



## Legislation Details (With Text)

**File #:** 2022-0188  
**Type:** Consent Calendar Item **Status:** Passed  
**File created:** 2/15/2022 **In control:** Public Defender  
**On agenda:** 4/5/2022 **Final action:** 4/5/2022  
**Title:** Board of State and Community Corrections Grant - Public Defense Pilot Program  
**Sponsors:** Public Defender  
**Indexes:**

**Attachments:** 1. Remediated Summary Report, 2. Summary Report, 3. Position Resolution\_rem, 4. Budget Resolution\_rem, 5. Grant Funding Terms and Conditions\_rem, 6. Grant Agreement\_rem

Date	Ver.	Action By	Action	Result
4/5/2022	1	Board of Supervisors	Approved as recommended	Pass

**To:** Sonoma County Board of Supervisors  
**Department or Agency Name(s):** Public Defender  
**Staff Name and Phone Number:** Brian Morris, 707-565-3876  
**Vote Requirement:** 4/5th  
**Supervisory District(s):** Countywide

**Title:**  
Board of State and Community Corrections Grant - Public Defense Pilot Program

### Recommended Action:

- A) Adopt a resolution accepting the terms and conditions of grant funding from the Board of State and Community Corrections (BSCC) and delegating authority to the Public Defender to execute the grant agreement for the Public Defense Pilot Program in the amount of \$653,326.79. (Majority Vote)
- B) Adopt a position resolution to add 2.0 time-limited FTE Deputy Public Defenders to support the grant program through February 28, 2025. (Majority Vote)
- C) Adopt a resolution authorizing a budgetary adjustment to the FY 2021-22 Public Defender's budget to add revenue and expenditure appropriations totaling \$78,906 to cover FY 21-22 costs associated with the grant program. (4/5<sup>th</sup> Vote Required)

### Executive Summary:

The Sonoma County Public Defender's Office has been awarded a non-competitive grant in the amount of \$653,326.79 by the BSCC. The grant period is March 1, 2022 to March 1, 2025.

The Public Defender's Office is requesting two time-limited attorney positions, to seek relief for individuals pursuant to Penal Code sections 1170(d)(1), 1170.95, 1473.7, and 3051. The two time-limited attorneys will focus on preparing petitions for relief pursuant to these sections and subsequently arguing those motions in court.

Additionally, the Public Defender's Office will enter into Professional Service Agreements with a Mitigation Specialist and a Research/Data, and Evaluation Specialist. The Mitigation Specialist will investigate and report

on the social and psychological background of these individuals. The Research/Data, and Evaluation Specialist will provide necessary data to support motions for relief pursuant to Penal Code section 1473.7 (Racial Justice Act).

**Discussion:**

The State Budget Act of 2021 (Senate Bill 129) appropriated funding for the Public Defense Pilot to each county for indigent defense providers, including public defenders, alternate defenders, and other qualifying entities that provide indigent defense in criminal matters for the purposes of workload associated with the provisions in paragraph (1) of subdivision (d) of Section 1170 of, and Sections 1170.95, 1473.7, and 3051 of, the Penal Code.

These statutes provide potential relief for individuals who were convicted and/or sentenced in the Sonoma County Superior Court and (1) who were under 18 years old when they committed an offense for which they were sentenced to life without the possibility of parole (California Penal Code section 1170(d)(1)), (2) who were convicted of felony murder (or attempt), murder under the natural and probable consequences doctrine (or attempt), or manslaughter, and who were not the actual killer and/or did not intend to kill (California Penal Code section 1170.95), (3) who were convicted or sentenced and who were (a) not properly advised of adverse immigration consequences, (b) have discovered evidence that establishes they are factually innocent, or (c) for whom their conviction or sentence was sought, obtained, or imposed on the basis of race, ethnicity, or national origin. (California Penal Code section 1473.7.), and (4) who were 25 years or younger at the time of the controlling offense for which they were committed to state prison (California Penal Code section 3051).

To obtain relief for these individuals, the Public Defender's Office is requesting two limited-term attorney positions, and will enter into Professional Service Agreements with a Mitigation Specialist, and a Research/Data, and Evaluation Specialist.

The two time-limited attorneys will first need to identify and then contact incarcerated individuals who are entitled to such relief. They will then work directly with these individuals and subsequently prepare the necessary petitions and/or motions for relief. Ultimately, the attorneys would prepare for and appear at the court hearings on those petitions and motions. Attorneys with criminal defense experience will be required to properly address these complex matters.

The Mitigation Specialist will perform extensive investigation into the social and psychological history of individuals who are seeking reduced sentences or youthful offender parole (Penal Code sections 1170(d)(1), 1170.95, and 3051). For instance, our attorneys will need to work hand in hand with our mitigation specialist to prepare numerous individuals for their youthful offender parole hearings (Penal Code 3051). These hearings, which may not take place for many years in the future, require in depth analysis and documentation regarding a number of factors including: (1) childhood trauma, (2) insufficient adult support or supervision, (3) significant illness, (4) cognitive or developmental disabilities, (5) mental illness, and (6) efforts by the individual to rehabilitate themselves.

Finally, the Research/Data, and Evaluation Specialist will provide necessary supporting data and analysis to support Penal Code section 1473.7 Racial Justice Act motions. These motions, which will assert that the conviction or sentence was obtained on the basis of race, ethnicity, or national origin, will require complex research into relevant historical data from local criminal justice and other agencies.

**Strategic Plan:**

N/A

**Prior Board Actions:**

N/A

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 21-22 Adopted</b>	<b>FY22-23 Projected</b>	<b>FY 23-24 Projected</b>
Budgeted Expenses	-	\$574,421	\$653,326
Additional Appropriation Requested	\$78,906	-	-
<b>Total Expenditures</b>	<b>\$78,906</b>	<b>\$574,421</b>	<b>\$653,326</b>
<b>Funding Sources</b>			
General Fund/WA GF	-	-	-
State/Federal	\$78,906	\$574,421	\$653,326
Fees/Other	-	-	-
Use of Fund Balance	-	-	-
Contingencies	-	-	-
<b>Total Sources</b>	<b>\$78,906</b>	<b>\$574,421</b>	<b>\$653,326</b>

**Narrative Explanation of Fiscal Impacts:**

Estimated costs for FY 2021-2022 assume that the 2.0 FTE Deputy Public Defender positions are filled for two months starting May 1, 2022. The professional service contracts for the mitigation specialist and data consultant would be executed beginning July 1, 2022 (factoring in recruitment lead times). FY 2022-2023 estimates assume full annual costs for both attorney FTE positions for 12 months, including recurring costs for information technology support, and professional services contracts. The BSCC grant will fully reimburse Sonoma County's operational costs and does not require a local match. The BSCC anticipates that additional funding of \$653,326 will be provided for both FY 2023-2024 and FY 2024-2025.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>
Deputy Public Defender IV	\$12,667.08-\$15,395.99	2.0	

**Narrative Explanation of Staffing Impacts (If Required):**

The addition of the Deputy Public Defender I and II FTE grant positions will have no impact on the current workload of FTE Deputy Public Defenders.

**Attachments:**

- Attachment 1 - Grant Funding Terms and Conditions Resolutions
- Attachment 2 - Position Resolution
- Attachment 3 - Budget Resolution
- Attachment 4 - BSCC Grant Agreement

**Related Items “On File” with the Clerk of the Board:**

N/A