

OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET PRESENTATION

2021 House and Senate
Appropriations Committees

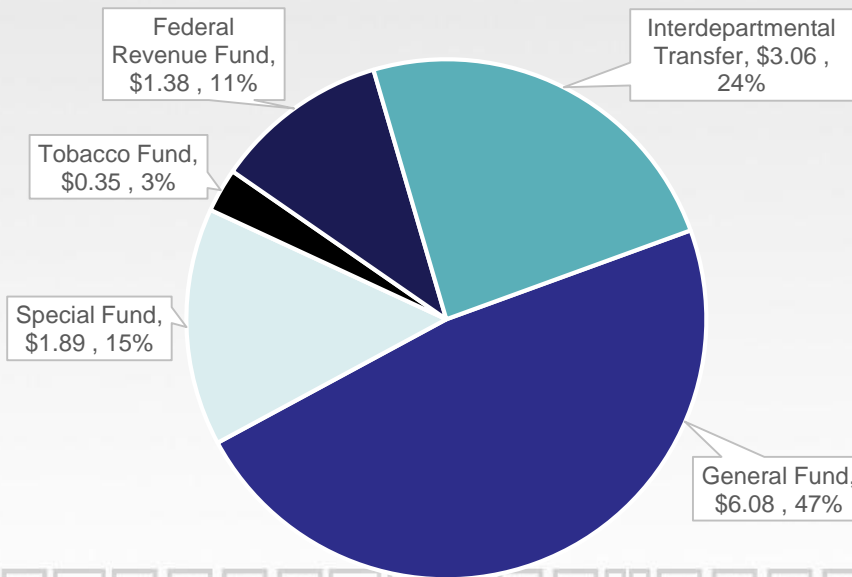


OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET REQUEST

MISSION: It is the mission of the Vermont Office of the Attorney General to protect and promote the health and safety of all Vermonters by providing independent legal counsel and representation to the State of Vermont.

VALUES: *Dedicated to public service *Quality and excellence in work *Professionalism and integrity *Innovation & creative problem solving *A supportive work environment that enables people to do their jobs effectively & efficiently.

Governor's Recommend Budget
FY 2022 (\$12.75 million)



FY 2022 SUMMARY & OFFICE COMPILATION

- \$250,521 Net GF increase over FY 2021
As Passed in Governor's Recommend
- 146 Positions Managed Statewide
 - 100 Exempts (98 AAGs), 46 Classifieds
 - 90 Positions on the Attorney General's Office Payroll
 - 56 Positions embedded in agencies & departments across state government
- The Office is comprised of two (2) appropriations:
 - Attorney General – Seven (7) Divisions
 1. Administration
 2. Human Services
 3. Civil
 4. General Counsel & Administrative Law
 5. Criminal
 6. Public Protection
 7. Environmental Protection
 - Vermont Court Diversion



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

What's Happening?

- Defending: the State's historic gun legislation; Dual Enrollment Program; the Agency of Education's consolidations under Act 46.
- Suing: distributors and manufacturers of opioids; manufacturers of PFOA and related chemicals for contaminating Vermont; facial recognition technology company Clearview AI to stop collecting and storing Vermonters' photos and biometric data.
- Protecting civil rights and the environment through multistate cases challenging federal efforts to: ask about immigration status on the census; implement the "public charge rule" making it more difficult for immigrants to obtain green cards; challenging limited access to reproductive health care under Title X; and challenges to new regulations from the EPA and other federal agencies that weaken environmental protections.
- Actively prosecuting complex homicide and Internet Crimes Against Children (ICAC).
- Negotiated a settlement with DMV and the ACLU regarding driver privilege cards.
- COVID-19 enforcement – Obtained injunction and restitution against Big Brother Security Programs, Inc., and Shelly Palmer for COVID-19 related price gauging who sold surgical masks at exorbitant prices; awarded preliminary injunction and settled claims against a Rutland gym owner who continued operations in violation of the Governor's COVID-19 Executive Order.
- Providing essential general counseling services to state agencies navigating COVID-19 pandemic including contract review and guidance on rapidly changing legal and regulatory environment.



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Funding Requested in Addition to Governor's Recommend

➤ **\$135,614** buys down vacancy savings to statewide accepted rate of 4%

Governor's Recommend	% GF Increase*	\$ GF Increase*	GF Total	Total Budget	Needed Vacancy Savings	Vacancy Savings Rate
	3.0%	\$ 168,680	\$ 6,081,043	\$ 12,754,363	\$ (358,725)	6.4%

Attorney General Add'l Req	% GF Increase*	\$ GF Increase*	GF Total	Total Budget	Needed Vacancy Savings	Vacancy Savings Rate
\$ 135,614	5.4%	\$ 304,294	\$ 6,216,657	\$ 12,889,977	\$ (218,158)	4.0%

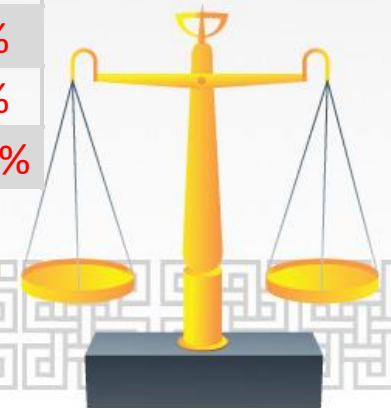
*Exclusive of (1) \$207,846 administrative transfer from Court Diversion, (2) \$65,000 backfill of Coronavirus Relief Funds, and (3) \$16,841 Internal Service Fund increase



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Governor's Recommend			Attorney General's Request					
\$12,754,363			FY 2022 Total Budget			\$12,889,977		
\$ 6,081,043	47.7%	General Fund	\$ 6,216,657	48.2%				
\$ 1,886,016	14.8%	Special Fund	\$ 1,886,016	14.6%				
\$ 348,000	2.7%	Tobacco Fund	\$ 348,000	2.7%				
\$ 1,382,278	10.8%	Federal Revenue Fund	\$ 1,382,278	10.7%				
\$ 3,057,026	24.0%	Interdepartmental Transfer	\$ 3,057,026	23.7%				
\$ -	0.0%	Coronavirus Relief Fund	\$ -	0.0%				
\$ 202,612	1.6%	Net Change From FY 2021	\$ 338,226	2.7%				
\$ 458,364	8.2%	General Fund	\$ 593,978	10.6%				
\$ (3,873)	-0.2%	Special Fund	\$ (3,873)	-0.2%				
\$ -	0.0%	Tobacco Fund	\$ -	0.0%				
\$ (45,094)	-3.2%	Federal Revenue Fund	\$ (45,094)	-3.2%				
\$ (141,785)	-4.4%	Interdepartmental Transfer	\$ (141,785)	-4.4%				
\$ (65,000)	-100.0%	Coronavirus Relief Fund	\$ (65,000)	-100.0%				

*%GF increase includes:
 \$207,846 admin transfer from Court Diversion,
 \$65,000 backfill of Coronavirus Relief Funds, and
 \$16,841 Internal Service Fund increase



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Major Areas of Change

- \$207,843 GF Moved from Court Diversion to Attorney General's Office
 - ❑ Eliminates historical administrative process of transferring dollars between appropriations
 - ❑ Increases GF and decreases IDT in AGO appropriation while reducing GF in Court Diversion

- Net \$ 0 \$65,000 in Coronavirus Relief Funds backfilled with GF

Major Areas of Increase

- \$127,115 Consumer Assistance Program w/UVM
- \$100,533 Annualization of Pay Act (\$45,673 GF Portion)
- \$ 34,019 Increase in Internal Service Funds (Fee For Space, etc.)

Major Area of Decrease

- \$(18,707) Reduced Service Level Agreement w/ADS



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Steps Previously Taken to Mitigate Budget Pressures

1. No lump sum or ABIs extended to Exempts/AAGs.
2. Continuing a hold on merit increases for all AAGs (approx. 100 positions statewide).
3. Continued practice since 2011 whereby Chiefs' only salary increases are by way of ABIs.
4. A reduction of \$18,700 in our Service Level Agreement with ADS due to increased management of information technology services and needs.
5. Review and change in calculation methodology of our federal indirect rate resulting in a rate increase from 11.98% to 17.07% in FY2021.



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Budget Development Form – aka Ups & Downs - Highlights

	General \$\$	Special \$\$	Tobacco \$\$	Federal \$\$	Interdept'l Transfer \$\$	Total \$\$
Attorney General: FY 2021 Approp	5,622,679	1,889,888	348,000	1,492,372	3,198,811	12,551,750
Other Changes: NONE						0
FY 2021 After Other Changes	0	0	0	0	0	0
Total Approp. After FY 2021 Other Changes	5,622,679	1,889,888	348,000	1,492,372	3,198,811	12,551,750
Personal Services:						
From Court Diversion Appropriation for Court Diversion Staffing	207,843				(207,843)	0
Removal of Coronavirus Relief Fund	65,000			(65,000)		0
Correct funding for vacant AAG position	31,335	(29,570)		(66,765)		(65,000)
Annualization of PayAct	45,673	7,148	2,040	11,253	34,419	100,533
Decreased Vacancy Savings	10,588					10,588
Reduced Need in Other Personal Services within ICAC & MFRAU		(3,790)		(38,232)		(42,022)
Consumer Assistance Program: MOU w/UVM + Grant	127,115	15,000				142,115
Workers' Compensation ISF Increase	603	251	506	184	911	2,455
Operating:						
ADS SLA Reduction	(18,707)					(18,707)
Redistribution of ICAC & MFRAU Other Personal Services Savings		2,463		36,169		38,632
ISF Increases (FFS, VISION, DHR, ADS, etc.)	19,691	1,462		1,401	11,465	34,019
Funding Adjustments Due to Availability of Dollars	(30,777)	3,164	(2,546)	10,896	19,263	0
Subtotal of Increases/Decreases	458,364	(3,872)	0	(110,094)	(141,785)	202,613
FY 2022 Governor Recommend	6,081,043	1,886,016	348,000	1,382,278	3,057,026	12,754,363

- ❖ Purple line – Transfer from Court Diversion appropriation – Administrative efficiency; no programmatic impact.
- ❖ Position erroneously budgeted in FY2021 as a grant position.
- ❖ Consumer Assistance Program Increase – MOU increase & new \$15k Grant
- ❖ Blue lines – Reflect budget line shifts in grant programs (MFRAU & ICAC)
- ❖ Yellow line – Adjusts funding for various operating costs based on available funds



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Programmatic Performance Management Budgeting Consumer Assistance Program

OFFICE OF THE ATTORNEY GENERAL	Performance Measure Info				
Programs	Measure Name	Measure Type	Previous Period Value	Current Period Value	Reporting Period
CONSUMER ASSISTANCE PROGRAM					
Consumer Assistance Program (CAP), a partnership with the University of Vermont, is Vermont's designated office for reporting of scams and other consumer complaints. CAP makes referrals and uses a letter mediation process to resolve consumer complaints. It also provides outreach and education to Vermont consumers.	Constituent initial contacts (intakes and complaints filed)	How Much?	12,614	12,253	SFY
	Percentage of closed complaints resolved	How Well?	21%	22%	SFY
	Average constituent recovery per resolved complaint	Better Off?	\$1,179.00	\$1,332.00	SFY

PLEASE NOTE:

- These measures can be tricky in that many complaints do not involve a financial recovery. An example would be a constituent who needs propane delivered or a consumer who was scammed and needs advice about identity theft.
- The third measure – “average constituent recovery per resolved complaint” – is not a perfect one in that, as mentioned above, many resolutions do not involve a financial recovery.



SETTLEMENTS

COMMON POINTS OF CONFUSION:

- Settlement announcements generally encompass the entire settlement amount; not just the state share (if any) and not necessarily the payment terms.
- Some settlement agreements have extended payment plans, others are paid in a lump sum, while others do not result in any deposit to the State but protect, and in some cases reimburse, Vermonters.
- Settlements may become public before funds are actually received.



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Special Fund 21638 – AG-Fees & Reimbursements – Court Order

	Actual Receipts	Direct App to GF	
FY 2018	\$3,080,113	\$1,964,613	
FY 2019	\$7,834,148	\$4,493,648	Plus \$1.7M to AOT for vehicle incentive & emissions repair
FY 2020	\$5,501,118	\$3,839,350	Plus \$271,268 to Complex Litigation Special Fund
FY 2021 (Thru 1/27/21)	\$2,319,180		Estimated \$400,000 will be needed for the Complex Litigation Special Fund

The table above reflects all the AGO's actual collection of settlement dollars into the AG-Fees & Reimbursements-Court Order fund (does **not** include tobacco or Medicaid fraud, **nor** does it reflect settlement announcements).

The AGO's base budget includes \$1,390,500 of these revenues annually. Receipts then replenish the Complex Litigation special fund. Receipts exceeding these needs are distributed via Big Bill language, usually as a direct app to the General Fund.



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Special Fund 21638 – AG-Fees & Reimbursements – Court Order

ITEMIZATION OF PUBLIC PROTECTION'S ACTUAL RECEIPTS JULY 1, 2019 – JANUARY 27, 2021

FY 2020		FY 2021 Thru 01/27/21	
Payor	Total	Payor	Total
Equifax	1,844,395	Apple, Inc.	1,160,896
Dollar General	1,650,000	Sabre	397,082
Johnson & Johnson / Ethicon	1,371,710	Home Depot	354,299
Bosch	272,275	CR Bard, Inc.	150,028
Living Essentials / 5HE	246,261	TPB International / Vaporfi.com	125,000
Woodbine Senior Living	62,000	Honda of America	100,000
New England Municipal Resource	25,000	Santander Consumer	30,000
Premera Blue Cross	16,001	Road One Paving	1,875
Travel Suppliers of America	10,000	Grand Total	2,319,180
Road One Paving	3,375		
Grand Total	5,501,118		



\$1,536,910 – Just announced, not yet received or counted above – Vermont's share of the McKinsey opioid settlement



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Tobacco Litigation Settlement Fund

Vermont's actual receipts of base payment & Strategic Contribution Payment of settlement funds (in millions):

Fiscal Year	Base Payment	Strategic Payment	Total
2007	\$24.96	-	\$24.96
2008	25.48	\$14.42	39.91
2009	28.10	14.78	42.88
2010	23.39	12.83	36.22
2011	22.17	11.69	33.86
2012	22.61	11.91	34.52
2013	22.59	11.92	34.51
2014	Not available	Not available	34.52
2015	21.88	11.69	33.57
2016	23.00	12.07	35.08
2017	22.78	11.94	34.72
2018	17.55	*	58.95
2019	23.65	**	23.65
2020	23.99	**	23.99
2021 Projected	23.07	**	23.07

Totals do not take into account Tobacco Litigation Settlement Fund Account performance due to interest income or expense.

*Total includes \$41.47M in one-time settlement of disputed diligent enforcement years 2004 – 2017.

**Strategic payments issued on a time-limited basis to certain states and expired after 2017.

FUTURE PROJECTIONS

Assuming full withholdings, estimated future payments are:

FY 2022 \$21.57

FY 2023 \$22.44



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

ITEMIZATION OF ENVIRONMENTAL PROTECTION'S SETTLEMENTS JULY 1, 2019 – JANUARY 27, 2021

FY 2020	
PAYOR	TOTAL
AEP	400,000 ¹
Bosch	272,275 ²
Nelson Farms	60,000
Jam Fuel	20,250
Grand Total	752,525

FY 2021 Thru 01/27/21	
PAYOR	TOTAL
Hearth & Home Technologies	45,000
VT Tech	10,000 ³
Richville Farms	52,000
Deerfield Valley Prop Maintenance	5,250
Nop Brothers and Sons	75,000
Grand Total	187,250

¹Must go to energy efficiency and pollution reduction projects.

²This represents payment for environmental violations. An additional \$272,275 was paid for consumer violations.

³This includes an additional \$40,000 that shall be dedicated to a supplemental environmental project (SEP). The Defendant may convert that amount to a civil penalty if they are having difficulty finding a SEP.

***Just approved:** Chittenden Solid Waste District – Total settlement value of \$400,000 with \$178,000 being paid in cash to the State and the remaining \$322,000 dedicated to funding a SEP (with State approval of the project).



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

MEDICAID FRAUD & RESIDENTIAL ABUSE UNIT (MFRAU) SETTLEMENTS

Multi-State Global: Settlements, which include Medicaid damages, and additional penalties and recoveries*, are typically paid in one lump sum.

Vermont Civil: Settlements are on a case-by-case basis and may include additional penalties and recoveries.*

Vermont Criminal: Criminal cases with Restitution Orders only include Medicaid damages. There are no additional penalties or recoveries. The MFRAU does not receive any of the restitutions paid in criminal cases.

*Revenue Sharing – Per the MOU with DVHA, all additional penalties and recoveries, less any relator fees are split 50/50.

Any instance of the MFRAU receiving funds is strictly related to additional penalties and recoveries without any sacrifice to restitution owed to the State.



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

MEDICAID FRAUD & RESIDENTIAL ABUSE UNIT (MFRAU) SETTLEMENTS

VERMONT MFRAU SETTLEMENTS JULY 1, 2019 – DECEMBER 31, 2020

<u>Type</u>	<u># of Cases</u>	<u>Total Amt State & Fed</u>	<u>State Only Amt</u>	<u>MFRAU Funds Rec'd</u>
Multi-State Global	8	\$10,802,343	\$4,393,700	\$1,088,622
Vermont Civil	2	\$876,771	\$592,471	\$386,432
Vermont Criminal	8	\$86,629	\$39,850	N/A

Revenues achieved and retained by the AGO MFRAU are classified as special funds. These special funds represent the 25% match to the federal agreement that funds the MFRAU unit (providing 75% federal funding).



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Complex Litigation Special Fund 3 V.S.A. § 167a

Fund Utilization Since Creation in 2018

FY 2020	\$271,268	Total Utilization
FY 2021 as of 01/27/21	\$209,333	\$400,000 Projected Total Utilization

Examples of the utilization include:

- Contracted outside counsel necessary for the Springfield Hospital bankruptcy and complex civil claims against the State.
- Costs associated with major crimes involving insanity defenses from cases that were reviewed at the request of Governor Scott.
- Opioids multistate litigation – cost share payments
- PFAS (Per- and polyfluroalkyl substances) environmental enforcement



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Court Diversion & Pre-Trial Services

OFFICE OF THE ATTORNEY GENERAL	Performance Measure Info				
Programs	Measure Name	Measure Type	Previous Period Value	Current Period Value	Reporting Period
COURT DIVERSION & PRETRIAL SERVICES					
Court Diversion - restorative justice alternative to the criminal and youth justice system	Diversion - Successful Completion	Better Off?	71%	67%	SFY
Youth Substance Abuse Safety Program - screening & intervention of underage youth referred for possession of alcohol and marijuana	Diversion - Victim Restitution Paid	How Well?	100%	100%	SFY
Pretrial Services - connecting defendants to substance use and mental health treatment and other community supports	YSASP - Successful Completion	Better Off?	92%	74%	SFY

MISSION STATEMENT

Programs within Court Diversion share a common goal of diverting offenders out of the standard judicial system to community-based providers where they are held accountable, respond to the needs of victims, and address underlying reasons for their actions. The programs are Court Diversion, Youth Substance Awareness Safety Program (YSASP), and the DLS (Driver License Suspension) Program.

Pretrial Services' goal is to address defendants' substance use and mental health treatment needs and thereby limit future adverse involvement with the criminal justice system. Pretrial Services encompass risk assessment and needs screening, court-ordered pretrial services, and the Tamarack Program.



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Court Diversion & Pre-Trial Services

Diversion is Cost Effective*

	Diversion	Court Prosecution
Case Cost – Simple Assault	\$216	\$1,480

*Crime Research Group Study

- **Diversion:** Restorative justice alternative to court for youth & adults
 - ☐ 67% successful
- **YSASP:** Intervention for underage possession of alcohol and marijuana
 - ☐ 74% successful
- **DLS:** Helping Vermonters to regain their driving privileges
- **Pretrial Services:** Connecting defendants to substance use and mental health treatment



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

Funding Requested in Addition to Governor's Recommend

Thank you The one-time appropriation of \$162,000 from last session has allowed community providers to continue with programming despite the reduced fee revenue receipts. However, the future of FY 2022 is uncertain with a \$243,465 reduction to FY 2020 base funding.

➤ **\$243,465** needed to level fund Court Diversion & Pretrial Services

\$162,000 – Replace backfilled lost fee revenue noted above

\$ 81,465 – Replace the 3% General Fund base reduction from the FY 2021 Restatement Budget. The program had carryforward from FY 2020 to cover this shortfall for FY 2021. No General Fund balance is projected for FY 2021 to carryforward to FY 2022.



OFFICE OF THE ATTORNEY GENERAL FY 2022 BUDGET

QUESTIONS?

