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Final Fiscal Note

Drafting Number: LLS 24-0463 Date: June 11, 2024
Prime Sponsors: Rep. Vigil; Joseph Bill Status: Deemed Lost
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Bill Topic: WORKLOAD STANDARDS FOR OFFICE OF STATE PUBLIC DEFENDER

Summary of Fiscal Impact:
State Revenue [] State Transfer [] Local Government []
State Expenditure [x] TABOR Refund [] Statutory Public Entity []

The bill would have required the Office of the State Public Defender to conduct a workload study by November 1, 2025, and implement workload standards by July 1, 2026. Starting in FY 2024-25, the bill would have increased state expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill would have required an appropriation of \$378,012 to the Office of the State Public Defender.

Fiscal Note Status: The final fiscal note reflects the introduced bill, as amended by the House Judiciary Committee. This bill was deemed lost in the House Appropriations Committee on May 9, 2024; therefore, the impacts identified in this analysis do not take effect.

Table 1
State Fiscal Impacts Under HB 24-1289

Table with 4 columns: Category, Budget Year FY 2024-25, Out Year FY 2025-26, Out Year FY 2026-27. Rows include Revenue, Expenditures (General Fund, Centrally Appropriated, Total Expenditures, Total FTE), Transfers, and Other Budget Impacts (GF Reserve).

1 FY 2026-27 costs are anticipated to exceed what is shown in Table 1. Costs will depend on the workload standards developed by the OSPD, which are anticipated to require significant additional staff.

Summary of Legislation

The bill requires the Office of the State Public Defender (OSPD) to conduct a workload study by November 1, 2025. The study must consider the workload of OSPD attorneys regularly engaged in client representation based on certain factors, and must recommend a weighted unit of workload measurement by case type and offense. The study must also consider input from OSPD employees.

By July 1, 2026, the bill requires the OSPD to establish workload standards and procedures to implement these standards. The OSPD must hold at least one meeting where OSPD employees can provide input on proposed standards and policies, and must provide a copy of proposed standards and policies to employees prior to any meeting.

Finally, the OSPD must annually report to the General Assembly on workload standards starting January 1, 2027.

Background

Based on the FY 2023-24 Long Bill, the OSPD currently has a budget of \$96.2 million General Fund and 1,097.6 FTE.

State Expenditures

The bill increases expenditures in the OSPD by about \$402,000 FY 2024-25, by \$267,000 in FY 2025-26, and by at least \$118,000 in FY 2026-27 and ongoing, paid from the General Fund. Expenditures are shown in Table 2 and described below.

**Table 2
Expenditures Under HB 24-1289**

	FY 2024-25	FY 2025-26	FY 2026-27
Office of State Public Defender			
Personal Services	\$107,946	\$134,933	\$50,877
Operating Expenses	\$1,726	\$2,110	\$1,280
Capital Outlay Costs	\$13,340	-	-
Workload and Implementation Studies	\$225,000	\$75,000	-
Case Management System Update	\$30,000	-	-
Implementation of Standards ¹	-	-	<i>unknown; significant</i>
Standards Maintenance	-	\$25,000	\$50,000
Centrally Appropriated Costs ²	\$23,921	\$29,901	\$16,270
Total Cost	\$401,933	\$266,943	at least \$118,427
Total FTE	1.2 FTE	1.5 FTE	at least 1.0 FTE

¹ Costs will depend on the workload standards developed by the OSPD, which are anticipated to require significant additional staff.

² Centrally appropriated costs are not included in the bill's appropriation.

Office of the State Public Defender. The OSPD requires staff, contractor costs, and computer programming to implement the bill, as discussed below. Because standards implementation will depend on the result of the study, these costs have not been estimated, but are anticipated to be significant—see Technical Note.

- **Staff.** The OSPD requires 1.5 FTE to coordinate the workload study through all phases, to oversee revision of standards as needed, and to maintain documentation, communication, and reporting obligations required by the bill. After completion of the workload and implementation studies, 1.0 FTE are required to assist with ongoing maintenance and revision of standards. Amounts are prorated for a September 1, 2024, start date and include standard operating and capital outlay costs.
- **Workload and implementation studies.** To conduct the study, an estimated \$225,000 is required to contract with a vendor to oversee the workload study, which will include initial planning, data collection, data synthesis, and report drafting. Actual costs will depend on contract terms with the vendor. In addition to the workload study, \$75,000 is required to conduct an implementation study, which will occur in FY 2025-26 and be based on standards developed by the workload study.

- **Case management system update.** In FY 2024-25 only, \$30,000 is required to update the OSPD case management system to reflect the standards required by the bill.
- **Implementations of workload standards—additional staff.** Starting in FY 2026-27, costs to the OSPD will increase to ensure the office complies with the standard. Costs are unknown at this time, and will depend on the study results. It is possible that the OSPD will be required to request a significant increase in resources in FY 2026-27 to hire enough staff to ensure workload standards are met. See Technical Note below.
- **Workload standards maintenance.** Starting in FY 2025-26, the OSPD requires funding for technical maintenance and best-practices updates to workload standards once established, since standards may need to change. For FY 2025-26, \$25,000 is required, with \$50,000 required in FY 2026-27 and beyond.
- **Centrally appropriated costs.** Pursuant to a Joint Budget Committee policy, certain costs associated with this bill are addressed through the annual budget process and centrally appropriated in the Long Bill or supplemental appropriations bills, rather than in this bill. These costs, which include employee insurance and supplemental employee retirement payments, are shown in Table 2.

Other Budget Impacts

General Fund reserve. Under current law, an amount equal to 15 percent of General Fund appropriations must be set aside in the General Fund statutory reserve. Based on this fiscal note, the bill is expected to increase the amount of General Fund held in reserve by the amounts shown in Table 1, decreasing the amount of General Fund available for other purposes.

Technical Note

Implementation costs. The bill requires the OSPD to both develop and implement a workload staffing standard based on the results of a study. However, appropriations to state agencies, including for staffing, are determined by the General Assembly. The bill may result in a situation in which the General Assembly is obligated to appropriate significant funding to the OSPD. While the results of the staffing study are not yet known, preliminary information and recent budget requests indicate that complying with the workload standard may require hundreds of additional staff and cost tens of millions of dollars for attorneys, paralegals, and other staff.

Effective Date

The bill takes effect 90 days following adjournment of the General Assembly sine die, assuming no referendum petition is filed.

State Appropriations

For FY 2024-25, the bill requires a General Fund appropriation of \$378,012 to the Office of State Public Defender, and 1.2 FTE.

State and Local Government Contacts

Public Defender

The revenue and expenditure impacts in this fiscal note represent changes from current law under the bill for each fiscal year. For additional information about fiscal notes, please visit the [General Assembly website](#).