

Stricken language will be deleted and underlined language will be added.
Act 871 of the Regular Session

State of Arkansas *As Engrossed: S3/25/19 S3/27/19 S4/4/19*
92nd General Assembly **A Bill**
Regular Session, 2019

SENATE BILL 36

By: Joint Budget Committee

For An Act To Be Entitled

AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES
AND OPERATING EXPENSES FOR THE ARKANSAS PUBLIC
DEFENDER COMMISSION FOR THE FISCAL YEAR ENDING JUNE
30, 2020; AND FOR OTHER PURPOSES.

Subtitle

AN ACT FOR THE ARKANSAS PUBLIC DEFENDER
COMMISSION APPROPRIATION FOR THE 2019-
2020 FISCAL YEAR.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. REGULAR SALARIES - STATE OPERATIONS. There is hereby established for the Arkansas Public Defender Commission - State Operations for the 2019-2020 fiscal year, the following maximum number of regular employees.

Item	Class		Maximum	Maximum Annual
No.	Code	Title	No. of	Salary Rate
			Employees	Fiscal Year
				2019-2020
(1)	U082U	PUBLIC DEF COMM EXEC DIRECTOR	1	GRADE SE02
(2)	G012N	PUBLIC DEFENDER III	4	GRADE GS13
(3)	G022N	PUBLIC DEFENDER II	5	GRADE GS12
(4)	G076C	ADMINISTRATIVE SERVICES MANAGER	1	GRADE GS10
(5)	X056C	CAPITAL CONFLICTS INVESTIGATOR	2	GRADE GS07
(6)	G146C	MITIGATION SPECIALIST	1	GRADE GS07



(7)	G179C LEGAL SERVICES SPECIALIST	2	GRADE GS06
(8)	G122C PUBLIC DEFENDER PROGRAM COORDINATOR	1	GRADE GS06
(9)	C012C PUBLIC DEFENDER SUPT SVCS SPECIALIST	1	GRADE GS05
(10)	C056C ADMINISTRATIVE SPECIALIST III	<u>1</u>	GRADE GS04
	MAX. NO. OF EMPLOYEES	19	

SECTION 2. EXTRA HELP - STATE OPERATIONS. There is hereby authorized, for the Arkansas Public Defender Commission - State Operations for the 2019-2020 fiscal year, the following maximum number of part-time or temporary employees, to be known as "Extra Help", payable from funds appropriated herein for such purposes: three (3) temporary or part-time employees, when needed, at rates of pay not to exceed those provided in the Uniform Classification and Compensation Act, or its successor, or this act for the appropriate classification.

SECTION 3. APPROPRIATION - STATE OPERATIONS. There is hereby appropriated, to the Arkansas Public Defender Commission, to be payable from the State Central Services Fund, for personal services and operating expenses of the Arkansas Public Defender Commission - State Operations for the fiscal year ending June 30, 2020, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2019-2020</u>
(01) REGULAR SALARIES	\$1,366,875
(02) EXTRA HELP	12,000
(03) PERSONAL SERVICES MATCHING	414,230
(04) MAINT. & GEN. OPERATION	
(A) OPER. EXPENSE	247,648
(B) CONF. & TRAVEL	19,690
(C) PROF. FEES	925,000
(D) CAP. OUTLAY	0
(E) DATA PROC.	<u>0</u>
TOTAL AMOUNT APPROPRIATED	<u>\$2,985,443</u>

SECTION 4. REGULAR SALARIES - TRIAL PUBLIC DEFENDER OFFICE. There is hereby established for the Arkansas Public Defender Commission - Trial Public

Defender Office for the 2019-2020 fiscal year, the following maximum number of regular employees.

Item No.	Class Code	Title	Maximum No. of Employees	Maximum Annual Salary Rate Fiscal Year 2019-2020
(1)	D039C	NETWORK SUPPORT SPECIALIST	1	GRADE IT06
(2)	G008N	CHIEF PUBLIC DEFENDER	8	GRADE GS14
(3)	G012N	PUBLIC DEFENDER III	42	GRADE GS13
(4)	G022N	PUBLIC DEFENDER II	7	GRADE GS12
(5)	G025N	PUBLIC DEFENDER I	52	GRADE GS11
(6)	G263C	PUBLIC DEFENDER	3	GRADE GS10
(7)	G065C	PUBLIC DEFENDER ATTORNEY I	50	GRADE GS10
(8)	R014C	PERSONNEL MANAGER	1	GRADE GS08
(9)	G092C	PUBLIC DEFENDER PROGRAM MANAGER	1	GRADE GS08
(10)	X056C	CAPITAL CONFLICTS INVESTIGATOR	6	GRADE GS07
(11)	G146C	MITIGATION SPECIALIST	12	GRADE GS07
(12)	G242C	DRUG COURT CASE COORDINATOR	1	GRADE GS06
(13)	R025C	HUMAN RESOURCES ANALYST	1	GRADE GS06
(14)	G179C	LEGAL SERVICES SPECIALIST	9	GRADE GS06
(15)	G204C	PLANNING SPECIALIST	1	GRADE GS06
(16)	G194C	PUBLIC DEFENDER INTERPRETER	2	GRADE GS06
(17)	X063C	PUBLIC DEFENDER INVESTIGATOR	4	GRADE GS06
(18)	C012C	PUBLIC DEFENDER SUPT SVCS SPECIALIST	1	GRADE GS05
(19)	C046C	LEGAL SUPPORT SPECIALIST	<u>47</u>	GRADE GS04
		MAX. NO. OF EMPLOYEES	249	

SECTION 5. EXTRA HELP - TRIAL PUBLIC DEFENDER OFFICE. There is hereby authorized, for the Arkansas Public Defender Commission - Trial Public Defender Office for the 2019-2020 fiscal year, the following maximum number of part-time or temporary employees, to be known as "Extra Help", payable from funds appropriated herein for such purposes: three (3) temporary or part-time employees, when needed, at rates of pay not to exceed those provided in the Uniform Classification and Compensation Act, or its successor, or this act for the appropriate classification.

SECTION 6. APPROPRIATION - TRIAL PUBLIC DEFENDER OFFICE. There is hereby appropriated, to the Arkansas Public Defender Commission, to be payable from the State Central Services Fund, for personal services and operating expenses of the Arkansas Public Defender Commission - Trial Public Defender Office for the fiscal year ending June 30, 2020, the following:

ITEM	FISCAL YEAR
<u>NO.</u>	<u>2019-2020</u>
(01) REGULAR SALARIES	\$16,643,709
(02) EXTRA HELP	15,000
(03) PERSONAL SERVICES MATCHING	5,121,471
(04) MAINT. & GEN. OPERATION	
(A) OPER. EXPENSE	641,256
(B) CONF. & TRAVEL	34,000
(C) PROF. FEES	725,000
(D) CAP. OUTLAY	0
(E) DATA PROC.	0
(05) PUBLIC DEFENDER COMMISSION PROGRAMS	770,000
(06) BAIL BOND COUNTY PUBLIC DEFENDER	<u>300,000</u>
TOTAL AMOUNT APPROPRIATED	<u>\$24,250,436</u>

SECTION 7. REGULAR SALARIES - OMBUDSMAN PROGRAM. There is hereby established for the Arkansas Public Defender Commission - Ombudsman Program for the 2019-2020 fiscal year, the following maximum number of regular employees.

Item	Class	Maximum	Maximum Annual
<u>No.</u>	<u>Code Title</u>	<u>No. of</u>	<u>Salary Rate</u>
		<u>Employees</u>	<u>Fiscal Year</u>
			<u>2019-2020</u>
(1)	G108C PUBLIC DEF OMBUDSMAN COORDINATOR	<u>1</u>	GRADE GS08
	MAX. NO. OF EMPLOYEES	1	

SECTION 8. APPROPRIATION - OMBUDSMAN PROGRAM. There is hereby appropriated, to the Arkansas Public Defender Commission, to be payable from the State Central Services Fund, for personal services of the Arkansas Public

Defender Commission - Ombudsman Program for the fiscal year ending June 30, 2020, the following:

ITEM NO.		FISCAL YEAR 2019-2020
(01)	REGULAR SALARIES	\$56,685
(02)	PERSONAL SERVICES MATCHING	<u>18,207</u>
	TOTAL AMOUNT APPROPRIATED	<u><u>\$74,892</u></u>

SECTION 9. REGULAR SALARIES - COMMISSION FOR PARENT COUNSEL. There is hereby established for the Arkansas Public Defender Commission - Commission for Parent Counsel for the 2019-2020 fiscal year, the following maximum number of regular employees.

<i>Item No.</i>	<i>Class Code Title</i>	<i>Maximum No. of Employees</i>	<i>Maximum Annual Salary Rate Fiscal Year 2019-2020</i>
(1)	Q252C EXECUTIVE DIRECTOR PARENT COUNSEL	1	GRADE GS13
(2)	G025C ATTORNEY SUPERVISOR	2	GRADE GS12
(3)	G047C ATTORNEY SPECIALIST	1	GRADE GS11
(4)	Q253C EXECUTIVE ASSISTANT PARENT COUNSEL	1	GRADE GS06
(5)	G179C LEGAL SERVICES SPECIALIST	1	GRADE GS06
(6)	C046C LEGAL SUPPORT SPECIALIST	<u>1</u>	GRADE GS04
	<i>MAX. NO. OF EMPLOYEES</i>	7	

SECTION 10. EXTRA HELP - COMMISSION FOR PARENT COUNSEL. There is hereby authorized, for the Arkansas Public Defender Commission - Commission for Parent Counsel for the 2019-2020 fiscal year, the following maximum number of part-time or temporary employees, to be known as "Extra Help", payable from funds appropriated herein for such purposes: fourteen (14) temporary or part-time employees, when needed, at rates of pay not to exceed those provided in the Uniform Classification and Compensation Act, or its successor, or this act for the appropriate classification.

SECTION 11. APPROPRIATION - COMMISSION FOR PARENT COUNSEL. There is

hereby appropriated, to the Arkansas Public Defender Commission, to be payable from the State Central Services Fund, for personal services, operating expenses and parent counsel refunds/reimbursements of the Commission for Parent Counsel for the fiscal year ending June 30, 2020, the following:

ITEM	FISCAL YEAR
NO.	2019-2020
(01) REGULAR SALARIES	\$457,441
(02) EXTRA HELP	630,000
(03) PERSONAL SERVICES MATCHING	139,484
(04) MAINT. & GEN. OPERATION	
(A) OPER. EXPENSE	20,000
(B) CONF. & TRAVEL	0
(C) PROF. FEES	25,000
(D) CAP. OUTLAY	0
(E) DATA PROC.	0
(05) PARENT COUNSEL REIMBURSEMENTS	<u>1,870,231</u>
TOTAL AMOUNT APPROPRIATED	<u><u>\$3,142,156</u></u>

SECTION 12. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. INDIGENT PARENT COUNSEL REPRESENTATION. The Commission for Parent Counsel shall have the authority to use the appropriation provided in line item Parent Counsel Reimbursements of the Parent Counsel Program appropriation herein for the purpose of entering into independent professional service contracts on a full-time or part-time basis with attorneys who are qualified to provide counsel for indigent parents in dependency-neglect cases.
The provisions of this section shall be in effect only from July 1, 2019 through June 30, 2020.

SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL OR TEMPORARY LAW. TRANSFER PROVISION – LINE ITEMS - COMMISSION FOR PARENT COUNSEL. After receiving approval from the Chief Fiscal Officer of the State and prior review by the Arkansas Legislative Council or Joint Budget Committee, the Director of the

Arkansas Public Defender Commission is authorized to transfer appropriation, with the exception of Personal Services Matching, between the line items authorized herein for the Commission for Parent Counsel, to best utilize resources to meet the needs of the Parent Counsel's clientele.

The provisions of this section shall be in effect only from July 1, 2019 through June 30, 2020.

SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. EXTRA HELP EXEMPTION - COMMISSION FOR PARENT COUNSEL. Extra Help positions authorized herein for the Commission for Parent Counsel are specifically exempt from limitation of hours. Employees currently working on a part-time basis may be utilized concurrently as Extra Help within the agency. The total amount of compensation for part-time and Extra Help work combined cannot exceed the maximum compensation allowed for a grade GS11 as authorized in the Uniform Classification and Compensation Act. Flexibility is needed to allow for non-traditional work schedules that may be necessary to accommodate the schedule of the individual being represented. Attorneys utilized as Extra Help employees are not prevented from having other employment.

The provisions of this section shall be in effect only from July 1, 2019 through June 30, 2020.

SECTION 15. Arkansas Code § 9-27-703 is amended to read as follows:

9-27-703. Commission for Parent Counsel.

(f)(1) ~~General~~ Financial support staff, financial data entry staff and facilities, and operating assistance for the Commission for Parent Counsel shall be provided by the ~~Administrative Office of the Courts~~ Arkansas Public Defender Commission from funds that are specifically appropriated for that purpose by the General Assembly.

(2) However, the ~~office~~ Arkansas Public Defender Commission shall not have oversight responsibility or authority over the ~~commission~~ Commission for Parent Counsel ~~except when the commission requests that the office facilitate any contract with an attorney who has been approved for contract by the commission.~~

(3) Under no circumstances shall the:

(A) Commission for Parent Counsel exercise oversight of the

Executive Director of the Arkansas Public Defender Commission;

(B) Arkansas Public Defender Commission exercise oversight of the Executive Director of the Commission for Parent Counsel; and

(C) Either Executive Director of the Arkansas Public Defender Commission or the Commission for Parent Counsel be under the oversight of the other executive director.

SECTION 16. Arkansas Code § 9-27-704 is amended to read as follows:

9-27-704. Power and duties of the Commission for Parent Counsel - Funding Formula - Liability.

(a)(2) The Commission for Parent Counsel may employ or enter into independent professional service ~~contract~~ contracts with attorneys to represent a parent at the trial court level as well as at the appellate level.

(d) Neither the ~~Administrative Office of the Courts~~ Arkansas Public Defender Commission nor the Commission for Parent Counsel is liable directly or indirectly to any attorney or to the Arkansas State Claims Commission for the payment of attorney's fees or expenses except to the extent specific funding is appropriated and available for the purpose of providing indigent parent counsel in dependency-neglect cases.

SECTION 17. Arkansas Code § 5-4-303, concerning conditions of suspension or probation for a criminal offense, is amended to add an additional subsection to read as follows:

(i)(1) Unless specified otherwise in subsection (g) of this section and § 16-87-213, the moneys collected by the courts under subsection (g) of this section and § 16-87-213 shall be deposited into the State Treasury to the credit of the State Central Services Fund.

(2) If Arkansas law requires that the fees levied under subsection (g) of this section be deposited into the State Administration of Justice Fund, the Treasurer of State shall transfer the amount of the fees collected each month under subsection (g) of this section from the State Administration of Justice Fund to the State Central Services Fund.

SECTION 18. Arkansas Code § 17-19-301, concerning bail bond premiums,

is amended to add an additional subsection to read as follows:

(i)(1) Unless specified otherwise under subsection (e) of this section, the moneys collected by each bail bond company under subsection (e) of this section shall be deposited into the State Treasury to the credit of the Public Defender User Fees Fund within the State Central Services Fund.

(2)(A) Of the fee collected by each licensed professional bail bond company, three dollars (\$3.00) shall be transferred to the various counties for the sole purpose of defraying the operating expenses of the local public defender's office.

(B) The remaining moneys collected shall be used to defray operating expenses of the Arkansas Public Defender Commission.

(3) On a quarterly basis, the Arkansas Public Defender Commission shall remit to each county its portion of the three dollars (\$3.00) per bail bond fee collected based upon the following formula:

(A) Seventy five percent (75%) of the bail bond fee collected shall be distributed equally to all seventy-five (75) counties; and

(B) The remaining twenty-five percent (25%) of the bail bond fee collected shall be distributed per capita.

SECTION 19. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. TRANSFER PROVISION. If the Public Defender Commission should determine that the appropriations made available for payments to the Counties are insufficient, appropriation may be transferred from the Public Defender Commission Program line item to the Bail Bond-County Public Defender line item, after receiving approval of the Chief Fiscal Officer of the State.

The provisions of this section shall be in effect only from July 1, ~~2018~~ 2019 through June 30, ~~2019~~ 2020.

SECTION 20. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. PUBLIC DEFENDERS. (a) No funds appropriated herein shall be used for expenses in cases where a defendant is represented by retained counsel where retained counsel have not gone through the Public Defender Commission's attorney certification procedure and designation process as established by state law and the Commission's regulations. All defendants and retained attorneys must

strictly adhere to the procedure established by the Commission to equitably and responsibly monitor and distribute State funds for this purpose.

(b) The Public Defender Commission may approve exemptions to subsection (a) as needed. Reasons for granting exemption should be specified in writing.

The provisions of this section shall be in effect only from July 1, ~~2018~~ 2019 through June 30, ~~2019~~ 2020.

SECTION 21. Arkansas Code § 16-87-203(a), concerning the powers of the Arkansas Public Defender Commission, is amended to add an additional subdivision to read as follows:

(15)(A) To enter into a professional services agreement with a person who is serving as a public defender or employed as an attorney with a state agency when the employee has been appointed to provide defense representation services by a judge.

(B) The total of the professional services agreement and the employee's salary shall not exceed twenty-five percent (25%) above the maximum of the pay grade of the employee's position.

SECTION 22. COMPLIANCE WITH OTHER LAWS. Disbursement of funds authorized by this act shall be limited to the appropriation for such agency and funds made available by law for the support of such appropriations; and the restrictions of the State Procurement Law, the General Accounting and Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary Procedures and Restrictions Act, or their successors, and other fiscal control laws of this State, where applicable, and regulations promulgated by the Department of Finance and Administration, as authorized by law, shall be strictly complied with in disbursement of said funds.

SECTION 23. LEGISLATIVE INTENT. It is the intent of the General Assembly that any funds disbursed under the authority of the appropriations contained in this act shall be in compliance with the stated reasons for which this act was adopted, as evidenced by the Agency Requests, Executive Recommendations and Legislative Recommendations contained in the budget manuals prepared by the Department of Finance and Administration, letters, or summarized oral testimony in the official minutes of the Arkansas Legislative Council or Joint Budget Committee which relate to its passage and adoption.

SECTION 24. EMERGENCY CLAUSE. It is found and determined by the General Assembly, that the Constitution of the State of Arkansas prohibits the appropriation of funds for more than a one (1) year period; that the effectiveness of this Act on July 1, 2019 is essential to the operation of the agency for which the appropriations in this Act are provided, and that in the event of an extension of the legislative session, the delay in the effective date of this Act beyond July 1, 2019 could work irreparable harm upon the proper administration and provision of essential governmental programs. Therefore, an emergency is hereby declared to exist and this Act being necessary for the immediate preservation of the public peace, health and safety shall be in full force and effect from and after July 1, 2019.

/s/Joint Budget Committee

APPROVED: 4/11/19