

**HB 5030 A BUDGET REPORT and MEASURE SUMMARY**

**Carrier:** Sen. Prozanski

**Joint Committee On Ways and Means**

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**Action Date:** 06/11/21

**Action:** Do pass the A-Eng bill.

**Senate Vote**

**Yeas:** 12 - Anderson, Frederick, Girod, Golden, Gorsek, Hansell, Johnson, Knopp, Lieber, Steiner Hayward, Taylor, Thomsen

**House Vote**

**Yeas:** 11 - Bynum, Drazan, Gomberg, Leif, McLain, Nosse, Rayfield, Sanchez, Smith G, Sollman, Stark

**Prepared By:** April McDonald, Department of Administrative Services

**Reviewed By:** John Borden, Legislative Fiscal Office

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**Public Defense Services Commission**

**2021-23**

**Emergency Board**

**2021-23**

**Public Defense Services Commission**

**2019-21**

**Budget Summary\***

	2019-21	2021 - 23	2021-23	Committee Change from 2019-21	
	Legislatively Approved Budget <sup>(1)</sup>	Current Service Level	Committee Recommendation	Leg. Approved	
				\$ Change	% Change
General Fund	\$ 342,078,348	\$ 396,803,692	\$ 321,374,582	\$ (20,703,766)	-6.1%
Other Funds Limited	\$ 13,586,941	\$ 4,449,667	\$ 18,449,667	\$ 4,862,726	35.8%
Total	\$ 355,665,289	\$ 401,253,359	\$ 339,824,249	\$ (15,841,040)	-4.5%

**Position Summary**

	2019-21	2021 - 23	2021-23	Committee Change from 2019-21
				Leg. Approved
Authorized Positions	90	79	108	18
Full-time Equivalent (FTE) positions	86.47	78.80	104.72	18.25

<sup>(1)</sup> Includes adjustments through January 2021

\* Excludes Capital Construction expenditures

**Emergency Board**

	2019-21	2021 - 23	2021-23	Committee Change from 2019-21	
	Legislatively Approved Budget <sup>(1)</sup>	Current Service Level	Committee Recommendation	Leg. Approved	
				\$ Change	% Change
General Fund	\$ -	\$ -	\$ 100,000,000	\$ 100,000,000	100.0%
Total	\$ -	\$ -	\$ 100,000,000	\$ 100,000,000	100.0%

**2019-21 Supplemental Budget**

	2019-21	2019-21	Committee Change	
	Legislatively Approved Budget <sup>(1)</sup>	Committee Recommendation	\$ Change	% Change
General Fund	\$ 342,078,348	\$ 345,860,348	\$ 3,782,000	1.1%
Total	\$ 342,078,348	\$ 345,860,348	\$ 3,782,000	1.1%

## **Summary of Revenue Changes**

The Public Defense Services Commission (PDSC) is primarily supported by General Fund. Other Funds are sourced from Title IV-E Federal Funds, received as Other Funds from the Department of Human Services, and fees associated with the Application Contribution Program (ACP). In 2019, federal policy was revised, allowing Oregon to claim Title IV-E funds for administrative reimbursement of costs associated with legal representation of a child or parent in foster care proceedings. Reimbursement for training of contracted legal services providers is also included. In the 2021-23 biennium, PDSC anticipates \$14.0 million Federal as Other Funds for Title IV-E as reimbursement for state expenses.

Other Funds revenue for ACP is collected in accordance with ORS 151.487, which provides judges the authority to order those who apply for court-appointed counsel to pay the administrative costs of determining their eligibility and a “contribution amount” toward the anticipated cost of the public defense prior to conclusion of the case. The Judicial Branch Verification Specialists assist the courts in determining whether a person must pay these costs. This revenue is deposited in the Public Defense Services Account and used to fund the operating expenses of the ACP. Anticipated ACP revenues for the 2021-23 biennium is approximately \$4.4 million Other Funds. Of that amount, \$3.6 million will be transferred to the Judicial Department (OJD) to fund the verification specialist positions.

## **Summary of Public Safety Subcommittee Action**

PDSC is responsible for establishing and maintaining a public defense system that ensures the provision of public defense services in the most cost-efficient manner, consistent with the Oregon Constitution and the United States Constitution, as well as state and national standards of justice. The Commission is an independent body governing the Office of Public Defense Services, as the administrative agency. The Chief Justice of the Oregon Supreme Court appoints members to the Commission. With the recent passage of House Bill 2003 (2021), membership of the Commission was expanded from seven to nine members who demonstrate a record of supporting public defense.

The 2021-23 recommended budget includes an agency reorganization to provide better transparency, program management, and oversight. Previously, PDSC had three divisions: the Appellate Division, the Contract and Business Services Division, and the Professional Services Account. The recommended budget maintains, but reorganizes, the Appellate Division and structures the agency into seven additional divisions to make service delivery and budget authority more visible. The new divisions include the Executive Division, the Compliance, Audit and Performance Division, the Trial Criminal Division, Non-routine Expenses, Court Mandated Expenses, the Juvenile Division, and the Administrative Services Division.

The Subcommittee approved a budget of \$339,824,249 total funds, comprised of \$321,374,582 General Fund, \$18,449,667 Other Funds expenditure limitation and 108 positions (104.72 FTE). The approved total funds budget is 4.5% lower than the 2019-21 legislatively approved budget, and is 15.3% lower than the 2021-23 current service level budget. The decline in the recommended budget is predominantly due to a General Fund holdback totaling \$100 million across four divisions. The General Fund will be placed in a special purpose appropriation, appropriated to the Emergency Board for PDSC. The holdback also is reflective of an inordinately high degree of uncertainty related to

procurement costs. The 2021-23 recommended budget, assuming restoration of the General Fund holdback, represents an \$84.2 million increase over the 2019-21 legislatively approved budget and a \$38.6 million increase to the 2021-23 current service level. The Subcommittee recommended the following budget note:

**Budget Note:**

The Public Defense Services Commission is directed to report to the Joint Committee on Ways and Means during the Legislative Session in 2022, and quarterly thereafter to the Legislative Emergency Board, on the Commission’s restructuring and modernization efforts. The release of special purpose appropriation to the Commission is contingent upon the Commission’s satisfactory progress, as determined by the Legislature and/or the Legislative Emergency Board, in executing the Legislative direction in HB 5030 budget report, and as related to Legislative expectations regarding the restructuring, modernization, financial controls, quality management, performance metrics, and governance of the agency. Reporting is to also include, but is not limited to, updated caseload and financial forecasts; procurement activities, including contract amendments and the alignment of contracting with the biennial budget process as well as the separation of adult criminal and juvenile trial-level contracts; and human resources activities, including the hiring of positions, staff turnover, unbudgeted position actions, compensation plan changes, and staff morale.

**Appellate Division**

The Appellate Division provided constitutionally and statutorily mandated representation in the appellate courts to those financially eligible for services. As part of the recommended reorganization, the Appellate Division has been abolished as the first budget structure in PDSC and reestablished within the new agency structure. The following package represents the Division’s abolishment:

Package 801, LFO Analyst Adjustments. This package abolishes the Appellate Division by transferring \$26,935,314 General Fund, representing the current service level, and 56 positions (55.80 FTE) into new budgetary structures, including the re-established Appellate Division. The purpose of this package is to reorganize the budgetary structure along the agency’s major lines of business, as the former structure was outdated and inadequate to manage agency programs and activities and provide oversight.

**Professional Services Account**

The Professional Services Account budget structure was intended to fund legal representation, primarily for cases in trial courts or juvenile courts, for those eligible for public defense services. As part of the recommended reorganization, the Professional Services Account budgetary structure has been abolished and the operational function has been reorganized into PDSC’s new structure. The following package represents the Division’s abolishment:

Package 801, LFO Analyst Adjustments. This package abolishes the budgetary structure for the Professional Services Account by transferring \$360,887,469 General Fund and \$3,591,305 Other Funds expenditure limitation for the ACP, into new budgetary structures as part of the agency's reorganization. The transfer of funding is equivalent to the current service level. The purpose of this package is to reorganize the

budgetary structure along the agency's major lines of business, as the former structure was outdated and inadequate to manage agency programs and activities and provide oversight. The abolishment of this structure further clarifies PDSC's budget as predominantly funded through the appropriation of General Fund rather than the Professional Services Account.

### **Contract and Business Services Division**

The Contract and Business Services Division was intended to administer all of the public defense services contracts and provide administrative support to the staff in the Appellate Division. As part of the recommended reorganization, the Contract and Business Services Division has been abolished and the operational function has been reorganized into PDSC's new structure. The following package represents the Division's abolishment:

Package 801, LFO Analyst Adjustments. This package abolishes the Contract and Business Services Division by transferring \$8,980,909 General Fund, \$858,362 Other Funds expenditure limitation for the ACP, and 23 positions (23.00 FTE) into newly established budgetary structures as part of the agency's reorganization. The transfer of funding and positions is equivalent to the current service level. The purpose of this package is to reorganize the budgetary structure along the agency's major lines of business, as the former structure was outdated and inadequate to manage agency programs and activities and provide oversight.

### **Executive Division**

The Executive Division is a newly established Division organized into the following sections: (1) Administration; (2) General Counsel Staff; and (3) Communications and Legislation. The Division provides the leadership function and governance structure of the agency under the Commission and includes staff to support the Commission, the Executive Director, General Counsel, and Communications and Legislative Affairs.

The Subcommittee recommended a budget of \$3,600,361 General Funds and eight positions (7.88 FTE). The recommended budget includes the following packages:

Package 801, LFO Analyst Adjustments. This package establishes the Executive Division's budget at the current service level by transferring \$2,408,960 General Fund and five permanent positions (5.00 FTE) from abolished budget structures, as part of the agency's reorganization. Positions include:

- One permanent full-time Executive Director (1.00 FTE)
- One permanent full-time General Counsel (1.00 FTE)
- One permanent full-time Executive Assistant (1.00 FTE)

- One permanent full-time Operations and Policy Analyst 4 (1.00 FTE)
- One permanent full-time Operations and Policy Analyst 2 (1.00 FTE)

The Operations and Policy Analyst 4 and the Operations and Policy Analyst 2 shall be converted to limited duration until the long-term need for these positions can be ascertained.

Package 802, 2019-21 Interim Actions. This package provides an increase of \$461,692 General Fund and re-authorizes the establishment of one permanent full-time Deputy General Counsel position (1.00 FTE). Associated services and supplies are also included, totaling \$11,444 General Fund. This action was previously approved by the Emergency Board in April 2020.

Package 806, Deputy Director. This package increases General Fund by \$729,709 and authorizes the establishment of one permanent full-time Deputy Director (0.88 FTE) and one permanent full-time Executive Assistant (1.00 FTE). The package includes \$21,458 in associated services and supplies. The purpose of this package is to provide for an agency Deputy Director, who reports directly to the Executive Director and serves in the capacity of the Executive Director, in their absence. This position is also intended to improve the coordination and oversight of the agency's legal and non-legal functions. The legislative expectation is that this position will be subject to a competitive recruitment.

The Executive Assistant position is intended for the staff of the Multnomah County Courthouse. Housed within this office space is a “Public Defense Resource Center,” whose purpose is to provide a meeting space for Portland public defenders, as well as offices for state Appellate Division staff and managing trial-level attorneys.

### **Compliance, Audit and Performance Division**

The Compliance, Audit and Performance Division has been established to help strengthen the agency’s program management, performance, and oversight. The Division is organized into the following sections: (1) Administration; (2) Trial Criminal Compliance; (3) Juvenile/Parent Child Representation Program (PCRP) Compliance; (4) Research, and (5) Internal Audit, which reports directly to the Commission. The Division provides the following mutually inclusive services: (a) vendor contract compliance; (b) auditing of expenditures related to vendor contracts; (c) internal auditing of agency expenditures; (d) research and analysis; and (e) development and maintenance of performance measures, including Key Performance Measures and supporting Key Performance Indicators.

The Subcommittee recommended a budget of \$4,656,251 General Fund and 13 positions (11.27 FTE). The recommended budget includes the following packages:

Package 801, LFO Analyst Adjustments. This package establishes the Compliance, Audit and Performance Division budget at the current service level by transferring \$980,445 General Fund and two positions (2.00 FTE) from abolished budget structures as part of the agency's reorganization. The Subcommittee recommended the following budget note related to this division:

**Budget Note:**

The Public Defense Services Commission is directed to develop a comprehensive program plan for the Compliance, Audit, and Performance Division, which is to include, but is not limited to: (a) the administration of the Criminal Trial, Non-Routine Expenses, Court-Mandated Expenses, and Juvenile Divisions; (b) quality assurance/control plans for Criminal Trial, Non-Routine Expenses, Court-Mandated Expenses and Juvenile Divisions, including the PRCRP, and the Appellate Division; and (c) the development of Key Performance Indicators and Key Performance Measures for the agency. The Commission is directed to submit the plan to the Legislative Emergency Board in September of 2022 and then Key Performance Indicators and Key Performance Measurements to the Legislature prior to the Legislative Session in 2023.

Package 802, 2019-21 Interim Actions. This package increases General Fund by \$1,007,718 and re-authorizes the establishment of two permanent full-time Deputy General Counsel positions (2.00 FTE). The package includes \$22,888 in associated services and supplies. This action was previously approved by the Emergency Board in April 2020. The purpose of this package is to establish two positions to oversee the work of the contract lawyers involved in criminal law.

Package 805, External and Internal Auditing. The purpose of this package is to permanently establish an Internal Audit Section within the agency, whose purpose is to conduct internal audits of agency operations, as well as procured services. The Internal Audit Section is to report directly to the Commission. Moreover, this package provides funding for an external financial and performance audit of the agency, by way of a contract with the Secretary of State Audits Division. This package increases General Fund by \$854,520 and authorizes the establishment of two permanent full-time Internal Auditor positions (1.76 FTE). This amount includes \$370,028 in associated services and supplies, of which \$350,000 is a one-time increase of professional services for an independent financial and performance audit of the agency. The Subcommittee recommended the following budget notes:

**Budget Note:**

The Public Defense Services Commission, under the direction and guidance of the Secretary of State Audits Division, and based upon the direction and guidance of the Joint Committee on Legislative Audits, is to contract for a comprehensive external financial and performance audit of the agency. The Commission is to submit the audits, and the agency's responses to the audits, to the Interim Joint Committee on Legislative Audits no later than September 2022.

**Budget Note:**

The Public Defense Services Commission is directed to report to the Joint Committee on Legislative Audits during the Legislative Session in 2022 on the establishment of the Commission’s internal audit function. The report is to include the internal audit staff reporting structure to the Commission as well as internal audit plans for the 2021-23 biennium and the 2023-25 biennium. The Commission may consider the establishment of an Audit Committee comprised of a subset of Commissions members with quarterly reporting to the full Commission.

Package 807, Compliance and Research Function. This package increases General Fund by \$1,813,568 and authorizes the establishment of seven permanent full-time positions (5.51 FTE), which include the following:

- Criminal Trial Section - one permanent full-time General Counsel position for Criminal Trial (0.75 FTE); one permanent full-time Deputy General Counsel (0.50 FTE);
- Juvenile Section - abolish one permanent full-time Deputy General Counsel and establish one permanent full-time General Counsel; establish one permanent full-time Deputy General Counsel (1.00 FTE);
- Research Section - one permanent full-time Research Analyst 4 position (0.75 FTE) for Criminal Trial; one permanent full-time Research Analyst 4 position (0.75 FTE) for the Juvenile Section; and two limited duration Operations and Policy Analyst 2 positions (1.76 FTE).

The intent of this package is to provide additional quality assurance for Criminal Trial, Research Analysts for analytics and research on public defense outcomes for trial level and juvenile cases, and data analysts for the agency. The legislative expectation is that these positions will all be part of a competitive recruitment process.

**Appellate Division**

As part of the recommended agency reorganization, the Appellate Division has been reestablished and includes the Administration, Criminal Appellate, and Juvenile Appellate sections. The Division provides state and federal appellate court defense for financially eligible defendants. This includes appellate representation for financially eligible parents and children in cases of juvenile dependency, as well as termination of parental rights cases. The Appellate Division, Criminal Appellate section, serves a mandated caseload and is to be budgeted based on anticipated caseload changes for state constitution or court actions.

The Subcommittee recommended a budget of \$24,925,503 General Funds and 57 positions (56.80 FTE). The recommended budget includes the following packages:



Package 801, LFO Analyst Adjustments. This package reestablishes the Appellate Division budget at the current service level by transferring \$24,516,578 General Fund and 56 positions (55.80 FTE) from the abolished Appellate Division budget structure as part of the agency's reorganization.

Package 803, CSL Deficits. This package increases General Fund by \$408,925 and authorizes the establishment of one permanent full-time Senior Deputy Defender (1.00 FTE). The package includes \$11,444 for associated services and supplies. The purpose of this package is to augment staffing for appellate representation of financially eligible parents and children in juvenile dependency cases and termination of parental rights cases.

### **Trial Criminal Division**

The Trial Criminal Division funds trial-level public defense for financially eligible defendants in the following cases: (a) criminal; (b) civil commitments; (c) contempt; and (d) representation in juvenile dependency and termination of parental rights cases in counties not participating in PCR. Contract services are provided by non-profit public defender offices, law firms, consortia of attorneys, and sole practitioners. The Division is organized into the following sections: (1) Administration; (2) Appellate; (3) Trial Level; and (4) Juvenile. The Trial Criminal Division is subject to a mandated caseload and is to be budgeted based on anticipated caseload changes for state constitution or court actions.

The Subcommittee recommended a budget of \$186,458,931 General Funds, and no positions or FTE. The recommended budget includes the following packages:

Package 801, LFO Analyst Adjustments. This package establishes the Trial Criminal Division budget at the current service level by transferring \$255,804,275 General Fund from abolished budget structures as part of the agency's reorganization. The Division's budget is comprised exclusively of services and supplies, expended as professional services.

Budget Instructions: PDSC is directed to move Trial Criminal contracts to a biennial, or biennial fiscal year, contracting model beginning with the 2023-25 biennium. The agency has historically let procurement contracts on a two calendar year basis, which has resulted in a misalignment with the biennial budget.

Budget Instructions: By July 1, 2022, PDSC is to begin the procurement of trial-level representation to parents in juvenile dependency cases and termination of parental rights cases as contracts separate and distinct from Trial Criminal procurement.

Package 803, CSL Deficits. This package increases General Fund by \$905,645 for professional services to fully fund Trial Criminal Division expenses at current service level based on contract and contract amendment costs, as of May 2021.

Package 820, General Fund Holdback. This package reduces General Fund by \$70,250,989 for professional services. The General Fund held back in this package will be placed in a special purpose appropriation (SPA) appropriated to the Emergency Board for PDSC. The holdback of General Fund is deemed necessary, as the Commission is statutorily exempt from allotment authorities (ORS 291.232) and, therefore, the Legislature is unable to request the unscheduling of agency funds.

### **Non-Routine Expenses**

The Non-Routine Expenses Division funds "reasonable and necessary" public defense related case costs, including transcriptionists, investigators, interpreters, mitigators, social workers, psychologists, polygraph examiners, and forensic experts, such as firearm experts, arson experts, deoxyribonucleic acid (DNA) experts, and medical experts. The Division is organized into the following sections (1) Administration; (2) Appellate; (3) Trial Level; and (4) Juvenile. As with expenditures in the Appellate and Trial Criminal divisions, non-routine expenses are driven by a mandated caseload and therefore the Division should be budgeted based on anticipated caseload changes for state constitution or court actions.

The Subcommittee recommended a budget of \$43,663,533 General Fund, and no positions or FTE. The recommended budget includes the following packages:

Package 801, LFO Analyst Adjustments. This package establishes the Non-Routine Expenses budget at the current service level by transferring \$62,751,518 General Fund from abolished budget structures, as part of the agency's reorganization. The Division's budget is comprised exclusively of services and supplies, expended as professional services.

The current service level includes \$917,915 General Fund for interpreter and investigator rate increases approved by the Emergency Board in April of 2020 (Item #11). However, PDSC made the administrative decision to only provide a rate increase to investigators. The hourly rate for investigators in non-capital cases increased from \$34 to \$40 per hour, resulting in a 17.6% increase.

Budget Instructions: PDSC is directed to move Non-Routine Expenses to a biennial billing model beginning with the 2023-25 biennium.

Package 803, CSL Deficits. This package reduces the Division's professional services budget by \$4,533,474 General Fund to reconcile current service level funding with forecasted expenses, as of May 2021.

Package 820, General Fund Holdback. This package reduces the Division's professional services budget by \$14,554,511 General Fund. The General Fund held back in this package will be placed in a SPA appropriated to the Emergency Board for PDSC. The holdback of General Fund is deemed necessary, as the Commission is statutorily exempt from allotment authorities (ORS 291.232) and, therefore, the Legislature is unable to request the unscheduling of agency funds.

## **Court Mandated Expenses**

The Court Mandated Expenses Division funds trial and appellate representation for the following (a) the provision of attorney services not funded through a normal provider contract; and (b) discovery, postage, photocopying, parking, mileage, basic interpreter services, and costs associated with obtaining certain types of records (up to \$300). The Division is organized into the following sections: (1) Administration; (2) Appellate; (3) Trial Level; (4) Juvenile; and (5) the Application Contribution Program (ACP). The Court Mandated Expenses Division is subject to a mandated caseload and is to be budgeted based on anticipated caseload changes for state constitution or court actions.

The Subcommittee recommended a budget of \$15,006,403 General Fund, \$4,449,667 Other Funds expenditure limitation and no positions or FTE. The recommended budget includes the following packages:

Package 801, LFO Analyst Adjustments. This package establishes the Court Mandated Expenses budget at current service level by transferring \$20,025,025 General Fund and \$4,449,667 Other Funds expenditure limitation for the ACP, from abolished budget structures as part of the agency's reorganization. The Division's budget is comprised exclusively of services and supplies, expended as professional services. This package also consolidates ACP revenues into a single program. ACP revenue supports a special payment of \$3,591,305 to OJD for the program Verification Specialist positions, as well as a portion of Court Mandated expenses. ACP revenues will no longer be used to fund PDSC personnel costs, which have been fund shifted from Other Funds to General Fund.

Budget Instructions: PDSC is directed to move Court Mandated Expenses to a biennial billing model beginning with the 2023-25 biennium.

Package 803, CSL Deficits. This package reduces General Fund by \$16,487 for professional services in order to reconcile current service level funding with forecasted expenditures, as of May 2021.

Package 820, General Fund Holdback. This package reduces General Fund by \$5,002,135 for professional services. The General Fund held back in this package will be placed in a SPA appropriated to the Emergency Board for PDSC. The holdback of General Fund is deemed necessary, as the Commission is statutorily exempt from allotment authorities (ORS 291.232) and, therefore, the Legislature is unable to request the unscheduling of agency funds.

## **Juvenile Division**

The Juvenile Division provides trial-level representation to financially eligible parents and children in cases of juvenile delinquency, juvenile dependency, and those involving the termination of parental rights. The Division is divided into the following sections: (1) Administration; (2) Juvenile Expenses (non-PCR); (3) PCR Expenses; and (4) Title IV-E Federal as Other Funds. For budget purposes, the caseload of the Juvenile Division is not designated as a mandated caseload.

PDSC provides juvenile representation through two models; PCRCP provider contracts, and trial-level contracts in the non-PCRCP counties. Oregon's 10 counties participating in the PCRCP include Linn and Yamhill (2014); Columbia (2016); Coos and Lincoln (2018); Multnomah, Benton, Clatsop, Douglas, and Polk (2020). PCRCP contracts include attorneys and social work case managers serving as agents of the attorneys in select cases. Currently, trial-level contracts for counties not participating in the PCRCP are budgeted under the Criminal Trial Division. However, it is anticipated PDSC will separate adult criminal and juvenile trial-level contracts prior to July 2022 and report, as directed in the first budget note. As part of this separation, the appropriate budget for juvenile trial-level contracts will be transferred to the Juvenile Division.

The Subcommittee recommended a budget of \$30,577,095 General Fund, \$14,000,000 Other Funds expenditure limitation, and no positions or FTE. The recommended budget includes the following packages:

Package 801, LFO Analyst Adjustments. This package establishes the Juvenile Division budget at the current service level by transferring \$21,448,525 General Fund from abolished budget structures as part of the agency's reorganization.

Budget Instructions: By July 1, 2022, PDSC is to begin the procurement of trial-level representation to parents in juvenile dependency cases and termination of parental rights cases as contracts separate and distinct from Trial Criminal procurement.

Package 802, 2019-21 Interim Actions. This package reflects federal reimbursement for legal representation of financially eligible parents and children involved in foster care under the PCRCP. Title IV-E funding for PCRCP first became available during the 2019-21 biennium. It is received as Other Funds via a transfer from the Department of Human Services. This package reduces General Fund by \$14,000,000 and increases Other Funds expenditure limitation by \$14,000,000 to reflect the availability of Title IV-E funding as reimbursement for state expenses. A similar action was approved by the Legislature during the 2020 2nd special session. However, the amount has increased from \$9,000,000 to \$14,000,000, based upon the most current agency estimate. The legislative intent is to follow a consistent and long-term approach for budgeting Title IV-E funding.

Budget Instructions: PDSC is to apprise the Legislative Fiscal Office of any material change in Title IV-E funding received from the Department of Human Services.

Package 803, CSL Deficits. This package increases General Fund by \$22,899,406 for professional services in order to reconcile current service level funding with forecasted expenditures for juvenile trial-level contracts in 26 counties, as of May 2021.

Package 804, PCRCP Deficit. This package increases General Fund by \$10,421,529 for professional services in order to fund the following:

- Expansion of PCRCP into Benton, Clatsop, Douglas, and Polk counties during the 2019-21 biennium; and

- Financial support enabling a carve-out of existing PCRPs counties from trial-level contracts, which may include the Multnomah County expansion.

Of note, PDSC's administrative decision to expand into Benton, Clatsop, Douglas, and Polk counties was undertaken without legislative authorization or the prerequisite of legislative budgetary authorization.

Package 820, General Fund Holdback. This package reduces General Fund by \$10,192,365 for professional services. The General Fund held back in this package will be placed in a SPA appropriated to the Emergency Board for PDSC. The holdback of General Fund is deemed necessary, as the Commission is statutorily exempt from allotment authorities (ORS 291.232) and, therefore, the Legislature is unable to request the un-scheduling of agency funds.

### **Administrative Services Division**

The Administrative Services Division provides agency-wide administrative support and central services for the agency. The newly established division is organized into the following sections based on service delivery:

- Administration
- Budget
- Accounting/Accounts Payable
- Human Resources
- Procurement
- Facilities
- Information Services

The Subcommittee recommended a budget of \$12,486,505 General Fund and 30 positions (28.77 FTE). The recommended budget includes the following packages:

Package 801, LFO Analyst Adjustments. This package establishes the Administrative Services Division budget at the current service level by transferring \$8,868,366 General Fund and 16 positions (16.00 FTE) from abolished budget structures, as part of the agency's reorganization. The recommendation includes a \$250,000 professional services reduction.

Package 802, 2019-21 Interim Actions. This package reflects actions previously approved by the Emergency Board in April 2020. It provides \$1,518,690 General Fund and six full-time positions (6.00 FTE). This includes one permanent Program Manager 4 to oversee procurement, one permanent Program Manager 1 to oversee accounts payable, two limited duration Human Resource Analyst 2 positions to address increased workload associated with new positions and implementation of Workday, and two permanent Accounting Technician 2 positions to assist in

the timely processing of payments. The two Human Resource Analyst 2 positions are established as limited duration until the workload of the Human Resources section can be established. A total of \$7,179 General Fund is provided for associated services and supplies. This is the net result of \$239,160 originally granted and a \$231,981 reduction of one-time funds for Information Technology professional services associated with planning for the Financial and Case Management System.

Of note is that contrary to the direction of the Emergency Board authorization and to PDSC's original request, the agency administratively reclassified the Manager 4 position to a Program Analyst 4 and the two Accounting Technician 2 positions to the level of Accounting Technician 3, among other classification changes unrelated to the Emergency Board authorized positions.

Package 803, CSL Deficits. This package increases General Fund by \$18,944 to provide services and supplies for agency-wide expenses realized by the Senior Deputy Defender staff, established in Package 803 for the Appellate Division.

Package 805, External and Internal Auditing. This package increases General Fund by \$33,154 to provide services and supplies for agency-wide expenses realized by the Internal Audit Section staff, established in Package 805 for the Compliance, Audit and Performance Division.

Package 806, Deputy Director. This package increases General Fund by \$35,521 to provide services and supplies for agency-wide expenses related to the Deputy Director and Executive Assistant, established in Package 806 for the Executive Division.

Package 807, Compliance and Research Function. This package increases General Fund by \$104,197 to provide services and supplies for agency-wide expenses related to the newly established Compliance, Audit and Performance Division.

Package 808, Financial Management Augmentation. The purpose of this package is to augment staffing levels for budget, accounting, and procurement services, and to add staff responsible for the review of non-routine expenses. This package increases General Fund by \$806,160 and includes a net establishment of four permanent full-time positions (3.88 FTE). Details of the specific position actions included in this package are as follows:

- Establish the following five permanent full-time positions:
  - Accountant 4 (1.00 FTE). This position is intended as a Fiscal Analyst 3; however, the classification is not available in the agency's current compensation plan. The position should be titled as a Fiscal Analyst 3 and reclassified as soon as the updated compensation plan is adopted by the Commission.
  - Accounting Technician 2 (0.88 FTE)
  - Program Analyst 1 (1.00 FTE)
  - Program Analyst 2 (1.00 FTE)
  - Program Analyst 3 (1.00 FTE)

- Establish the following limited duration full-time position:
  - Program Analyst 4 (1.00 FTE)
- Abolish the following two permanent full-time positions:
  - Position number 0004161, an Accounting Technician 3 (1.00 FTE)
  - Position number 4041909, an Operations and Policy Analyst 2 (1.00 FTE)
- Reclassify the following full-time position:
  - Position number 2310308, a permanent full-time Program Analyst 1 (1.00 FTE), shall be reclassified to a Program Analyst 4 (1.00 FTE) and converted from permanent to limited duration.

The package includes associated services and supplies for the positions; however, there is also a \$250,000 General Fund reduction of professional services, leading to a net reduction of \$132,245 General Fund for services and supplies.

Package 809, Base Information Technology. In December 2019, PDSC administratively decided to eliminate the agency's information technology capability and staffing. This purpose of this package is to re-establish an Information Technology Section for the agency by July 1, 2022. This package increases General Fund by \$1,101,473 and authorizes establishment of the following four permanent full-time positions (2.89 FTE):

- One Chief Information Officer (0.88 FTE),
- One Information Systems Specialist 3 (0.63 FTE), and
- One Information Systems Specialist 2 (0.75 FTE)
- One Information Systems Specialist 2 (0.63 FTE).

The legislative expectation is that these positions will be subject to a competitive recruitment process. The package includes associated services and supplies to support the positions, as well as services and supplies funding for Information Technology professional services. Until June 30, 2022, the Commission may continue contracting with an external entity for contracted information technology services.

### **2019-21 Supplemental Budget**

The Subcommittee recommended an increase of \$3,782,000 General Fund for the Professional Services Account in the biennium ending June 30, 2021. This increase is intended for non-routine and court-mandated expenses.

### **Summary of Performance Measure Action**

See attached Legislatively Adopted 2021-23 Key Performance Measures form.

**DETAIL OF JOINT COMMITTEE ON WAYS AND MEANS ACTION**

**Public Defense Services Commission**  
**April McDonald – 503-877-8125**

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
2019-21 Legislatively Approved Budget at Jan. 2021*	\$ 342,078,348	\$ -	\$ 13,586,941	\$ -	\$ -	\$ -	\$ 355,665,289	90	86.47
2021-23 Current Service Level (CSL)*	\$ 396,803,692	\$ -	\$ 4,449,667	\$ -	\$ -	\$ -	\$ 401,253,359	79	78.80
<b><u>SUBCOMMITTEE ADJUSTMENTS (from CSL)</u></b>									
<b>SCR 001 - Appellate Division</b>									
Package 801: LFO Analyst Adjustments									
Personal Services	\$ (22,944,360)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (22,944,360)	-56	-55.80
Services and Supplies	\$ (3,990,954)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (3,990,954)		
<b>SCR 002 - Professional Services Account</b>									
Package 801: LFO Analyst Adjustments									
Services and Supplies	\$ (360,887,469)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (360,887,469)		
Special Payments: 6198 Spc Pmt to Judicial Dept	\$ -	\$ -	\$ (3,591,305)	\$ -	\$ -	\$ -	\$ (3,591,305)		
<b>SCR 004 - Contract and Business Services Division</b>									
Package 801: LFO Analyst Adjustments									
Personal Services	\$ (6,487,538)	\$ -	\$ (858,122)	\$ -	\$ -	\$ -	\$ (7,345,660)	-23	-23.00
Services and Supplies	\$ (2,493,371)	\$ -	\$ (240)	\$ -	\$ -	\$ -	\$ (2,493,611)		
<b>SCR 100 - Executive Division</b>									
Package 801: LFO Analyst Adjustments									
Personal Services	\$ 1,873,424	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,873,424	5	5.00
Services and Supplies	\$ 535,536	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 535,536		
Package 802: 2019-21 Interim Actions									
Personal Services	\$ 450,248	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 450,248	1	1.00
Services and Supplies	\$ 11,444	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,444		
Package 806: Deputy Director									
Personal Services	\$ 708,251	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 708,251	2	1.88
Services and Supplies	\$ 21,458	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 21,458		
<b>SCR 200 - Compliance, Audit and Performance Division</b>									
Package 801: LFO Analyst Adjustments									
Personal Services	\$ 956,521	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 956,521	2	2.00
Services and Supplies	\$ 23,924	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 23,924		
Package 802: 2019-21 Interim Actions									
Personal Services	\$ 984,830	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 984,830	2	2.00
Services and Supplies	\$ 22,888	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 22,888		
Package 805: External and Internal Auditing									
Personal Services	\$ 484,492	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 484,492	2	1.76
Services and Supplies	\$ 370,028	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 370,028		HB 5030 A



DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
<b>Package 807: Compliance and Research Function</b>									
Personal Services	\$ 1,750,621	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,750,621	7	5.51
Services and Supplies	\$ 62,947	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 62,947		
<b>SCR 300 - Appellate Division</b>									
<b>Package 801: LFO Analyst Adjustments</b>									
Personal Services	\$ 22,944,360	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 22,944,360	56	55.80
Services and Supplies	\$ 1,572,218	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,572,218		
<b>Package 803: CSL Deficits</b>									
Personal Services	\$ 397,481	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 397,481	1	1.00
Services and Supplies	\$ 11,444	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 11,444		
<b>SCR 400 - Trial Criminal Division</b>									
<b>Package 801: LFO Analyst Adjustments</b>									
Services and Supplies	\$ 255,804,275	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 255,804,275		
<b>Package 803: CSL Deficits</b>									
Services and Supplies	\$ 905,645	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 905,645		
<b>Package 820: General Fund Holdback</b>									
Services and Supplies	\$ (70,250,989)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (70,250,989)		
<b>SCR 425 - Non Routine Expenses</b>									
<b>Package 801: LFO Analyst Adjustments</b>									
Services and Supplies	\$ 62,751,518	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 62,751,518		
<b>Package 803: CSL Deficits</b>									
Services and Supplies	\$ (4,533,474)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (4,533,474)		
<b>Package 820: General Fund Holdback</b>									
Services and Supplies	\$ (14,554,511)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (14,554,511)		
<b>SCR 450 - Court Mandated Expenses</b>									
<b>Package 801: LFO Analyst Adjustments</b>									
Services and Supplies	\$ 20,025,025	\$ -	\$ 858,362	\$ -	\$ -	\$ -	\$ 20,883,387		
Special Payments: 6198 Spc Pmt to Judicial Dept	\$ -	\$ -	\$ 3,591,305	\$ -	\$ -	\$ -	\$ 3,591,305		
<b>Package 803: CSL Deficits</b>									
Services and Supplies	\$ (16,487)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (16,487)		
<b>Package 820: General Fund Holdback</b>									
Services and Supplies	\$ (5,002,135)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (5,002,135)		
<b>SCR 500 - Juvenile Division</b>									
<b>Package 801: LFO Analyst Adjustments</b>									
Services and Supplies	\$ 21,448,525	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 21,448,525		

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
Package 802: 2019-21 Interim Actions Services and Supplies	\$ (14,000,000)	\$ -	\$ 14,000,000	\$ -	\$ -	\$ -	\$ -		
Package 803: CSL Deficits Services and Supplies	\$ 22,899,406	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 22,899,406		
Package 804: PCRFP Deficit Services and Supplies	\$ 10,421,529	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 10,421,529		
Package 820: General Fund Holdback Services and Supplies	\$ (10,192,365)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (10,192,365)		
<b>SCR 600 - Administrative Services Division</b>									
Package 801: LFO Analyst Adjustments Personal Services	\$ 4,515,715	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,515,715	16	16.00
Services and Supplies	\$ 4,352,651	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 4,352,651		
Package 802: 2019-21 Interim Actions Personal Services	\$ 1,511,511	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 1,511,511	6	6.00
Services and Supplies	\$ 7,179	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 7,179		
Package 803: CSL Deficits Services and Supplies	\$ 18,944	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 18,944		
Package 805: External and Internal Auditing Services and Supplies	\$ 33,154	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 33,154		
Package 806: Deputy Director Services and Supplies	\$ 35,521	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 35,521		
Package 807: Compliance and Research Function Services and Supplies	\$ 104,197	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 104,197		
Package 808: Financial Management Augmentation Personal Services	\$ 938,405	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 938,405	4	3.88
Services and Supplies	\$ (132,245)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ (132,245)		

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
Package 809: Base Information Technology									
Personal Services	\$ 944,787	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 944,787	4	2.89
Services and Supplies	\$ 156,686	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 156,686		
TOTAL ADJUSTMENTS	\$ (75,429,110)	\$ -	\$ 14,000,000	\$ -	\$ -	\$ -	\$ (61,429,110)	29	25.92
SUBCOMMITTEE RECOMMENDATION *	\$ 321,374,582	\$ -	\$ 18,449,667	\$ -	\$ -	\$ -	\$ 339,824,249	108	104.72
% Change from 2019-21 Leg Approved Budget	-6.1%	0.0%	35.8%	0.0%	0.0%	0.0%	-4.5%	20.0%	21.1%
% Change from 2021-23 Current Service Level	-19.0%	0.0%	314.6%	0.0%	0.0%	0.0%	-15.3%	36.7%	32.9%

\*Excludes Capital Construction Expenditures

### **EMERGENCY BOARD**

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
Special Purpose Appropriation: General Fund hold-back	\$ 100,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000,000		
SUBCOMMITTEE RECOMMENDATION	\$ 100,000,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 100,000,000		

### **2019-21 SUPPLEMENTAL BUDGET**

DESCRIPTION	GENERAL FUND	LOTTERY FUNDS	OTHER FUNDS		FEDERAL FUNDS		TOTAL ALL FUNDS	POS	FTE
			LIMITED	NONLIMITED	LIMITED	NONLIMITED			
<b>SCR 002 - Professional Services Account</b>									
Services and Supplies	\$ 3,782,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,782,000		
SUBCOMMITTEE RECOMMENDATION	\$ 3,782,000	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 3,782,000		

# Legislatively Approved 2021 - 2023 Key Performance Measures

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**Agency:** Public Defense Services Commission

**Mission Statement:**

Ensure the delivery of quality public defense services in Oregon in the most cost-efficient manner possible.

Legislatively Approved KPMS	Metrics	Agency Request	Last Reported Result	Target 2022	Target 2023
1. APPELLATE CASE PROCESSING - Median number of days to file opening brief.		Approved	217	180	180
2. CUSTOMER SERVICE - Percent of customers rating their satisfaction with the agency's customer service as "good" or "excellent": overall customer service, timeliness, accuracy, helpfulness, expertise and availability of information.	Timeliness	Approved	78.89%	95%	95%
	Accuracy		88.76%	95%	95%
	Availability of Information		70.97%	95%	95%
	Overall		77.89%	95%	95%
	Helpfulness		88.89%	95%	95%
	Expertise		85.71%	95%	95%
3. BEST PRACTICES FOR BOARDS AND COMMISSIONS - Percentage of total best practices met by Commission.		Approved	100%	100%	100%
4. TRIAL LEVEL REPRESENTATION - During the term of the OPDS contract, percent of attorneys who obtain at least 12 hours per year of continuing legal education credit in the area(s) of law in which they provide public defense representation.[1] [1] Case types listed in the 2014-2015 Public Defense Legal Services Contract General Terms are: criminal cases, probation violations, contempt cases, civil commitment cases, juvenile cases, and other civil cases. ( <a href="http://www.oregon.gov/OPDS/docs/CBS/ModelContractTerms/documents/ModKJan2014.pdf">http://www.oregon.gov/OPDS/docs/CBS/ModelContractTerms/documents/ModKJan2014.pdf</a> )		Approved	75%	90%	90%
5. PARENT CHILD REPRESENTATION PROGRAM (PCRP) - Percent of PCRP attorneys who report spending approximately 1/3 of their time meeting with court appointed clients in cases which the attorney represents a parent or child with decision-making capacity.[1] [1] For a discussion on determining decision-making capacity, see The Obligations of the Lawyer for Children in Child Protection Proceedings with Action Items and Commentary, Oregon State Bar, Report of the Task Force on Standards of Representation in Juvenile Dependency Cases (2014).		Approved	54%	95%	95%

**LFO Recommendation:**

Approve the existing Key Performance Measures, and the Key Performance Measure targets, identified in the above table, with the recommendation that the Commission be directed to work with the Legislative Fiscal Office to undertake a comprehensive review and restructuring of the Commission's KPMS, targets, and data to align with the new programmatic structure of the agency. Proposed KPM and target changes are to be submitted to the Legislature in 2023, based on the routine schedule for submission of KPM changes.

**SubCommittee Action:**

The Subcommittee approved the Legislative Fiscal Office recommendation.