

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

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JOHN M. FORMELLA
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September 18, 2025

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

Her Excellency, Governor Kelly A. Ayotte
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 \$4,317,767 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, 2027. 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 2026 Current Adjusted Authorized	Requested Action	FY 2026 Revised Adjusted Authorized
Expenditures				
010-500100	PERSONAL SERVICES PERM CLASS	\$520,052	\$0	\$520,052
011-500126	PERSONAL SERVICES UNCLASSIFI	\$159,640	\$0	\$159,640
012-500128	PERSONAL SERVICES UNCLASSIFI	\$151,552	\$0	\$151,552
013-500132	PERSONAL SERVICES UNCLASSIFI	\$132,350	\$0	\$132,350
014-500134	PERSONAL SERVICES UNCLASSIFI	\$115,025	\$0	\$115,025
015-500137	PERSONAL SERVICES UNCLASSIFI	\$126,275	\$0	\$126,275
017-500147	FT EMPLOYEES SPECIAL PAYMENT	\$8,580	\$0	\$8,580
018-500106	OVERTIME	\$6,000	\$0	\$6,000
020-500200	CURRENT EXPENSES	\$50,600	\$0	\$50,600

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022-500255	RENTS-LEASES OTHER THAN STAT	\$7,000	\$0	\$7,000
024-500225	MAINT OTHER THAN BUILD-GRN	\$1,500	\$0	\$1,500
026-500251	ORGANIZATIONAL DUES	\$40,000	\$0	\$40,000
027-582703	TRANSFERS TO DOIT	\$99,972	\$0	\$99,972
028-582814	TRANSFERS TO GENERAL SERVICES	\$60,940	\$0	\$60,940
030-500301	EQUIPMENT NEW REPLACEMENT	\$3,500	\$0	\$3,500
037-500174	TECHNOLOGY-HARDWARE	\$3,600	\$0	\$3,600
038-500175	TECHNOLOGY-SOFTWARE	\$48,000	\$0	\$48,000
039-500188	TELECOMMUNICATIONS	\$20,000	\$0	\$20,000
040-501587	INDIRECT COSTS	\$1,113	\$0	\$1,113
042-500620	ADDITIONAL FRINGE BENEFITS	\$4,772	\$0	\$4,772
049-584995	TRANSFER TO OTHER STATE AGEN	\$8,542	\$0	\$8,542
057-500531	BOOKS PERIODICALS SUBSCRIPTI	\$29,000	\$0	\$29,000
060-500601	BENEFITS	\$540,642	\$0	\$540,642
066-500543	EMPLOYEE TRAINING	\$1,000	\$0	\$1,000
069-500567	PROMOTIONAL MARKETING EXPENSE	\$2,000	\$0	\$2,000
070-500704	IN STATE TRAVEL REIMBURSEMEN	\$3,250	\$0	\$3,250
073-500580	GRANTS NON FEDERAL	\$8,961,399	\$0	\$8,961,399
080-500713	OUT OF STATE TRAVEL REIMB	\$9,050	\$0	\$9,050
089-501543	TRANSFER TO DAS MAINTENANCE FUND	\$3,331	\$0	\$3,331
233-500769	LITIGATION EXPENSE	\$372,500	\$4,317,767	\$4,690,267
	Total:	\$11,491,185	\$4,317,767	\$15,808,952
Funding Source				
009-407079	AGENCY INCOME	\$39,082	\$0	\$39,082
00S-000010	GENERAL FUNDS	\$11,452,103	\$4,317,767	\$15,769,870
	Total:	\$11,491,185	\$4,317,767	\$15,808,952

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 2026 for these expenses. The Department brought forward Fiscal Year 2025 funds from encumbrances bringing the new litigation class total to \$372,500. All of these funds have been committed and/or expended.

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At this juncture, DOJ estimates it will need an additional \$4,317,767 for on-going legal expenses in Fiscal Year 2026. 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 currently have in these bureaus.

As has been the case in recent years, the litigation workload at DOJ remains at historically high levels due in large part to the criminal and civil cases involving the former Youth Development Center (YDC). That said, DOJ recognizes the need to take all possible steps to increase efficiencies and reduce its litigation fund needs, especially in the current budget climate. The DOJ has taken a number of steps to increase capacity to keep civil litigation work in house and reduce the need for outside counsel. Due in part to these steps, the DOJ has been able to significantly reduce its projected litigation fund expense for Fiscal Year 2026. The current total FY 2026 projection of \$4,690,267 represents a close to 40% reduction from the FY 2025 spend of \$7,700,505 and an approximately 25% reduction from the average litigation fund spend over the past 5 years.

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 \$1,000,000 for investigations and prosecutions of crimes in Fiscal Year 2026. Approximately \$318,000 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.

The Department continues to prepare for various other criminal trials through Fiscal Year 2026. 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 cases and investigations.

Expenses Relating to the Civil Bureau

DOJ estimates that the Civil Bureau will require approximately \$2,600,000 for defense of claims brought against the State and associated expenses for the balance of Fiscal Year 2026. This high annual expense stems from the fact that the Department is currently handling a large volume of civil litigation matters, including a number of complex and high-profile cases.

The Civil Bureau expects to incur approximately \$1,500,000 in expenses for litigation related to the former Youth Development Center. This includes litigation of civil cases brought

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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 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 *Fitzmorris, et al. v. Shihinette, et al.* This case will cost approximately \$500,000 for discovery, depositions, and other trial costs. This case is a putative class action and involves a challenge to DHHS' administration of the New Hampshire Choices for Independence Program lead by individuals with disabilities who are enrolled in the program and on behalf of others who are similarly situated.

Other combined expenses for various civil cases are estimated at approximately \$600,000 total in defense of the State.

Remaining Expenses

The remaining funding needed is for Administration, to utilize necessary e-discovery tools, and for the Consumer Protection Bureau, the Environmental Protection Bureau, the Public Safety and Infrastructure 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 \$1,090,267

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

Respectfully submitted,



John M. Formella
Attorney General