

November 28, 2023



DPD Assigned Counsel

M. Bailey

Sponsor: Dembowski

Proposed No.: 2023-0355

1 **AMENDMENT TO PROPOSED ORDINANCE 2023-0355, VERSION 2**

2 On page 37, after line 834, insert:

3 "SECTION 42. Ordinance 19546, Section 55, as amended, is hereby amended as  
4 follows:

5 PUBLIC DEFENSE - From the general fund there is hereby appropriated to:

6 Public defense \$600,000

7 ER1 EXPENDITURE RESTRICTION:

8 Of this appropriation, moneys may not be encumbered or expended for twenty  
9 FTE attorney positions that shall remain unfilled except as set out in this expenditure  
10 restriction. For purposes of determining the appropriate FTE attorney staffing level for  
11 the department of public defense during the biennium, the office of performance, strategy  
12 and budget's staffing model forecasted the department of public defense should have an  
13 average monthly total of 498 felony assignments ("the base load"). To avoid the impact  
14 of sustained but unpredictable increases of felony filings by the prosecuting attorney's  
15 office on the department of public defense, if in each month of a two month-rolling  
16 period, the total number of felony assignments meets or exceeds the base load, as  
17 adjusted in accordance with this expenditure restriction, by multiples of 8, then the  
18 department of public defense is authorized to expend or encumber moneys to fill one of

19 the 20 FTE attorney positions for each multiple of 8 additional felony assignments. The  
20 initial base load number of 498 shall incrementally be increased by 8 for each FTE  
21 attorney position authorized in accordance with this expenditure restriction. For  
22 explanatory purposes only, if in January the number of felony assignments exceeds the  
23 base load of 498 by 9 and in February the number exceeding the base load is 17 felony  
24 assignments, then the department is authorized to fill 1 FTE attorney position because for  
25 January and February the base load was exceeded by one multiple of 8. In March the  
26 base load would be reset at an average of 506 felony assignments. If in March the felony  
27 assignments exceed the adjusted based load of 506 by 9 felony assignments, then the  
28 department would be authorized to fill 1 of the remaining 19 FTE attorney positions  
29 because for February and March, the case load exceeded the adjusted base load of 506  
30 felony assignments by a multiple of 8 and in April the base load would be adjusted to  
31 514. If in April the number of felony assignments did not exceed the adjusted base load,  
32 which is 514, by a multiple of 8 and in May the number exceeding the adjusted base load  
33 is 12 felony assignments, then the department would not be authorized to fill 1 FTE  
34 attorney position because for April and May the adjusted base load was not exceeded by  
35 a multiple of 8 and the adjusted base load for June would remain at 514 felony  
36 assignments. If in June the base load, which is 514, was exceeded by 9 felony  
37 assignments, then the department would be authorized to fill one of the remaining 18  
38 FTE attorney positions because for May and June the base load of 514 was exceeded by  
39 one multiple of 8 and the new adjusted base load for July would be 522.

40 ER2 EXPENDITURE RESTRICTION:

41 Of this appropriation, \$600,000 shall be expended or encumbered solely to  
42 increase assigned counsel rates. The increase of each rate shall be in a manner  
43 determined by the executive to address the inequities raised in the assigned counsel pay  
44 rate study transmitted to the council with Motion XXXX (Proposed Motion 2023-0275)."  
45 Renumber the remaining sections consecutively and correct any internal references  
46 accordingly.

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48 **EFFECT prepared by M. Bailey: *Would increase the appropriation authority for the***  
49 ***Department of Public Defense by \$600,000. A related expenditure restriction would***  
50 ***require this additional appropriation be used to increase assigned counsel rates with***  
51 ***the purpose of addressing inequities raised in the Assigned Counsel Pay Rate Study***  
52 ***transmitted with P.M. 2023-0275.***