.g., , domestic relations, Habeas Corpus) and expected after the pandemic (evictions, juvenile dependency), will strain future court operations. The technological divide or lack of internet access is a challenge for some participating in legal processes, especially for self-represented litigants. Of benefit, however, has been the Oregon eCourt program, which has allowed remote electronically filings, remote access of court documents, and the electronic processing of payments.

### Other Significant Issues and Background

The Chief Justice has submitted a number of budget requests for consideration by the Legislature some of which include the following:

**Statutory Judgeships (\$2.8 million; 12 positions/11.64 FTE)** - requests three circuit court judgeships (plus staff) in three counties, including Deschutes and Douglas starting September 2021. Establishing statutory judgeships requires legislation; however no associated legislative concept has been introduced. The Legislature in 2020 sought to add three judgeships (two for Deschutes County and one for Douglas), but that legislation remained in committee upon adjournment (section 26 of HB 4163).

**Appellate/Tax Courts (\$410,316 General Fund; two positions/2.00 FTE)** - requests a Tax Court clerk to handle expected Corporate Activity Tax (CAT) litigation and a clerk position in the Appellate Commissioner's office to expedite appellate court motions. Of note is that the CAT is Other Funds.

**Disparate Outcomes (\$3.72 million General Fund and 18 positions/17.5 FTE)** - request for data collection and analysis to track and reduce disparate outcomes.

**Statewide Pre-Trial Release Program (\$4.1 million General Fund and 21 positions/20.65 FTE)** - request to develop and implement a statewide court-sponsored pretrial release program.

**Aid-and-Assist Coordinator (\$1.9 million General Fund and ten positions/8.75 FTE)** - request to add staff to promote local treatment of persons with substance abuse disorder and/or mental illness and reduce State Hospital admissions for individuals not able to aid and assist in their defense to criminal charges.

**Online Dispute Resolution Program (\$2.5 million General Fund and two positions/1.76 FTE)** - request to develop a 24/7 access to mediation services.

**Centralized Child Support Adjudication Process (\$0.7 million General Fund and \$0.9 million Other Funds and nine positions/7.44 FTE)** - request to centralize and streamline child support dockets and services.

**Information Technology Support (\$5.1 million General Fund and two positions/2.00 FTE)** - request additional information technology and security resources for remote judicial services.

**State Court Facilities Security Account Fund (\$950,000 Other Funds)** - requests security and efficiency improvements in Josephine and Klamath County courthouses.

**Capital Construction (\$21.7 million Article XI-Q)** - requests bonding authorization to complete Supreme Court Building project for final funding for seismic protection and building system modernization.

**Oregon Courthouse Capital Construction and Improvement Fund (\$4.9 million General Fund and \$401.3 million Other Funds, including state match of \$199.5 million)** - requests bonding authorization for Benton County Courthouse (\$26.6 million); Clackamas County Courthouse (\$63 million); Lane County Courthouse (\$94 million); and Linn County Courthouse (\$15.9 million). The request also includes state matching funds to plan new replacement projects in Crook, Curry, and Josephine counties. An equal amount of county matching funding is included for each project.

**Debt Service (\$0 General Fund)** - There is no policy package enhancement request for General Fund debt service during the 2021-23 biennium. This is because the requested bond sale are structured to be issued late in the biennium (March 2023). The 2025-27 biennium General Fund debt service cost is estimated to be \$31.3 million, which includes \$3.2 million for the Supreme Court Building project and \$27.9 million for select county courthouse projects.

#### Governor's Budget

The Governor's budget totals \$1.1 billion total funds, which includes \$575.5 million General Fund, \$474.9 million Other Funds, and \$1.5 million Federal Funds. The budget includes 1,943 positions and 1,904.30 FTE. The budget eliminates all General Fund policy packages plus includes a two percent (unspecified) General Fund reduction which when combined totals a \$23.2 million reduction from the Chief Justice's recommended budget. The two percent reduction to the current service level alone totals \$11.8 General Fund. This reduction is meant to be a proportionate reduction taken by both the Executive and Legislative Branches of Government. All Other Fund requests were approved, including capital project funding for the Supreme Court Building and all Oregon Courthouse Capital Construction and Improvement Fund projects.

#### Reduction options

General Fund reduction options for the Department are more limited than Executive Branch agencies for the following reasons: (a) constitutionally-directed need for circuit and appellate courts; (b) constitutional restrictions on reducing judicial compensation; (c) mandated payments for jury trials and grand jurors; (d) contractually-mandated debt service related to state and county courthouse construction; and (e) Third Party Debt Collections. These limitations shift the focus of reductions to select court staff and operations and departmental-wide support functions as well as pass-through payments.

#### Key Performance Measures

A copy of OJD's Annual Performance Progress Report can be found on the LFO website:

[https://www.oregonlegislature.gov/lfo/APPR/APPR\\_OJD\\_2020-09-23.pdf](https://www.oregonlegislature.gov/lfo/APPR/APPR_OJD_2020-09-23.pdf)