

## House Bill 5030 Frequently Asked Questions

The Public Defense Services Commission (PDSC) budget funds the Office of Public Defense Services and public defense providers across Oregon. The PDSC's 2021-23 biennial budget, which takes effect through HB 5030, marks a significant investment in public defense services modernization. As part of that modernization, HB 5030 looks different from past agency budget bills. Here are some questions and answers to frequently asked questions about what HB 5030 means for the PDSC and for the provider community.

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### Questions and Answers:

#### 1) How is the PDSC's budget bill different this biennium?

The agency's budget process differs this biennium because it involves allocation of funds, which is standard, as well as the launch of an agency modernization process that includes withholding of ear-marked funds. This modernization process will be informed by Legislative Fiscal Office (LFO) recommendations and budget notes, which have been published, as well as ongoing discussions between the agency and the legislature.



The LFO recommendations spell out the legislature's intent for the agency's budget operations over the next biennium. In this case, agency modernization includes a restructuring of the agency's budget, investment in agency infrastructure, including adding internal audit and compliance functions, as well as fiscal analysis and data tracking capacity, and additional agency changes to improve service delivery.

**2) How much money was the agency allocated in HB 5030, the budget bill?  
Does HB 5030 provide more or less funding for providers?**

HB 5030 allocates approximately \$321.4 million to the PDSC. Additionally, \$100 million has been established in a special purpose appropriation specifically for the PDSC, to be allocated in the future by the state's Emergency Board<sup>1</sup> when the agency meets certain conditions. With those total funds combined, the legislature has ear-marked approximately \$421 million for state public defense during the 2021-23 biennium, which **represents an \$84.2 million, or 23.6%, increase** above the total 2019-21 legislatively approved budget. By comparison, the agency's 2019-21 legislatively approved budget was approximately \$355.6 million, which includes the funds allocated through the 2019 budget bill combined with additional interim budget allocations through the Emergency Board.

Additionally, as described further in question 8, the total funds in HB 5030, combined with the \$100 million hold-back funds, **represents a 24.8 percent increase in funds** the legislature has made **available for trial-level public defense**, in the amount of \$394,155,629.

**3) But I heard that HB 5030 cut the agency's funding by 4.5%. Is that true?**

When *only* considering the funds allocated in the bill itself, HB 5030 represents a 4.5% reduction in agency current service level total funds. However, that *excludes* the \$100 million special purpose appropriation for the PDSC that we fully expect to receive upon satisfaction of the legislature's requirements. When those withheld funds are included, the total funds ear-marked for **the agency's 2021-23 biennial budget represent a significant increase in funds for public defense**. The agency is working diligently to ensure that it meets the conditions necessary to secure the withheld funds.

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<sup>1</sup> The state's Emergency Board is comprised of state legislators and staffed by the Legislative Fiscal Office to address state budget needs when the legislature is not in session.

**4) What does the agency have to do to meet the legislature's conditions in order to get the withheld funds released in the future?**

The agency needs to show the legislature that it is making satisfactory progress on achieving the restructuring, modernization, financial controls, quality management, performance metrics, and governance changes reflected in the LFO recommendations and budget notes, HB 5030, and HB 2003, a bill that makes changes to the PDSC's Commission membership and policies, all of which will make the agency stronger and more effective.

**5) How does HB 5030 restructure the agency?**

The restructuring is focused primarily on the agency's budget and on steps that will better enable the agency to effectively manage its new contract model, improve service delivery, and achieve the goals of HB 2003. Prior to HB 5030, the PDSC's budget was split into three categories: (1) the Professional Services Account (PSA), which is the bucket from which all trial-level provider payments and costs come from; (2) the Appellate Division, which funds the state's appellate-level public defense system; and (3) the Contracts and Business Services division, which is the agency's administrative services division.

HB 5030's -1 amendment creates new budget categories for the agency in place of the three existing budget categories. The new budget categories are as follows:

- (1) Executive Division
- (2) Compliance, Audit, and Performance Division
- (3) Appellate Division
- (4) Trial Criminal Division
- (5) Nonroutine Expenses
- (6) Court Mandated Expenses
- (7) Juvenile Division
- (8) Administrative Services

The new budget categories signify the agency's modernizing its business and financial management operations, allowing for more accurate accounting and tracking of caseloads, expenses, payments, and other key operational data.

The agency restructure also includes key internal staffing additions, such as a deputy director role, internal auditing functions, and additional accounts payable staff, to improve the agency's capacity for internal management and external service delivery.



Additionally, for this budget cycle, the “Juvenile” division counts only the Parent Child Representation Program (PCRP) contract costs, while non-PCRP juvenile representation costs are included in Trial Criminal. The intent is for the agency, over the next contracting cycles, to separate non-PCRP juvenile contract costs out of adult trial contract costs so that the new Juvenile division of the agency budget will include all juvenile representation costs, rather than bifurcate PCRP contract costs from non-PCRP contract costs. This will take additional time and work with our LFO partners to achieve.

**6) How will the restructuring affect providers, overall?**

The agency restructure will help providers by, among other things, improving the agency’s capacity to manage funds by lines of business, track and manage provider workloads, and fill key staffing gaps to allow for better customer service. Key details of how the agency restructure will unfold are in the works, so please stay tuned for more information on this question.

**7) How much funding does HB 5030 allocate to each new budget category?**

- Executive Division – \$3,600,361
- Compliance, Audit and Performance Division – \$4,656,251
- Appellate Division – \$24,925,503
- Trial Criminal Division – \$186,458,931
- Nonroutine Expenses – \$43,663,533
- Court Mandated Expenses – \$19,456,070
- Juvenile Division – \$44,577,095
- Administrative Services Division – \$12,486,505

Total: \$339,824,250

**8) How much total funding is allocated to trial-level defense services once the agency meets *all* the legislature’s conditions to release withheld funds?**

- Trial Criminal Division – \$256,709,920
- Nonroutine Expenses – \$58,218,044
- Court Mandated Expenses – \$24,458,205
- Juvenile Division – \$54,769,460

The total of these trial-level cost categories is \$394,155,629. By comparison, the total for the 2019-2021 legislatively approved budget for trial-level defense services (within the Professional Services Account) was \$315,720,622. This is a **24.8% increase in trial-**



**level public defense funding**, should the agency receive all ear-marked total funds, including those presently held-back.

**9) Where do the withheld of funds come from?**

The \$100,000 held in a special purpose appropriation is designated to come from the following new budget buckets:

- Trial criminal: \$70,250,989
- Nonroutine Expenses: \$14,554,511
- Court Mandated Expenses: \$5,002,135
- Juvenile Division: \$10,192,365

We acknowledge that these funds are withheld from the trial-level provider budget buckets and not the agency administration buckets. As a service-delivery agency, we have every intention of meeting the legislature’s requirements so that this funding is released and made available to ensure providers are compensated and able to provide the best possible representation and outcomes for clients.

**10) What is going on with juvenile caseload becoming “non-mandated” caseload rather than “mandated” caseload?**

A mandated caseload is essentially work that an agency must perform due to some requirement over which the agency has no control, such as providing representation in adult criminal public defense cases due to a person’s constitutional rights to counsel. Juveniles also have constitutional and statutory rights to representation under various circumstances. That the new budget restructure considers juvenile caseload differently than in the past is an issue the agency is monitoring closely. In conversations with our legislative partners, it is clear that the legislature has no intention of under-funding juvenile caseloads, and the agency will proactively notify the legislature through all appropriate channels should caseloads trend upward and the agency become concerned that the allocated budget is insufficient to pay for the necessary representation expenses. Again, there is no reason to believe that the legislature intends to underfund juvenile representation, and the agency is closely attuned to this issue.

**11) What does HB 5030 mean for the agency’s June 2021 budget shortfall?**

As described in other communications, the agency is experiencing a budget shortfall for the existing 2019-2021 biennial budget. This has included delayed payments to groups of providers. The agency is working diligently to resolve this issue as expeditiously as possible and understands that delayed payments impacts providers



significantly, particularly those modeled as solo providers and small businesses. HB 5030 includes approximately \$3.78 million to cover the agency's 2021 budget shortfall. Once this bill is enacted, that funding will become available to the agency and, after the usual processing time by other state agencies, to providers.

**12) What is the current status regarding which providers have received payment following announcement of the June 2021 budget shortfall?**

The agency's top priority is creating certainty for providers around payment actions as soon as possible.

As of June 15th, 2021:

- All billings from providers who fall into investigators, interpreters and translation, mitigators, case managers, and transcriptionists have been paid for those bills received May 14th.
- Agency staff is currently working on the billings from non-contract attorney providers received May 3 – 14th.

Agency staff are monitoring the situation closely and will update providers again shortly. We expect another update on the status of the payment delay next week.