

Stricken language will be deleted and underlined language will be added.

1 State of Arkansas As Engrossed: S3/25/19 S3/27/19 S4/4/19

2 92nd General Assembly

# A Bill

3 Regular Session, 2019

SENATE BILL 36

4

5 By: Joint Budget Committee

6

7

## For An Act To Be Entitled

8

AN ACT TO MAKE AN APPROPRIATION FOR PERSONAL SERVICES

9

AND OPERATING EXPENSES FOR THE ARKANSAS PUBLIC

10

DEFENDER COMMISSION FOR THE FISCAL YEAR ENDING JUNE

11

30, 2020; AND FOR OTHER PURPOSES.

12

13

14

## Subtitle

15

AN ACT FOR THE ARKANSAS PUBLIC DEFENDER

16

COMMISSION APPROPRIATION FOR THE 2019-

17

2020 FISCAL YEAR.

18

19

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

21

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

26

27

Maximum Annual

28

Maximum

Salary Rate

29

Item Class

No. of

Fiscal Year

30

No. Code Title

Employees

2019-2020

31

(1) U082U PUBLIC DEF COMM EXEC DIRECTOR

1

GRADE SE02

32

(2) G012N PUBLIC DEFENDER III

4

GRADE GS13

33

(3) G022N PUBLIC DEFENDER II

5

GRADE GS12

34

(4) G076C ADMINISTRATIVE SERVICES MANAGER

1

GRADE GS10

35

(5) X056C CAPITAL CONFLICTS INVESTIGATOR

2

GRADE GS07

36

(6) G146C MITIGATION SPECIALIST

1

GRADE GS07



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

6

7 SECTION 2. EXTRA HELP - STATE OPERATIONS. There is hereby authorized,  
 8 for the Arkansas Public Defender Commission - State Operations for the 2019-  
 9 2020 fiscal year, the following maximum number of part-time or temporary  
 10 employees, to be known as "Extra Help", payable from funds appropriated  
 11 herein for such purposes: three (3) temporary or part-time employees, when  
 12 needed, at rates of pay not to exceed those provided in the Uniform  
 13 Classification and Compensation Act, or its successor, or this act for the  
 14 appropriate classification.

15

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

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

34

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

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

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

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29 SECTION 5. EXTRA HELP - TRIAL PUBLIC DEFENDER OFFICE. There is hereby  
30 authorized, for the Arkansas Public Defender Commission - Trial Public  
31 Defender Office for the 2019-2020 fiscal year, the following maximum number  
32 of part-time or temporary employees, to be known as "Extra Help", payable  
33 from funds appropriated herein for such purposes: three (3) temporary or  
34 part-time employees, when needed, at rates of pay not to exceed those  
35 provided in the Uniform Classification and Compensation Act, or its  
36 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	Annual
<u>No. Code Title</u>	<u>No. of</u>	<u>Salary Rate</u>
<u>No. Code Title</u>	<u>Employees</u>	<u>Fiscal Year</u>
<u>No. Code Title</u>	<u>Employees</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

1 Defender Commission - Ombudsman Program for the fiscal year ending June 30,  
 2 2020, the following:

3

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

9

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

14

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

26

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

35

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

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

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

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

31  
 32 SECTION 13. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
 33 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL OR TEMPORARY LAW. TRANSFER  
 34 PROVISION – LINE ITEMS - COMMISSION FOR PARENT COUNSEL. After receiving  
 35 approval from the Chief Fiscal Officer of the State and prior review by the  
 36 Arkansas Legislative Council or Joint Budget Committee, the Director of the

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

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

7  
 8 SECTION 14. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE  
 9 ARKANSAS CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW.  
 10 EXTRA HELP EXEMPTION - COMMISSION FOR PARENT COUNSEL. Extra Help positions  
 11 authorized herein for the Commission for Parent Counsel are specifically  
 12 exempt from limitation of hours. Employees currently working on a part-time  
 13 basis may be utilized concurrently as Extra Help within the agency. The  
 14 total amount of compensation for part-time and Extra Help work combined  
 15 cannot exceed the maximum compensation allowed for a grade GS11 as authorized  
 16 in the Uniform Classification and Compensation Act. Flexibility is needed to  
 17 allow for non-traditional work schedules that may be necessary to accommodate  
 18 the schedule of the individual being represented. Attorneys utilized as  
 19 Extra Help employees are not prevented from having other employment.

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

22  
 23 SECTION 15. Arkansas Code § 9-27-703 is amended to read as follows:  
 24 9-27-703. Commission for Parent Counsel.

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

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

35 (3) Under no circumstances shall the:

36 (A) Commission for Parent Counsel exercise oversight of the

1 Executive Director of the Arkansas Public Defender Commission;

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

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

7  
8 SECTION 16. Arkansas Code § 9-27-704 is amended to read as follows:

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

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

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

22  
23 SECTION 17. Arkansas Code § 5-4-303, concerning conditions of  
24 suspension or probation for a criminal offense, is amended to add an  
25 additional subsection to read as follows:

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

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

35  
36 SECTION 18. Arkansas Code § 17-19-301, concerning bail bond premiums,



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

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

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

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

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

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

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

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

27 The provisions of this section shall be in effect only from July 1, ~~2018~~  
28 2019 through June 30, ~~2019~~ 2020.

29  
30 SECTION 20. SPECIAL LANGUAGE. NOT TO BE INCORPORATED INTO THE ARKANSAS  
31 CODE NOR PUBLISHED SEPARATELY AS SPECIAL, LOCAL AND TEMPORARY LAW. PUBLIC  
32 DEFENDERS. (a) No funds appropriated herein shall be used for expenses in  
33 cases where a defendant is represented by retained counsel where retained  
34 counsel have not gone through the Public Defender Commission's attorney  
35 certification procedure and designation process as established by state law  
36 and the Commission's regulations. All defendants and retained attorneys must

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

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

5 The provisions of this section shall be in effect only from July 1, ~~2018~~  
6 2019 through June 30, ~~2019~~ 2020.

7  
8 *SECTION 21. Arkansas Code § 16-87-203(a), concerning the powers of the*  
9 *Arkansas Public Defender Commission, is amended to add an additional*  
10 *subdivision to read as follows:*

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

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

18  
19 *SECTION 22. COMPLIANCE WITH OTHER LAWS.* Disbursement of funds  
20 authorized by this act shall be limited to the appropriation for such agency  
21 and funds made available by law for the support of such appropriations; and  
22 the restrictions of the State Procurement Law, the General Accounting and  
23 Budgetary Procedures Law, the Revenue Stabilization Law, the Regular Salary  
24 Procedures and Restrictions Act, or their successors, and other fiscal  
25 control laws of this State, where applicable, and regulations promulgated by  
26 the Department of Finance and Administration, as authorized by law, shall be  
27 strictly complied with in disbursement of said funds.

28  
29 *SECTION 23. LEGISLATIVE INTENT.* It is the intent of the General  
30 Assembly that any funds disbursed under the authority of the appropriations  
31 contained in this act shall be in compliance with the stated reasons for  
32 which this act was adopted, as evidenced by the Agency Requests, Executive  
33 Recommendations and Legislative Recommendations contained in the budget  
34 manuals prepared by the Department of Finance and Administration, letters, or  
35 summarized oral testimony in the official minutes of the Arkansas Legislative  
36 Council or Joint Budget Committee which relate to its passage and adoption.

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

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15                                   */s/ Joint Budget Committee*  
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