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Fiscal Note

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Prime Sponsors: Rep. Vigil; Joseph Bill Status: House Judiciary
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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 requires the Office of State Public Defender to develop and implement workload standards for deputy public offenders by July 1, 2025. Starting in FY 2024-25, the bill increases state expenditures on an ongoing basis.

Appropriation Summary: For FY 2024-25, the bill requires an appropriation of \$453,012 to the Office of State Public Defender.

Fiscal Note Status: The fiscal note reflects the introduced bill.

Table 1
State Fiscal Impacts Under HB 24-1289

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

1 FY 2025-26 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 State Public Defender (OSPD) to develop and implement workload standards for deputy public defenders by July 1, 2025. Standards must consider certain factors, including attorney duties required by state law, the federal constitution, and rules for professional conduct. In developing standards, the OSPD must consult with and solicit feedback from employees through in-person consultation meetings with an option for remote participation. After the conclusion of consultation meetings, but before standards are implemented, the OSPD must provide a written copy of standards to all employees and allow a four-week feedback period for comments on proposed standards. Finally, the bill requires the OSPD to report as part of its SMART Act hearing the number of times a deputy public defender’s workload exceeded standards and how each occurrence was handled.

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 \$477,000 in FY 2024-25, and by at least \$217,000 in FY 2025-26, 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
Office of State Public Defender		
Personal Services	\$107,946	\$134,933
Operating Expenses	\$1,726	\$2,110
Capital Outlay Costs	\$13,340	-
Workload and Implementation Studies	\$300,000	-
Case Management System Update	\$30,000	-
Implementation of Standards ¹	-	<i>unknown; significant</i>
Standards Maintenance	-	\$50,000
Centrally Appropriated Costs ²	\$23,921	\$29,901
Total Cost	\$476,933	at least \$216,943
Total FTE	1.2 FTE	1.5 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. This analysis also assumes that the OSPD requires two years to implement the bill—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. 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 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 2025-26, 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 2025-26 to hire enough staff to ensure workload standards are met. See Technical Note below.
- **Workload standards maintenance.** Starting in FY 2025-26, an estimated \$50,000 is required for technical maintenance and best-practices updates to workload standards once established, since standards may change based on changes to state and federal law, as well as rules of professional conduct.
- **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

Effective date. Cost estimates in this fiscal note are based on a two-year implementation timeline. The bill currently sets the deadline for July 1, 2025, which may not allow adequate time for the OSPD to complete and implement the study.

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 \$453,012 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](#).