

JH

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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JOHN M. FORMELLA
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August 19, 2024

The Honorable Ken Weyler, Chairman
Fiscal Committee of the General Court
State House
Concord, New Hampshire 03301

His Excellency, Governor Christopher T. Sununu
And the Honorable Council
State House
Concord, New Hampshire 03301

REQUESTED ACTION

Pursuant to RSA 7:12, authorize the Department of Justice (DOJ) to accept and expend a sum, not to exceed \$6,676,902, in general litigation expenses incurred in the defense of the State and the prosecution of criminal laws effective with the approvals of the Fiscal Committee and the Governor and Executive Council through June 30, 2025. 100% General Funds.

These funds are to be budgeted in account #02-20-20-200010-2601 entitled "Attorney General" as follows:

Class & Object	Class Title	FY 2025 Current Adjusted Authorized	Requested Action	FY 2025 Revised Adjusted Authorized
Expenditures				
010-500100	PERSONAL SERVICES PERM CLASS	\$534,960	\$0	\$534,960
011-500126	PERSONAL SERVICES UNCLASSIFI	\$158,047	\$0	\$158,047
012-500128	PERSONAL SERVICES UNCLASSIFI	\$143,710	\$0	\$143,710
013-500132	PERSONAL SERVICES UNCLASSIFI	\$133,306	\$0	\$133,306
014-500134	PERSONAL SERVICES UNCLASSIFI	\$113,886	\$0	\$113,886
015-500137	PERSONAL SERVICES UNCLASSIFI	\$125,054	\$0	\$125,054
017-500147	FT EMPLOYEES SPECIAL PAYMENT	\$12,000	\$0	\$12,000
018-500106	OVERTIME	\$7,280	\$0	\$7,280
020-500200	CURRENT EXPENSES	\$51,400	\$0	\$51,400

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022-500255	RENTS-LEASES OTHER THAN STAT	\$3,800	\$0	\$3,800
024-500225	MAINT OTHER THAN BUILD-GRN	\$2,200	\$0	\$2,200
026-500251	ORGANIZATIONAL DUES	\$38,000	\$0	\$38,000
027-582703	TRANSFERS TO DOIT	\$74,847	\$0	\$74,847
028-582814	TRANSFERS TO GENERAL SERVICES	\$104,767	\$0	\$104,767
030-500301	EQUIPMENT NEW REPLACEMENT	\$3,500	\$0	\$3,500
037-500174	TECHNOLOGY-HARDWARE	\$4,005	\$0	\$4,005
038-500175	TECHNOLOGY-SOFTWARE	\$1,500	\$0	\$1,500
039-500188	TELECOMMUNICATIONS	\$18,925	\$0	\$18,925
040-501587	INDIRECT COSTS	\$3,241	\$0	\$3,241
042-500620	ADDITIONAL FRINGE BENEFITS	\$4,200	\$0	\$4,200
049-584995	TRANSFER TO OTHER STATE AGEN	\$6,921	\$0	\$6,921
057-500531	BOOKS PERIODICALS SUBSCRIPTI	\$92,800	\$0	\$92,800
060-500601	BENEFITS	\$529,010	\$0	\$529,010
066-500543	EMPLOYEE TRAINING	\$1,500	\$0	\$1,500
070-500704	IN STATE TRAVEL REIMBURSEMEN	\$3,250	\$0	\$3,250
073-500580	GRANTS NON FEDERAL	\$4,404,556	\$0	\$4,404,556
080-500713	OUT OF STATE TRAVEL REIMB	\$7,350	\$0	\$7,350
089-501543	TRANSFER TO DAS MAINTENANCE FUND	\$2,712	\$0	\$2,712
233-500769	LITIGATION EXPENSE	\$1,046,133	\$6,676,902	\$7,723,035
	Total:	\$7,632,860	\$6,676,902	\$14,309,762
Revenue				
009-407079	AGENCY INCOME	\$23,626	\$0	\$23,626
00S-000010	GENERAL FUNDS	\$7,609,234	\$6,676,902	\$14,286,136
	Total:	\$7,632,860	\$6,676,902	\$14,309,762

EXPLANATION

RSA 7:12 provides a means to fund expenses incurred by DOJ in the prosecution of crimes and the defense of the State. The expenses span a range of litigation-related costs. In the current biennium, DOJ was appropriated a sum of \$350,000 in Fiscal Year 2025 for these expenses. The Department brought forward Fiscal Year 2025 funds from reimbursements and encumbrances bringing the new litigation class total to \$1,046,133. More than half of these funds have been committed and/or expended.

At this juncture, DOJ estimates it will need an additional \$6,676,902 for on-going legal expenses. The majority of this request is based on the funding needs of the Criminal Bureau and the Civil Bureau due to the number of particularly complex and labor-intensive cases that we

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currently have in these bureaus. Set forth below is a discussion of the specific, ongoing needs of the litigation fund.

Expenses Relating to the Criminal Bureau

DOJ estimates that the Criminal Bureau will require approximately \$1,100,000 for investigations and prosecutions of crimes in Fiscal Year 2025. Approximately \$315,000, relates to DOJ's investigation and prosecution of alleged crimes at the former Youth Development Center. This investigation, as well as the criminal cases that stem from it, involves a very large volume of documents and decades of records. The present request includes funds we anticipate needing to help review, store, and manage those documents. As the investigation has proceeded, and as we get closer to trials for indicted defendants, the number of documents requiring review has steadily increased and has far eclipsed the number of documents anticipated at the beginning of the investigation. This has resulted in additional costs.

The Department continues to prepare for several criminal trials through Fiscal Year 2025. The balance of the request for the Criminal Justice Bureau involves lab testing, crime-scene evaluation, depositions, expert review, and other work for pending prosecutions of homicides, illegal drug-related cases, and other criminal investigations.

Expenses Relating to the Civil Bureau

DOJ estimates that the Civil Bureau will require approximately \$4,957,000 for defense of claims brought against the State and associated expenses for the balance of Fiscal Year 2025. This high annual expense stems from the fact that the Department is currently handling a larger, more complex civil litigation load than at any time in recent memory, including an unusually high number of complex and high-profile cases.

The *Amanda D., et al. v. Hassan, et al.* case resulted in a 2014 settlement agreement relating to the community mental health system. There are ongoing expenses relating to legal fees for plaintiffs' counsel, as well as fees for the court-retained expert reviewer. DOJ estimates that for Fiscal Year 2025, these expenses will total \$175,000.

The Civil Bureau also expects to incur approximately \$2,350,000 in expenses for litigation and other activities related to the former Youth Development Center. This includes litigation of civil cases brought against the State by former residents of the State's Youth Development Center who allege they were sexually or physically abused while there. This also includes the provision of assistance to the Department of Health and Human Services in providing documents to the Criminal Justice Bureau in connection with the YDC criminal investigation. As mentioned, this investigation includes the review of large amounts of documents, and the Civil Bureau assists DHHS with reviewing these documents to ensure that

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the State maintains confidentiality for former YDC residents who are not involved in the criminal investigation at this time. This requires extensive and careful reviews, and outside counsel is periodically engaged to assist in these efforts.

The Civil Bureau is defending the Department of Health and Services in two major civil cases. The first case is *G.K, et al. v. Shibinette, et al.* The second case is *Fitzmorris, et al. v. Shibinette, et al.* Both cases will cost approximately \$1,300,000 for discovery, depositions, and other trial costs.

The Civil Bureau expects to incur \$200,000 for school funding litigation. Other combined expenses for various cases are estimated at approximately \$932,000 total in defense of the State.

The remaining funding needed is for Administration, to utilize necessary e-discovery tools, and the Consumer Protection Bureau, the Environmental Protection Bureau, the Transportation and Construction Bureau and the Charitable Trust Unit for costs associated with depositions, experts, and document storage. The anticipated additional expenses for these four functions are approximately \$619,902.

Please let me know if you have any questions regarding this request. Your consideration is greatly appreciated.

Respectfully submitted,



John M. Formella
Attorney General

#4651938