

CAPITAL DEFENDER OFFICE

MISSION

Established simultaneously with the 1995 restoration of the death penalty, the Capital Defender Office is authorized to defend any indigent person charged with a capital crime. Under the 1995 death penalty legislation, persons convicted of first-degree murder could be sentenced to death by lethal injection, life imprisonment without parole, or 20 to 25 years in prison.

On June 24, 2004 the New York Court of Appeals determined that certain provisions of the death penalty statute were unconstitutional. The Court also directed that first degree murder charges could not proceed as capital cases absent a repair of the statute by the Legislature. As of the beginning of the 2008 session, the Legislature has not yet enacted a statute addressing the issues raised by the Court. Moreover, on October 23, 2007, in *People v. Taylor*, the Court of Appeals declined to overturn or modify its June 2004 decision. As a result of the *People v. Taylor* decision, the last man was moved off New York's death row.

Therefore, there remains no need for the continued operation of the Capital Defender Office. It is expected that the Office will close by July 2008.

ORGANIZATION AND STAFFING

A three-member Board oversees the work of the Office. The Board members are appointed, one each by the Temporary President of the Senate, the Speaker of the Assembly and the Chief Judge of the Court of Appeals. The Office currently has a staff of 7 located in offices in New York City and Albany.

BUDGET HIGHLIGHTS

The Executive Budget recommends **\$368,000 General Fund** for the Capital Defender Office to maintain a minimal staff presence for a portion of the year and for costs associated with preparing to close the office during 2008-09. This is a decrease of **\$932,000** from the 2007-08 budget.

PROGRAM HIGHLIGHTS

Since 1995, there have been a total of 877 capital-eligible cases and 58 notices of intent to seek the death penalty filed by the State's district attorneys. No notices were filed during 2005, 2006 and 2007. There are no remaining death penalty cases pending review by the Court of Appeals.

ALL FUNDS APPROPRIATIONS (dollars)

| Category | Available 2007-08 | Appropriations Recommended 2008-09 | Change | Reappropriations Recommended 2008-09 |
|-------------------|------------------------------|---|------------------|---|
| State Operations | 1,300,000 | 368,000 | (932,000) | 0 |
| Aid To Localities | 0 | 0 | 0 | 0 |
| Capital Projects | 0 | 0 | 0 | 0 |
| Total | <u>1,300,000</u> | <u>368,000</u> | <u>(932,000)</u> | <u>0</u> |

CAPITAL DEFENDER

**ALL FUND TYPES
PROJECTED LEVELS OF EMPLOYMENT BY PROGRAM
FILLED ANNUAL SALARIED POSITIONS**

Full-Time Equivalent Positions (FTE)

| Program | 2007-08 Estimated FTEs 03/31/08 | 2008-09 Estimated FTEs 03/31/09 | FTE Change |
|-----------------|--|--|-------------------|
| Capital Defense | | | |
| General Fund | 7 | 0 | (7) |
| Total | <u>7</u> | <u>0</u> | <u>(7)</u> |

**STATE OPERATIONS
ALL FUNDS FINANCIAL REQUIREMENTS BY FUND TYPE
APPROPRIATIONS
(dollars)**

| Fund Type | Available 2007-08 | Recommended 2008-09 | Change |
|------------------|------------------------------|--------------------------------|------------------|
| General Fund | 1,300,000 | 368,000 | (932,000) |
| Total | <u>1,300,000</u> | <u>368,000</u> | <u>(932,000)</u> |

**STATE OPERATIONS
ALL FUNDS FINANCIAL REQUIREMENTS BY PROGRAM
APPROPRIATIONS
(dollars)**

| Program | Available 2007-08 | Recommended 2008-09 | Change |
|-----------------|------------------------------|--------------------------------|------------------|
| Capital Defense | | | |
| General Fund | 1,300,000 | 368,000 | (932,000) |
| Total | <u>1,300,000</u> | <u>368,000</u> | <u>(932,000)</u> |

**STATE OPERATIONS - GENERAL FUND
SUMMARY OF PERSONAL SERVICE APPROPRIATIONS AND CHANGES
2008-09 RECOMMENDED
(dollars)**

| Program | Total | | Personal Service Regular (Annual Salaried) | |
|-----------------|----------------|------------------|---|------------------|
| | Amount | Change | Amount | Change |
| Capital Defense | 210,000 | (590,000) | 210,000 | (590,000) |
| Total | <u>210,000</u> | <u>(590,000)</u> | <u>210,000</u> | <u>(590,000)</u> |

**STATE OPERATIONS - GENERAL FUND
SUMMARY OF NONPERSONAL SERVICE AND MAINTENANCE UNDISTRIBUTED
APPROPRIATIONS AND CHANGES
2008-09 RECOMMENDED
(dollars)**

| Program | Total | | Supplies and Materials | |
|-----------------|----------------|------------------|-------------------------------|-----------------|
| | Amount | Change | Amount | Change |
| Capital Defense | 158,000 | (342,000) | 3,000 | (10,000) |
| Total | <u>158,000</u> | <u>(342,000)</u> | <u>3,000</u> | <u>(10,000)</u> |

| Program | Travel | | Contractual Services | |
|-----------------|---------------|----------------|-----------------------------|------------------|
| | Amount | Change | Amount | Change |
| Capital Defense | 3,000 | (5,000) | 152,000 | (322,000) |
| Total | <u>3,000</u> | <u>(5,000)</u> | <u>152,000</u> | <u>(322,000)</u> |

| Program | Equipment | |
|-----------------|------------------|----------------|
| | Amount | Change |
| Capital Defense | 0 | (5,000) |
| Total | <u>0</u> | <u>(5,000)</u> |