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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Steven Bradford, Chair

2021 - 2022 Regular

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**Bill No:** SB 1117                      **Hearing Date:** April 19, 2022  
**Author:** Becker  
**Version:** March 3, 2022  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** MK

**Subject:** *State Public Defender: grants*

## HISTORY

**Source:** Author

**Prior Legislation:** Not applicable

**Support:** California Attorneys for Criminal Justice; California Public Defenders Association; Ella Baker Center for Human Rights

**Opposition:** None known

## PURPOSE

***The purpose of this bill is to allow the State Public Defender to administer and reward grants to improve indigent defense services.***

*Existing law* provides that the Governor shall appoint a State Public Defender, subject to confirmation by the Senate. The State Public Defender shall be a member of the State Bar during the five years preceding appointment and shall have substantial experience in the representation of the accused or convicted person in criminal or juvenile proceedings during that time. (Gov. Code sec. 15400)

*Existing law* provides that the State Public Defender shall be appointed for a term of four years and shall serve until appointment and qualification of their successor. (Gov. Code sec. 15401)

*Existing law* provides that the State Public Defender may employ deputies and other employees, contract with county public defenders, private attorneys, and nonprofit corporations, and establish and operate offices, as they may need for proper performance of their duties. The State Public Defender may provide for participation by those attorneys and organizations in the performance of State Public Defender's duties. (Gov. Code sec. 15402)

*Existing law* provides that, subject to an appropriation of funds by the Legislature, the State Public Defender, in consultation with the California Public Defenders Association and other subject matter experts, shall undertake a study to assess appropriate workloads for public defenders and indigent defense attorneys and shall submit a report with their findings and recommendations to the Legislature no later than January 1, 2024. (Gov. Code sec. 15403)

*Existing law* provides that the primary responsibilities of the State Public Defender are:

- a) To represent those persons who are entitled to representation at public expense in specified actions.
- b) To provide assistance and training to public defenders offices, to counsel appointed to represent indigent defendants and to engage in related efforts for the purpose of improving the quality of indigent defense. (Gov. Code sec. 15420)

*Existing law* provides that the State Public Defender is authorized to represent any person who is not financially able to employ counsel in the following matters:

- a) An automatic appeal to the Supreme Court in a judgement of death.
- b) A petition for writ of certiorari to the United State Supreme Court with respect to a judgement on automatic appeal of a judgement of death.
- c) An appeal in a noncapital, criminal case as long as the State Public Defender is fulfilling the responsibilities provide representation on death penalty appeals or the State Public Defender determines that taking a limited number of those cases is necessary for staff training.
- d) Any other proceeding in which a person is entitled to representation at public expense where providing the representation is in furtherance of the State Public Defender's primary responsibilities. (Gov. Code sec. 15421)

*Existing law* provides where a county public defender has refused, or is otherwise reasonably unable, tor represent a person because of a conflict of interest or other reason, the State Public Defender is authorized to represent that person, where the person is not financially able to employ counsel and is charged with the commission of any contempt or offense triable in the superior court, including restrictions on liberty, resulting from the charge. (Gov. Code sec. 15422)

*Existing law* provides that the State Public Defender is authorized to appear as a friend of the court and may appear in a legislative administrative or other similar proceeding. (Gov. Code sec. 15402)

*Existing law* provides that a person requesting the appointment of counsel shall make a financial statement under oath. (Gov. Code sec. 15424)

*Existing law* provides that the duties prescribed for the State Public Defender are not exclusive and they may perform any acts consistent with them carrying out the function of the office. (Gov. Code sec. 15425)

*This bill* allows the State Public Defender to administer and reward grants to improve indigent defense services.

## COMMENTS

### 1. Need for This Bill

According to the author:

Prior to SB 1117, county public defender offices and programs could only apply to the Board of State and Community Corrections (BSCC), the county

jails oversight authority, for grant funding. With this bill, the offices and programs providing critically important free representation to some of California’s most vulnerable can apply to both bodies for support of new ideas that prevent them from reentering the justice system. Services like housing, mental health, identification, driver’s license, birth certificate, public transit passes, CalFresh, and MediCal are just some of the ways that PD offices support our community and the justice-involved. OSPD is best suited to do this work.

**2. Administration of grants**

This bill would allow the State Public Defender to authorize to administer and award grants to improve indigent defense services.

Government Code Section 15420 already allows the State Public Defender to provide assistance and training to public defenders offices, to counsel appointed to represent indigent defendants and to engage in related efforts for the purpose of improving the quality of indigent defense and has created the Indigent Defense Improvement Division, however any grants for indigent services would be run through the Board of State and Community Corrections (BSCC).

Among the indigent defense grants from BSCC in recent years are the following:

**Indigent Defense Grant Program (2020):**

The Budget Act of 2020 (Senate Bill 74) established the Indigent Defense Grant Program and appropriated \$10,000,000 in funding. Per the Budget Act, \$9,800,000 is available for grants to county Public Defenders and up to \$200,000 may be allocated for an evaluation of the Indigent Defense Grant Program. The \$9.8 million allocation will be distributed among 19 counties to help address the staffing, training, and case management needs of Public Defender Offices in counties with a population of 550,000 residents or fewer. This targeted approach is intended to maximize limited funding in small to medium counties. Below is the list of allocations to the counties.

County	Allocation	County	Allocation
El Dorado County	\$347,900	Santa Barbara	\$637,000
Humboldt County	\$416,500 · \$323,400 to PDO · \$93,100 to ADO	Shasta County	\$347,900
Imperial County	\$347,900	Siskiyou County	\$274,400
Lassen County	\$274,400	Solano County	\$852,600 • \$637,000 to PDO • \$215,600 to ADO
Marin County	\$347,900	Sonoma County	\$882,000
Mendocino County	\$416,500 · \$323,400 to PDO · \$93,100 to ADO	Stanislaus County	\$1,127,000
Merced County	\$984,900	Tulare County	\$637,000
Monterey County	\$637,000	Tuolumne County	\$274,400
Napa County	\$323,400	Yolo County	\$347,900
Nevada County	\$323,400		

*ADO - Alternate Defender Office*

*PDO - Public Defender Office*

([http://www.bscc.ca.gov/s\\_indigentdefensegrant/](http://www.bscc.ca.gov/s_indigentdefensegrant/).)

**Public Defense Pilot Program (2021):**

The (amended) Budget Act of 2021 (Senate Bill 129) allocates \$50 million to the BSCC to administer a new Public Defense Pilot Program. It is anticipated that a total of \$148,500,000 will be available to counties over the next three fiscal years. In 2021, from the \$50 million allocation, \$49.5 million shall be provided to counties for indigent defense based on each county's share of the total adult population in the state. Eligible recipients of the funds include 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." The BSCC also was provided \$500,000 to cover administrative costs and to contract with a university or research institution to complete an independent evaluation of the pilot program. The BSCC calculated the amount of funding each county is eligible to receive by dividing the \$49.5 million by the county's share of the total adult population using the 2021 projected population figures from the Department of Finance.

Attached you will find the allocations of this program's funding to the counties.

<https://www.bscc.ca.gov/public-defense-pilot-program/>.

**County Resentencing Pilot Program (2021):**

The Budget Act of 2021 (Assembly Bill 128) also allocated funds directly to district attorneys' offices and public defenders for the County Resentencing Pilot Program, which was also codified in Penal Code section 1170.01. This program provided \$18 million directly to the following offices:

- (a) \$2,200,000 shall be provided to the Los Angeles County District Attorney's Office.
- (b) \$1,160,000 shall be provided to the Santa Clara County District Attorney's Office.
- (c) \$1,100,000 shall be provided to the San Francisco County District Attorney's Office.
- (d) \$1,050,000 shall be provided to each of the following: the Contra Costa County District Attorney's Office and the Riverside County District Attorney's Office.
- (e) \$1,000,000 shall be provided to the San Diego County District Attorney's Office.
- (f) \$750,000 shall be provided to each of the following: the Contra Costa County Public Defender's Office, the San Francisco County Public Defender's Office, and the Santa Clara County Public Defender's Office.
- (g) \$717,000 shall be provided to the Yolo County District Attorney's Office.
- (h) \$715,000 shall be provided to the Riverside County Public Defender's Office.
- (i) \$700,000 shall be provided to the Los Angeles County Public Defender's Office.
- (j) \$650,000 shall be provided to the San Diego County Public Defender's Office.
- (k) \$478,000 shall be provided to the Merced County District Attorney's Office.
- (l) \$415,000 shall be provided to the Yolo County Public Defender's Office.
- (m) \$355,000 shall be provided to the Humboldt County District Attorney's Office.
- (n) \$320,000 shall be provided to the Merced County Public Defender's Office.
- (o) \$240,000 shall be provided to the Humboldt County Public Defender's Office.

You can find this in the budget bill located here (search under 5227-115-0001):

([https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill\\_id=202120220AB128](https://leginfo.legislature.ca.gov/faces/billTextClient.xhtml?bill_id=202120220AB128))

Should the grants instead be administered by the Office of the State Public Defender? Grant distribution and allocation is specialized work, what new staff will the Office of the State Public Defender need to be administer grants? Are there additional grants that the Office of the State Public Defender will seek?

### **3. Argument in Support**

The California Public Defenders Association supports this bill stating:

SB 1117 would authorize the State Public Defender to administer and award grants to improve indigent defense services. Currently, most indigent defense grants are administered by the Board of State and Community Corrections (BSCC). BSCC already has many responsibilities, including the administration of numerous state grants. The Office of the State Public Defender's newly created Indigent Defense Improvement Division has expertise in working with indigent defense organizations in this state to understand how grant money will be most beneficial to the clients served by public defenders and appointed counsel. OSPD is therefore, uniquely situated to award grants to these agencies for the improvement of indigent defense.

Additionally, by authorizing the State Public Defender to directly administer grants, the process by which grant money is administered will be more streamlined. The money will get to the recipients of the grants faster and more efficiently.

**-- END --**