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THE STATE OF NEW HAMPSHIRE
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February 14, 2023

The Honorable Ken Weyler, Chairman
Fiscal Committee of the General Court and

His Excellency, Governor Christopher T. Sununu
and the Honorable Council
State House
Concord, N.H. 03301

REQUESTED ACTION

Pursuant to RSA 604-A:1-b, Additional Funding, authorize the Judicial Council to receive an additional appropriation from funds not otherwise appropriated in the total amount of \$187,500.00 effective upon Fiscal Committee and Governor and Council approval, through June 30, 2023. **100% General Funds.**

Funding is to be budgeted in Fiscal Year 2023 in 02-07-07-070010-11010000 ABUSE & NEGLECT (NON-CASA) as follows:

Class/Expense	Class Title	Current Budget	Change	Revised Budget
108/500751	Provider Payments Legal Services	\$167,156	\$187,500	\$354,656

EXPLANATION

This account funds the work of non-CASA guardians ad litem (GAL's) for children in abuse and neglect cases. Expenditures have exceeded our forecasts for this account. Without additional funding, the Judicial Council will be unable to pay the court-approved invoices for these services.

Pursuant to RSA 169-C:10, in cases brought under the Child Protection Act involving a neglected or abused child, the court must appoint a Court Appointed Special Advocate (CASA) as guardian ad litem for the child. However, if a CASA GAL is unavailable for appointment, the court may then appoint an attorney or other GAL as guardian ad litem for the child.

RSA 604-A:1-b provides that "[i]n the event that expenditures for indigent defense by the Judicial Council are greater than amounts appropriated in the operating budget, the Judicial Council may request, with prior approval of the Fiscal Committee of the General Court, that the Governor and Council authorize additional funding. For funds requested and approved, the

Governor is authorized to draw a warrant from any money in the treasury not otherwise appropriated.”

Total FY22 expenditures for this account were \$167,844. The FY23 budget for this account was \$167,156.

As of January 31, 2023, year-to-date expenditures for non-CASA GAL’s have been approximately \$152,302. The FY23 balance for this account is \$14,853. The Judicial Council has approximately \$20,834 in pending invoices, which are *not* included in that balance.

The cost for non-CASA GAL’s has increased and will continue to do so through the remainder of the fiscal year in significant part to a change in the Supreme Court rule that sets the compensation rate in these cases. Effective October 1, 2022, the rate for representation in indigent guardian ad litem cases, including abuse and neglect cases, increased from \$60.00 to \$90.00 per hour. (Sup. Ct. R. 48-A). Additionally, the fee cap for abuse and neglect cases increased from \$1,400 to \$2,100.

Under the prior \$60.00 per hour rate, the cost for non-CASA GAL’s has varied significantly over the past five years:

FY18	FY19	FY20	FY21	FY22
\$304,972	\$381, 218	\$358, 893	\$174, 794	\$152, 302

The decrease in expenditures for FY21 and FY22 corresponds to the decrease in filings during 2020 and 2021, which were down by approximately 37% during the pandemic. However, in 2022, filing rates in juvenile abuse and neglect cases returned to their pre-pandemic numbers:

Juvenile Abuse & Neglect Petitions Cases Filed

2018	2019	2020	2021	2022
1,353	1,374	1,023	1,002	1,348

The new compensation rate and the return of filings to pre-pandemic levels will be major factors in the actual cost for representation for non-CASA GAL’s in abuse and neglect cases for FY23. Since the rule change went into effect, the Judicial Council has made the following monthly payments:

November 2022	December 2022	January 2023
\$40,517.67	\$18,099.63	\$33,676.05

Although average monthly cost for this three-month period is approximately \$30,764 per month, the Judicial Council assumes that the payments for November and January are more representative of the invoices the Council will receive in months to come, and estimates that the Council will require approximately \$37,500 per month to make all court-approved payments for the five months between now and the end of the fiscal year, totaling \$187,500:

Average monthly payment	Multiplied over 5 months (February – June, 2023)	Estimated total additional funds needed for balance of fiscal year
\$37,500	\$187,500	\$187,500

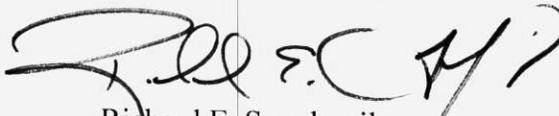
The requested revised budget of \$354,656 is in line with the actual expenditures for this account in FY18-20.

The funds currently available in account 02-07-07-070010-11010000 are insufficient to pay the court-approved invoices expected to arrive between now and the end of the current fiscal year. Based on the monthly average of expenditures since October 1, 2022 (the effective date of the rule change) and the belief that the full impact of the rule change has not yet manifest in approved invoices to date, the Judicial Council anticipates that the account will require the addition of \$187,500 to meet the anticipated expenditures in this account through June 30, 2023.

This Agency will remain at your service to provide any requested information concerning the critical importance of this additional funding to the orderly administration of justice.

Thank you for your consideration.

Respectfully Submitted,



Richard E. Sandperil
Acting Executive Director