



# DAS POST CONVICTION INDIGENT DEFENSE

INFRASTRUCTURE AND GENERAL GOVERNMENT APPROPRIATIONS SUBCOMMITTEE

BUDGET BRIEF

**SUMMARY**

UCA 77-32-601 allows persons convicted of a capital crime and sentenced to death to challenge the conviction and have counsel appointed. If a defendant requests counsel and is determined by the court to be indigent, costs of counsel and other reasonable litigation expenses incurred in providing the representation must be paid from state funds by the Division of Finance.

The program was managed by the Attorney General’s (AG) office for a period of time but was moved into a separate line item to avoid the appearance of a conflict resulting from the AG prosecuting individuals while directly funding their defense. Funds are housed in the Division of Finance for administrative purposes only, though the division does have administrative rule authority to set reimbursement rates.

**ISSUES AND RECOMMENDATIONS**

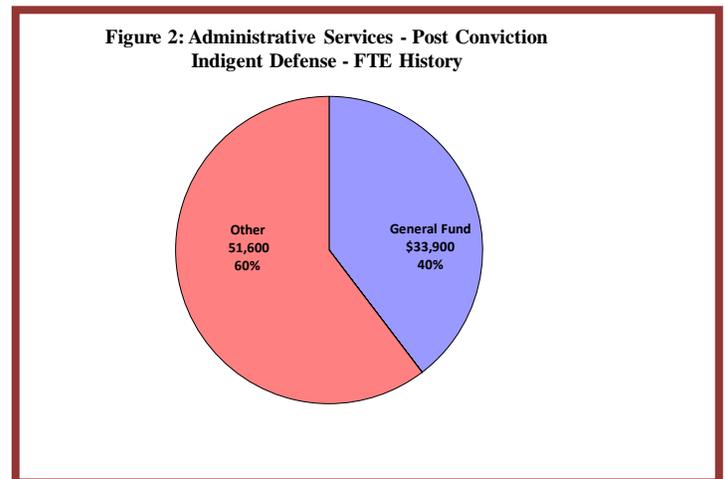
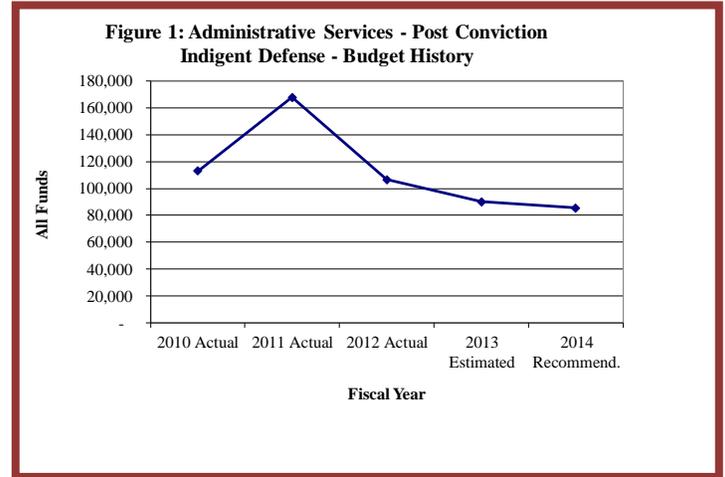
In the 2008 General Session the Legislature increased the amount that may be paid to legal counsel for individuals appealing the death sentence. Annual expenditures in this program have increased from \$7,500 in FY 2008 to \$168,000 in FY 2011 with an ongoing appropriation of \$33,900. The Legislature appropriated to the Division of Finance an additional \$100,000 one-time General Fund in FY 2012 to ensure that the program would not go into a deficit.

**BUDGET DETAIL**

In FY 2009 the Legislature appropriated \$43,000 ongoing General Fund to this program, which previously operated on nonlapsing carry-forward balances only. Budget reductions in subsequent years have reduced the ongoing General Fund to \$33,900.

***Intent Language***

The Analyst recommends the Legislature approve the nonlapsing intent language for Fiscal Year 2013 as delineated in the Intent Language Issue Brief.



# POST CONVICTION INDIGENT DEFENSE

## LEGISLATIVE ACTION

The Analyst recommends the Legislature consider adopting:

1. A total FY 2013 appropriation of \$85,500 for the Post Conviction Indigent Defense program as delineated in the following table
2. Intent language making the FY 2013 appropriation nonlapsing as listed in the Intent Language Issue Brief.

## BUDGET DETAIL TABLE

Administrative Services - Post Conviction Indigent Defense						
Sources of Finance	FY 2012 Actual	FY 2013 Appropriated	Changes	FY 2013 Revised	Changes	FY 2014* Recommended
General Fund	33,900	33,900	0	33,900	0	33,900
General Fund, One-time	100,000	0	0	0	0	0
Beginning Nonlapsing	80,300	0	107,700	107,700	(56,100)	51,600
Closing Nonlapsing	(107,700)	0	(51,600)	(51,600)	51,600	0
<b>Total</b>	<b>\$106,500</b>	<b>\$33,900</b>	<b>\$56,100</b>	<b>\$90,000</b>	<b>(\$4,500)</b>	<b>\$85,500</b>
<b>Programs</b>						
Post Conviction Indigent Defense Fu	106,500	33,900	56,100	90,000	(4,500)	85,500
<b>Total</b>	<b>\$106,500</b>	<b>\$33,900</b>	<b>\$56,100</b>	<b>\$90,000</b>	<b>(\$4,500)</b>	<b>\$85,500</b>
<b>Categories of Expenditure</b>						
Current Expense	106,500	33,900	56,100	90,000	(4,500)	85,500
<b>Total</b>	<b>\$106,500</b>	<b>\$33,900</b>	<b>\$56,100</b>	<b>\$90,000</b>	<b>(\$4,500)</b>	<b>\$85,500</b>

\*Does not include amounts in excess of subcommittee's state fund allocation that may be recommended by the Fiscal Analyst.