

**As Reported by the House Criminal Justice Committee**

**133rd General Assembly**

**Regular Session**

**2019-2020**

**H. B. No. 85**

**Representatives Wilkin, Rogers**

**Cosponsors: Representatives Edwards, Jones, Baldrige, Patterson, O'Brien,  
Sheehy, Holmes, G., Riedel, Smith, R., Carfagna, Leland, Crossman, Galonski,  
Seitz, Smith, T., West**

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**A BILL**

To amend section 127.19 and to enact sections 1  
109.47, 120.56, 127.20, 307.451, 307.452, and 2  
307.453 of the Revised Code to allow the 3  
Controlling Board to transfer money to the 4  
Attorney General and State Public Defender to 5  
defray county costs associated with certain 6  
capital cases and to declare an emergency. 7

**BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:**

**Section 1.** That section 127.19 be amended and sections 8  
109.47, 120.56, 127.20, 307.451, 307.452, and 307.453 of the 9  
Revised Code be enacted to read as follows: 10

**Sec. 109.47.** (A) There is hereby created in the state 11  
treasury the capital case extraordinary prosecution cost fund. 12  
The fund shall consist of transfers under divisions (B) (2) and 13  
(3) of section 127.19 of the Revised Code and any other funds 14  
appropriated by the general assembly. The fund shall be 15  
administered by the attorney general. 16

(B) Following controlling board approval and transfer of funds pursuant to a joint request under division (B) (2) of section 127.19 of the Revised Code or a request under division (B) (3) of section 127.19 of the Revised Code, the attorney general shall distribute money in the fund to the county upon request for the prosecution costs. 17  
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(C) (1) If the prosecution costs incurred exceed the funds appropriated, the prosecuting attorney for the county that received the funds may submit a request for additional funds to the attorney general. If a request is submitted, the prosecuting attorney shall inform the board of county commissioners of the request. After receiving a request, the attorney general shall request additional funds under division (B) (2) or (3) of section 127.19 of the Revised Code by submitting a request that includes all of the following: 23  
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(a) Facts demonstrating the need for the additional funds; 32

(b) A statement explaining why the original funds were not sufficient for the prosecution; 33  
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(c) The amount of additional funds being requested. 35

(2) After receiving a request for additional funds, the controlling board shall add the request to the agenda of the board's next scheduled meeting. 36  
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(3) If no additional funds are appropriated, the county shall be responsible for all remaining prosecution costs as otherwise provided in the Revised Code. 39  
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**Sec. 120.56.** (A) There is hereby created in the state treasury the capital case extraordinary defense cost fund. The fund shall consist of transfers under division (B) (2) of section 127.19 of the Revised Code and any other funds appropriated by 42  
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the general assembly. The fund shall be administered by the 46  
state public defender. 47

(B) Following controlling board approval and transfer of 48  
funds pursuant to a joint request under division (B)(2) of 49  
section 127.19 of the Revised Code, the state public defender 50  
shall be responsible for all defense costs related to defendants 51  
determined to be indigent under the standards of indigency 52  
established by the Ohio public defender commission, and the 53  
county shall not be responsible for any defense costs related to 54  
such indigent defendants. The state public defender shall 55  
distribute money in the fund to pay bills as submitted for the 56  
defense costs after approval by the court. 57

(C)(1) If the defense costs exceed the funds appropriated, 58  
the state public defender may request additional funds under 59  
division (B)(2) of section 127.19 of the Revised Code by 60  
submitting a request that includes all of the following: 61

(a) Facts demonstrating the need for the additional funds; 62

(b) A statement explaining why the original funds were not 63  
sufficient for the defense; 64

(c) The amount of additional funds being requested. 65

(2) If the state public defender requests additional 66  
funds, the state public defender shall inform the board of 67  
county commissioners of the county in which the indigent 68  
defendants are being tried of the request. 69

(3) After receiving a request for additional funds, the 70  
controlling board shall add the request to the agenda of the 71  
board's next scheduled meeting. 72

(4) If no additional funds are appropriated, the state 73

public defender shall notify the board of county commissioners 74  
of the county in which the indigent defendants are being tried 75  
of the controlling board's determination. The county then shall 76  
be reimbursed in accordance with section 120.35 or 2941.51 of 77  
the Revised Code. 78

(D) The fund shall be used to provide funding for defense 79  
costs related to defendants determined to be indigent under the 80  
standards of indigency established by the Ohio public defender 81  
commission only. 82

(E) The state public defender shall return to the director 83  
of budget and management any unused money remaining upon the 84  
conclusion of the capital case for which funds have been 85  
requested. The director shall deposit the returned money into 86  
the state treasury to the credit of the controlling board 87  
emergency purposes/contingencies fund created under section 88  
127.19 of the Revised Code. 89

**Sec. 127.19.** (A) There is hereby created in the state 90  
treasury the controlling board emergency purposes/contingencies 91  
fund, consisting of transfers from the general revenue fund and 92  
any other funds appropriated by the general assembly. ~~Moneys~~ 93

(B) Moneys in the fund may be used by the controlling 94  
board ~~at~~ as follows: 95

(1) At the request of a state agency or the director of 96  
budget and management for the purpose of providing disaster and 97  
emergency aid to state agencies and political subdivisions or 98  
for other purposes approved by the controlling board. 99

(2) At the joint request of the attorney general and state 100  
public defender under division (A) (2) of section 127.20 of the 101  
Revised Code or at the request of the attorney general or state 102

public defender for additional funds under section 109.47 or 103  
120.56 of the Revised Code, for the purposes of defraying the 104  
county's prosecution or defense costs in capital cases if all of 105  
the following apply: 106

(a) The county's estimated prosecution and defense costs 107  
exceed five per cent of the county's general fund appropriations 108  
as specified under division (A) (2) of section 307.451 of the 109  
Revised Code; 110

(b) The case is a capital case in which there are multiple 111  
defendants or multiple victims; 112

(c) At least one of the defendants in the case is 113  
determined to be indigent under the standards of indigency 114  
established by the Ohio public defender commission. 115

(3) At the request of the attorney general under division 116  
(A) (3) of section 127.20 of the Revised Code, for the purposes 117  
of defraying the county's prosecution costs for capital cases if 118  
both of the following apply: 119

(a) The county's estimated prosecution costs exceed five 120  
per cent of the county's general fund appropriations as 121  
specified under division (A) (2) of section 307.452 of the 122  
Revised Code; 123

(b) The case is a capital case in which there are multiple 124  
defendants or multiple victims. 125

**Sec. 127.20.** (A) (1) If the attorney general receives a 126  
request from a county under section 307.451 or the state public 127  
defender receives a request from a county under section 307.452 128  
of the Revised Code for extraordinary capital case cost funding 129  
and one or more defendants in the case is indigent, the attorney 130  
general and state public defender jointly shall estimate the 131

county prosecution and defense costs. If the attorney general 132  
receives a request under section 307.451 of the Revised Code and 133  
no defendant in the case is indigent, the attorney general shall 134  
estimate the county's prosecution costs. 135

(2) If the county's estimated prosecution and defense 136  
costs exceed five per cent of the county's general fund 137  
appropriations as specified under division (A)(2) of sections 138  
307.451 and 307.452 of the Revised Code, the attorney general 139  
and state public defender shall submit a joint request to the 140  
controlling board to transfer funds from the controlling board 141  
emergency purposes/contingencies fund created under section 142  
127.19 of the Revised Code to the capital case extraordinary 143  
prosecution cost fund created under section 109.47 of the 144  
Revised Code and the capital case extraordinary defense cost 145  
fund created under section 120.56 of the Revised Code. 146

(3) If the county's estimated prosecution and defense 147  
costs exceed five per cent of the county's general fund 148  
appropriations as specified under division (A)(2) of section 149  
307.451 of the Revised Code and none of the defendants in the 150  
case are determined to be indigent under the standards of 151  
indigency established by the Ohio public defender commission, 152  
the attorney general shall submit a request to the controlling 153  
board to transfer funds from the controlling board emergency 154  
purposes/contingencies fund created under section 127.19 of the 155  
Revised Code to the capital case extraordinary prosecution cost 156  
fund created under section 109.47 of the Revised Code. 157

(B) If a joint request is submitted under division (A)(2) 158  
of this section, the attorney general and state public defender 159  
shall specify the following in the joint request: 160

(1) An aggregate estimate of prosecution and defense 161

<u>costs;</u>	162
<u>(2) The amount of money the attorney general is requesting</u>	163
<u>be transferred to the capital case extraordinary prosecution</u>	164
<u>cost fund;</u>	165
<u>(3) The amount of money the state public defender is</u>	166
<u>requesting be transferred to the capital case extraordinary</u>	167
<u>defense cost fund;</u>	168
<u>(4) The county's general fund appropriations as specified</u>	169
<u>under division (B) of section 307.451 of the Revised Code;</u>	170
<u>(5) The necessity for extraordinary funding in the capital</u>	171
<u>case for which the joint request is submitted;</u>	172
<u>(6) Facts of the case demonstrating both of the following:</u>	173
<u>(a) The case is a capital case in which there are multiple</u>	174
<u>defendants or multiple victims.</u>	175
<u>(b) At least one of the defendants is determined to be</u>	176
<u>indigent under the standards of indigency established by the</u>	177
<u>Ohio public defender commission.</u>	178
<u>(C) If a request is submitted under division (A) (3) of</u>	179
<u>this section, the attorney general shall specify the following</u>	180
<u>in the request:</u>	181
<u>(1) An estimate of the county's prosecution costs</u>	182
<u>incurred;</u>	183
<u>(2) The amount of money the attorney general is requesting</u>	184
<u>be transferred to the capital case extraordinary prosecution</u>	185
<u>cost fund;</u>	186
<u>(3) The county's general fund appropriations as specified</u>	187
<u>under division (B) of section 307.451 of the Revised Code;</u>	188

<u>(4) The necessity for extraordinary funding in the capital case for which the request is submitted;</u>	189 190
<u>(5) Facts of the case demonstrating the case is a capital case in which there are multiple defendants or multiple victims.</u>	191 192
<u>(D) After the attorney general and state public defender under division (A) (2) of this section or the attorney general under division (A) (3) of this section submits a request, the controlling board shall add the request to the agenda of the board's next scheduled meeting.</u>	193 194 195 196 197
<b><u>Sec. 307.451.</u></b> <u>(A) A board of county commissioners that wishes to receive money from the attorney general under section 109.47 of the Revised Code shall submit a request in writing to the attorney general that specifies the following:</u>	198 199 200 201
<u>(1) The facts of the case for which the county wishes to receive the money demonstrating the case is a capital case in which there are multiple defendants or multiple victims.</u>	202 203 204
<u>(2) The county's general fund appropriations for the calendar year in which the defendants are arrested;</u>	205 206
<u>(3) A detailed explanation of the county's need for extraordinary funding including the county's financial hardship in funding prosecution for the capital case.</u>	207 208 209
<u>(B) After the attorney general receives a request, the attorney general shall proceed in accordance with section 127.20 of the Revised Code.</u>	210 211 212
<b><u>Sec. 307.452.</u></b> <u>(A) A board of county commissioners that wishes to receive money from the state public defender under section 120.56 of the Revised Code shall submit a request in writing to the state public defender that specifies the</u>	213 214 215 216

<u>following:</u>	217
<u>(1) The facts of the case for which the county wishes to</u>	218
<u>receive the money demonstrating both of the following:</u>	219
<u>(a) The case is a capital case in which there are multiple</u>	220
<u>defendants or multiple victims.</u>	221
<u>(b) At least one of the defendants is determined to be</u>	222
<u>indigent under the standards of indigency established by the</u>	223
<u>Ohio public defender commission.</u>	224
<u>(2) The county's general fund appropriations for the</u>	225
<u>calendar year in which the defendants are arrested;</u>	226
<u>(3) A detailed explanation of the county's need for</u>	227
<u>extraordinary funding including the county's financial hardship</u>	228
<u>in funding defense for the capital case.</u>	229
<u>(B) After the state public defender receives a request,</u>	230
<u>the state public defender shall proceed in accordance with</u>	231
<u>section 127.20 of the Revised Code.</u>	232
<u>Sec. 307.453. A board of county commissioners that</u>	233
<u>receives money from the attorney general under section 109.47 of</u>	234
<u>the Revised Code shall:</u>	235
<u>(A) Establish a capital case extraordinary cost special</u>	236
<u>fund in the county treasury to consist of money received under</u>	237
<u>section 109.47 of the Revised Code;</u>	238
<u>(B) Adopt a resolution authorizing use of the money to</u>	239
<u>defray the prosecution costs specified, and for the capital case</u>	240
<u>identified, in the joint request submitted under division (A) (2)</u>	241
<u>of section 127.20 of the Revised Code or the request submitted</u>	242
<u>under division (A) (3) of that section;</u>	243

(C) Return to the director of budget and management any 244  
unused money remaining upon the conclusion of the capital case 245  
identified in the joint request or request. The director shall 246  
deposit the returned money into the state treasury to the credit 247  
of the controlling board emergency purposes/contingencies fund 248  
created under section 127.19 of the Revised Code. 249

**Section 2.** That existing section 127.19 of the Revised 250  
Code is hereby repealed. 251

**Section 3.** On the effective date of this act, or as soon 252  
as possible thereafter, the Director of Budget and Management 253  
shall transfer \$4,000,000 cash from the General Revenue Fund to 254  
the Controlling Board Emergency Purposes/Contingencies Fund 255  
(Fund 5KM0). 256

**Section 4.** This act is hereby declared to be an emergency 257  
measure necessary for the immediate preservation of the public 258  
peace, health, and safety. The reason for such necessity is the 259  
effective prosecution and defense of capital cases. Therefore, 260  
this act shall go into immediate effect. 261