

TO: House Appropriations Committee: Representative Kitty Toll, Chair House Committee on Appropriations and Representative Chip Conquest, Member House Committee on Appropriations

FROM: Representative Maxine Grad, Chair House Judiciary Committee and Representative Barbara Rachelson, Member House Committee on Judiciary

RE: Judiciary's Budget Adjustment Requests Memo

DATE: 1/23/19

The House Judiciary Committee has reviewed the three items that the Appropriations Committee asked us to examine for the Budget Adjustment. Below are our recommendations on those three items, as well as an additional two recommendations for the Appropriations Committee:

Request # 1: Title IV D Reduction in Revenue (Judiciary's Portion)

While this request was part of the items that the House Judiciary Committee was asked to review, this issue needs to be sent to the House Human Services Committee and House Government Operations Committee, as the issue is not fully resolved yet. It is imperative that the appropriate committees of jurisdiction are looking at the entire impact that the OCS being out of compliance with the federal guidelines and requirements will mean for the state, especially from a financial standpoint- bottom line.

Recommendation:

The House Judiciary is not in a position to weigh in on this issue, other than to strongly encourage that we look at tightening up the checks and balances in these types of situations where one department of state government (in this case the Office of Child Support) is responsible for administering the requirements of federal funds that involve other departments (in this case the Judiciary). This is not a policy issue for the Judiciary Committee. While we did not have a chance to review what the shortfall in revenue will mean for the Judiciary without this budget adjustment, we hope that the House Appropriations Committee and/or the House Human Services Committee will address this issue, as we realize it will need to be examined further in making a determination on Judiciary's recommendation for these funds.

Request #2: Increase Staffing for Expungement Increases:

On 7/1/18 three expungement acts came into law that increased the number of people seeking expungement of their criminal records from the courts.

The Judiciary is asking for 5 temporary docket clerks (one for each of their 5 administrative regions- 1 per region) at a cost of \$173,264 in FY 19 that they are requesting in the budget

adjustment. The request is for these positions to be temporary until the new case management software is fully implemented (two years off best case scenario).

The court administrator shared with us that the court did an average of 719 expungements a year from 2014-2017 and in FY 19, they have already issued 1560 expungements in the first 6 months.

The Judiciary Committee will look at the differences between expungement and sealing records both from a results standpoint, in what we were trying to accomplish through expungement, but also from a work load comparison for the Judiciary. There are some questions we had, that seemed more appropriate for the Appropriations Committee to explore.ⁱ

Further, the Judiciary predicts the numbers will be more like 2800-2900 this year.

Recommendation:

The Judiciary Committee supports expungement as an important workforce development policy. We also understand that the Judiciary Committee's willingness to look at expanding expungement may have future budgetary ramifications that we will consider, especially before the electronic case management software is fully implemented and rolled out in the Judiciary.

We underscore the importance of an RBA analysis for outcomes for these positions.

Request #3: CHINS Report

Recommendation:

The Judiciary Committee has discussed the use of Judicial Masters and support the concept of using them as the CHINS report and proposed budget suggests.

The Judiciary Committee has not discussed the Alternative Dispute Resolution concept for CHINS and cannot weigh in on this recommendation one way or the other.

The Committee is supportive of evidence based and evidence informed programming that would help successfully reduce the CHINS docket waiting time.

We do suggest that the RBA outcomes for Alternative Dispute Resolution be reviewed and examined.

Request # 4: Fair and Impartial Policing Training Money

The Judiciary Committee strongly supported the Fair and Impartial Policing Money that was supposed to be in the FY 19 budget and passed on from the Judiciary to the Training Council. The money was to be used in FY 19 to implement training. The Judiciary Committee wanted to

share that this money was a priority of our Committee. We are hoping the House Appropriations Committee will track down where this funding is and assure that it is included in the BAA if needed, so that the Training Council can still complete this work in FY 19.

Additional Recommendation from the Judiciary Committee:

In the governor's BAA recommend, there is a new charge of \$500,000 that appeared that is for retirement. What is this charge? The Judiciary and other Departments as well, get charges passed on by the Executive Office and State Government. There doesn't appear to be a backup document to show how these charges are determined and how they are spread. This is worth someone looking into, especially with the goal of transparency in the budget process.

Thank you for the chance to review and weigh in on these items. Please let us know if we can answer any other questions.

ⁱ How do we know the rate of expungements will keep up? Don't most people do it right away when it becomes law? What upcoming clinics are scheduled for the rest of FY 19? (as we know these generate high numbers of expungements.

Realistically, they will not have people hired until February or March, even if this were to be approved, **should it be prorated?**

What is the time difference that it will take to have expungements be processed should this request not be granted or fully granted? Example: 2 business days versus six months, etc.?

The BAA request is for six months of time plus computers, work stations and admin time. So next year will they be needing \$300,000- \$350,000 additional funding for these five positions (minus the cost of the equipment?)

Why does the VCIC say they can handle the additional expungement work without adding additional personnel? Are there other departments/programs (state attorneys, AG's office or Legal Aide) needing additional funds for expungement or just the judiciary, and if so, why?

How did the Judiciary handle the increase until now with existing staff? Would it be better and more cost effective to offer overtime (very limited and managed)? Five seems like an awful lot of people, though our committee had discussion of both wanting to accept what the Judiciary was saying they needed versus having some way of looking at what the numbers and needed staffing will be.

If we assume one FTE is doing this **35 hours out of their work week** and there **are 5 FTE, that is 175 hours a week** (or 10,500 minutes for all five workers) devoted to expungements. If each case takes 45 minutes (which is the longest and for multiple crimes) that is 233 cases/week divide that by five and that is 46.6 cases per person.

Take 2800 cases (which is a full year's worth) and divide it by 5 full time people that is 560 expungements to process for each FTE.

Divide that by 20 weeks and that is 28/ expungement cases per FTE person per week.
