

HOUSE AMENDMENTS TO HOUSE BILL 3145

By COMMITTEE ON JUDICIARY

April 22

1 In line 2 of the printed bill, after “Commission” insert “; creating new provisions; amending ORS
2 1.009, 34.355, 135.055, 136.603, 138.310, 138.500, 138.590, 151.211, 151.213, 151.216, 151.219, 151.225,
3 151.485, 151.493, 161.309, 161.346, 161.348, 161.365, 161.665, 244.050, 419A.211, 419C.380, 419C.535,
4 426.135, 426.250, 427.265, 427.295 and 433.466; and declaring an emergency”.

5 Delete lines 4 through 9 and insert:
6

“CHANGES TO PUBLIC DEFENSE SERVICES

7
8

9 “**SECTION 1.** ORS 151.211 is amended to read:

10 “151.211. For purposes of ORS 151.211 to 151.221:

11 “(1) ‘Bar member’ means an individual who is an active member of the Oregon State Bar.

12 “[2) ‘*Chief Justice*’ means the *Chief Justice of the Supreme Court*.]”

13 “(2) ‘**Caseload standard**’ means a limitation on the number of cases for which an indi-
14 vidual public defense attorney can provide legal representation over a period of time based
15 upon the amount of work that is generally required to provide effective assistance on a
16 particular type of case.

17 “(3) ‘Commission’ means the Public Defense Services Commission.

18 “(4) ‘Director’ means the [*public defense services*] executive director **of the Office of Public**
19 **Defense Services** appointed under ORS 151.216.

20 “(5) ‘Office [*of public defense services*]’ means the Office **of Public Defense Services** established
21 by the commission under the **executive** director to handle the cases assigned and to carry out the
22 administrative policies and procedures for the public defense system.

23 “(6) ‘**Public defense attorney**’ means counsel appointed to perform legal services for fi-
24 nancially eligible individuals as required by ORS 34.355, 135.055, 138.500, 138.590, 161.346,
25 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408,
26 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315, the Oregon
27 Constitution or the United States Constitution.

28 “(7) ‘**Public defense staff member**’ means a worker who supports and complements the
29 work of a public defense attorney or who is employed by or under contract with a public
30 defense attorney to perform work, including but not limited to investigators, paralegals, legal
31 assistants and case managers.

32 “(8) ‘**Workload plan**’ means the office’s plan to provide legal representation to qualifying
33 individuals statewide based upon the office’s caseload standards.

34 “**SECTION 2.** ORS 151.213 is amended to read:

35 “151.213. (1)(a) The Public Defense Services Commission is established in the [*judicial*] execu-

1 **tive** branch of state government. Except for the appointment [*or removal*] of commission members,
2 the commission and employees of the commission are not subject to the exercise of administrative
3 authority and supervision by the [*Chief Justice of the Supreme Court as the administrative head of the*
4 *Judicial Department*] **Governor.**

5 “(b) **Except as otherwise provided by law, the commission shall exercise as an independ-**
6 **ent entity all statutory authority, powers, duties and functions.**

7 “(2)(a) The commission consists of [*seven*] **11** members appointed [*by order of the Chief Justice.*
8 *In addition to the seven appointed members, the Chief Justice serves as a nonvoting, ex officio member.*
9 *The Chief Justice shall appoint at least two persons who are not bar members, at least one person who*
10 *is a bar member and who is engaged in criminal defense representation and at least one person who*
11 *is a former Oregon state prosecutor. Except for the Chief Justice or a senior judge under ORS 1.300,*
12 *a member may not serve concurrently as a judge, a prosecuting attorney or an employee of a law*
13 *enforcement agency. A person who is primarily engaged in providing public defense services may not*
14 *serve as a member of the commission.*] **as follows:**

15 “(A) **The Governor shall appoint:**

16 “(i) **Two members of the public who are not attorneys and who have demonstrated an**
17 **interest in the criminal or juvenile justice systems and a commitment to diversity and**
18 **inclusion;**

19 “(ii) **A bar member with experience in practicing civil rights law; and**

20 “(iii) **A bar member who teaches or has taught criminal law;**

21 “(B) **The Chief Justice of the Supreme Court shall appoint:**

22 “(i) **A bar member, from a list of three bar members submitted to the Chief Justice by**
23 **the chief executive officer of the Oregon State Bar, with experience in representing histor-**
24 **ically or currently underserved communities and who is not employed by or under contract**
25 **with the Office of Public Defense Services;**

26 “(ii) **A bar member, from a list of three bar members submitted to the Chief Justice by**
27 **the chief executive officer of the Oregon State Bar after consultation with statewide organ-**
28 **izations that support the criminal and juvenile delinquency defense legal community, with**
29 **experience representing criminal defendants or juveniles in delinquency cases and who is not**
30 **employed by or under contract with the Office of Public Defense Services; and**

31 “(iii) **A former judge;**

32 “(C) **The President of the Senate shall appoint:**

33 “(i) **A former member of the Legislative Assembly; and**

34 “(ii) **A bar member, from a list of three bar members submitted to the President by the**
35 **chief executive officer of the Oregon State Bar after consultation with statewide organiza-**
36 **tions that support the criminal and juvenile delinquency defense legal community, with ex-**
37 **perience representing criminal defendants or juveniles in delinquency cases and who is not**
38 **employed by or under contract with the Office of Public Defense Services; and**

39 “(D) **The Speaker of the House of Representatives shall appoint:**

40 “(i) **A former member of the Legislative Assembly; and**

41 “(ii) **A bar member, from a list of three bar members submitted to the Speaker by the**
42 **chief executive officer of the Oregon State Bar after consultation with statewide organiza-**
43 **tions that support the criminal and juvenile delinquency defense legal community, with ex-**
44 **perience representing criminal defendants or juveniles in delinquency cases and who is not**
45 **employed by or under contract with the Office of Public Defense Services.**

1 **“(b) The appointing authorities shall coordinate appointments to ensure that at least one**
2 **member of the commission has extensive experience in the practice of juvenile law.**

3 **“(c) All members of the commission must have a demonstrated commitment to criminal**
4 **defense, juvenile delinquency defense or representing parents or children in dependency**
5 **proceedings.**

6 **“(3)(a) The term of a member is four years beginning on the effective date of the [order of the**
7 **Chief Justice appointing the member] appointment. The appointing authorities shall assign the**
8 **initial terms of office of members so that the terms expire at staggered intervals.** A member
9 is eligible for reappointment if qualified for membership at the time of reappointment.

10 **“(b) A term ends upon the expiration of the term, the resignation of the member or re-**
11 **moval of the member.** A member may be removed from the commission by [order of the Chief
12 Justice] **a two-thirds vote of the members of the commission.**

13 **“(c) If a vacancy occurs for any cause before the expiration of the term of a member, the [Chief**
14 **Justice] appointing authority shall make an appointment to become immediately effective for the**
15 **unexpired term.**

16 **“(4) The commission shall elect a chairperson who is a bar member and a vice chairperson**
17 **[shall be appointed by order of the Chief Justice] every two years with such functions as the com-**
18 **mission may determine. A member is eligible for reappointment as chairperson or vice chairperson.**

19 **“(5) A majority of the [voting] members constitutes a quorum for the transaction of business.**

20 **“(6) A member of the commission is not entitled to compensation for services as a member, but**
21 **is entitled to expenses as provided in ORS 292.495 (2).**

22 **“SECTION 3.** ORS 151.216 is amended to read:

23 **“151.216. (1) The Public Defense Services Commission shall:**

24 **“(a) Establish and maintain a public defense system that ensures the provision of public defense**
25 **services in the most cost-efficient manner consistent with the Oregon Constitution, the United States**
26 **Constitution and Oregon and national standards of justice.**

27 **“(b) Establish an Office of Public Defense Services with a trial and an appellate division and**
28 **appoint [a public defense services] an executive director of the office who serves at the pleasure**
29 **of the commission.**

30 **“(c) Adopt policies for contracting with public defense attorneys and public defense staff**
31 **members who are not employed by the office that:**

32 **“(A) Ensure reasonable attorney fees commensurate with public defense attorneys and**
33 **public defense staff members who work for the office and other state agencies;**

34 **“(B) Support data collection and training requirements; and**

35 **“(C) Provide for reasonable overhead costs.**

36 **“(d) Establish within the office operational and contracting systems that allow for over-**
37 **sight, ensure transparency, promote equity and inclusion and ensure that public defense**
38 **services are provided in a manner consistent with the Oregon Constitution, the United States**
39 **Constitution and Oregon and national standards of justice.**

40 **“(e) Adopt reasonable and appropriate caseload standards for public defense attorneys**
41 **that provide for effective assistance of counsel under the Oregon Constitution, the United**
42 **States Constitution and Oregon and national standards of justice.**

43 **“(f) Reexamine the appropriateness of the caseload standards described in paragraph (e)**
44 **of this subsection, and adopt new standards if necessary, every four years.**

45 **“(g) Adopt a statewide workload plan based on the caseload standards described in para-**

1 **graph (e) of this subsection.**

2 “[(c)] **(h)** Submit the budget of the commission and the office [*of public defense services*] to the
3 Legislative Assembly after the budget is submitted to the commission by the **executive** director and
4 approved by the commission. The [*Chief Justice of the Supreme Court*] **executive director** and the
5 chairperson of the commission shall present the budget to the Legislative Assembly.

6 “[(d)] **(i)** Review and approve any public defense services contract negotiated by the **executive**
7 director before the contract can become effective.

8 “[(e)] **(j)** Adopt a compensation plan, classification system, **organizational structure** and per-
9 sonnel plan for the office [*of Public Defense Services*] that are commensurate with other state agen-
10 cies.

11 “[(f)] **(k)** Adopt policies, procedures, standards and guidelines regarding:

12 “(A) The determination of financial eligibility of persons entitled to be represented by [*appointed*
13 *counsel*] **public defense attorneys** at state expense;

14 “(B) The appointment of [*counsel*] **public defense attorneys**;

15 “(C) The fair compensation of [*counsel appointed to represent a person financially eligible for ap-*
16 *pointed counsel at state expense*] **public defense attorneys**;

17 “(D) [*Appointed counsel*] **Public defense attorney** compensation disputes;

18 “(E) Any other costs associated with the representation of a person by [*appointed counsel*] **public**
19 **defense attorneys** in the state courts that are required to be paid by the state under ORS 34.355,
20 135.055, 138.500, 138.590, 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908,
21 419C.206, 419C.209, 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or
22 436.315 or any other provision of law that expressly provides for payment of such compensation,
23 costs or expenses by the commission;

24 “(F) Professional qualifications, **training and continuing legal education requirements** for
25 [*counsel appointed to represent public defense clients*] **public defense attorneys and public defense**
26 **staff members**;

27 “(G) Performance for legal representation;

28 “(H) The contracting of public defense services;

29 “(I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses
30 only if in-state expert witnesses are not available or are more expensive than out-of-state expert
31 witnesses; [*and*]

32 “**(J) Oversight of public defense attorneys employed by the office or under contract with**
33 **the office for the provision of public defense services; and**

34 “[(J)] **(K)** Any other matters necessary to carry out the duties of the commission.

35 “[(g)] **(L)** Establish a peer review system for the approval of nonroutine fees and expenses in-
36 curred in cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The
37 review shall be conducted by a panel of attorneys who practice in the area of criminal defense.

38 “[(h)] **(m)** Establish a complaint process that allows district attorneys, criminal defense counsel
39 and the public to file complaints concerning the payment from public funds of nonroutine fees and
40 expenses incurred in cases.

41 “[(i)] **(n)** Reimburse the State Court Administrator from funds deposited in the Public Defense
42 Services Account established by ORS 151.225 for the costs of personnel and other costs associated
43 with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State
44 Court Administrator.

45 “[(2)] *Policies, procedures, standards and guidelines adopted by the commission supersede any*

1 *conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator,*
2 *circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board*
3 *related to the exercise of the commission's administrative responsibilities under this section and trans-*
4 *ferred duties, functions and powers as they occur.]*

5 “[(3)] (2) The commission may accept gifts, grants or contributions from any source, whether
6 public or private. However, the commission may not accept a gift, grant or contribution if accept-
7 ance would create a conflict of interest. Moneys accepted under this subsection shall be deposited
8 in the Public Defense Services Account established by ORS 151.225 and expended for the purposes
9 for which given or granted.

10 “[4] (3) The commission may not:

11 “(a) Make any decision regarding the handling of any individual case;

12 “(b) Have access to any case file; *[or]*

13 “(c) Interfere with the **executive** director or any member of the staff of the **executive** director
14 in carrying out professional duties involving the legal representation of public defense clients; **or**

15 “(d) **Approve a contract authorizing any flat fee compensation structure, including but**
16 **not limited to a contract authorizing a flat fee to be paid over a set period of time on a per**
17 **case basis.**

18 “(4) **Nothing in subsection (3) of this section prohibits the commission from approving a**
19 **contract that provides compensation to public defense attorneys based on a full-time equiv-**
20 **alent model or a workload model, or that pays public defense attorneys hourly at a reason-**
21 **able market rate.**

22 “**SECTION 4.** ORS 151.219 is amended to read:

23 “151.219. (1) The *[public defense services]* executive director **of the Office of Public Defense**
24 **Services** shall:

25 “(a) Recommend to the Public Defense Services Commission how to establish and maintain, in
26 a cost-effective manner, the delivery of legal services to persons entitled to, and financially eligible
27 for, *[appointed counsel]* **a public defense attorney appointed** at state expense under Oregon stat-
28 utes, the Oregon Constitution[,] **and** the United States Constitution and consistent with Oregon and
29 national standards of justice.

30 “(b) Implement and ensure compliance with contracts, policies, procedures, standards and
31 guidelines adopted by the commission or required by statute.

32 “(c) Prepare and submit to the commission for its approval the biennial budget of the commis-
33 sion and the Office of Public Defense Services.

34 “(d) **Subject to subsection (2) of this section,** negotiate contracts, as appropriate, for provid-
35 ing legal services to persons financially eligible for *[appointed counsel]* **a public defense attorney**
36 **appointed** at state expense. *[No contract so negotiated is binding or enforceable until the contract has*
37 *been reviewed and approved by the commission as provided in ORS 151.216.]*

38 “(e) Employ personnel or contract for services as necessary to carry out the responsibilities of
39 the **executive** director and the Office of Public Defense Services.

40 “(f) Supervise the personnel, operation and activities of the Office of Public Defense Services.

41 “(g) Provide services, facilities and materials necessary for the performance of the duties, func-
42 tions and powers of the Public Defense Services Commission.

43 “(h) Pay the expenses of the commission and the Office of Public Defense Services.

44 “(i) Prepare and submit to the commission an annual report of the activities of the Office of
45 Public Defense Services **containing the information described in subsection (3) of this section.**

1 “(j) Prepare and submit to the Legislative Assembly a biennial report on the activities of the
2 Office of Public Defense Services **containing the information described in subsection (3) of this**
3 **section.**

4 “(k) Provide for legal representation, advice and consultation for the commission, its members,
5 the **executive** director and staff of the Office of Public Defense Services who require such services
6 **in relation to the performance of official duties, functions and responsibilities**, or who are
7 named as defendants in lawsuits arising from their **performance of official** duties, functions and
8 responsibilities. If requested by the **executive** director, the Attorney General may also provide for
9 legal representation, advice and consultation for the commission, its members, the **executive** direc-
10 tor and staff of the Office of Public Defense Services in litigation **arising from their performance**
11 **of official duties, functions and responsibilities.**

12 “(L) **Develop policies for the collection of data from public defense attorneys and public**
13 **defense staff members.**

14 “(m) **Develop performance metrics for public defense attorneys and public defense staff**
15 **members for the provision of public defense services.**

16 “(n) **Establish policies and standards for quality assurance and oversight in the provision**
17 **of public defense services, including allowing for the investigation, auditing and review of**
18 **public defense attorneys and public defense staff members to determine compliance with the**
19 **office’s metrics, policies and standards.**

20 “(o) **Establish training requirements for public defense attorneys and public defense staff**
21 **members and, as appropriate, develop trainings that include but are not limited to the pro-**
22 **vision of culturally specific services.**

23 “(p) **Implement a case management system that allows for transparency and oversight.**

24 “(q) **Ensure that all office policies and procedures allow public defense attorneys to pro-**
25 **vide zealous advocacy on behalf of their clients.**

26 “(2)(a) **A contract negotiated by the executive director under subsection (1) of this sec-**
27 **tion is not binding or enforceable until the contract has been reviewed and approved by the**
28 **commission as provided in ORS 151.216.**

29 “(b) **The executive director may not negotiate or enter into a contract authorizing any**
30 **flat fee compensation structure, including but not limited to a contract authorizing a flat fee**
31 **to be paid over a set period of time on a per case basis.**

32 “(c) **Nothing in this subsection prohibits the executive director from negotiating or en-**
33 **tering into a contract that provides compensation to public defense attorneys based on a**
34 **full-time equivalent model or a workload model, or that pays public defense attorneys hourly**
35 **at a reasonable market rate.**

36 “(d) **Contracts negotiated and entered into by the executive director must include terms**
37 **requiring:**

38 “(A) **Access to attorney case files by the executive director, excluding legally protected**
39 **material; and**

40 “(B) **The sharing of data and information between the public defense attorneys and public**
41 **defense staff members and the office sufficient for the office to:**

42 “(i) **Monitor the caseloads and compensation of each public defense attorney and public**
43 **defense staff member; and**

44 “(ii) **Determine whether the terms of each contract are sufficient for public defense at-**
45 **torneys and public defense staff members to meet office standards and provide represen-**

1 tation in a manner consistent with the Oregon Constitution, the United States Constitution
2 and Oregon and national standards of justice.

3 “(e) As used in this subsection, ‘legally protected material’ means:

4 “(A) Information and records of a client of the office that are protected by attorney-
5 client privilege held by the client; and

6 “(B) Attorney work product prepared in the course of providing legal services to the cli-
7 ent.

8 “(3) The annual report to the commission and the biennial report to the Legislative As-
9 sembly required by subsection (1) of this section must include but are not limited to the
10 following information:

11 “(a) Public defense attorney caseloads and conformance with the caseload standards and
12 workload plan adopted by the commission;

13 “(b) Public defense attorney and public defense staff member compensation;

14 “(c) Retention and turnover of public defense attorneys and public defense staff mem-
15 bers;

16 “(d) Training and continuing legal education provided to or completed by public defense
17 attorneys;

18 “(e) The frequency of work performed on cases by public defense staff members; and

19 “(f) Whether performance metrics and quality assurance standards are being met by
20 public defense attorneys and public defense staff members.

21 “[2] (4) The executive director may designate persons as representatives of the executive di-
22 rector for the purposes of determining and paying bills submitted to the Office of Public Defense
23 Services and determining preauthorization for incurring fees and expenses under ORS 135.055.

24 “**SECTION 5.** Section 6 of this 2019 Act is added to and made a part of ORS 151.211 to
25 151.221.

26 “**SECTION 6.** (1) Except as provided in subsection (2) of this section or as otherwise
27 provided by law, the provisions of ORS 180.220, 276.004, 276.410, 276.426, 276.428, 276.440,
28 276A.206, 279.835 to 279.855, 283.085 to 283.092, 292.210 to 292.250, 293.075 and 293.205 to 293.225
29 and ORS chapters 279A, 279B, 279C, 282 and 283 do not apply to the Public Defense Services
30 Commission or the Office of Public Defense Services.

31 “(2) ORS 279A.100 and ORS chapter 236 apply to the commission and the office.

32
33 “**TASK FORCE ON MUNICIPAL COURT PUBLIC DEFENSE**

34
35 “**SECTION 7.** (1) The Task Force on Municipal Court Public Defense is established. The
36 purpose of the task force is to recommend to the Legislative Assembly public defense models
37 for municipal and justice court proceedings that:

38 “(a) Protect the right of counsel under the Oregon and United States Constitutions;

39 “(b) Take into consideration the complex needs of criminal defendants;

40 “(c) Ensure that parties to a municipal or justice court proceeding are prepared to pro-
41 ceed; and

42 “(d) Enable courts to resolve cases as quickly and efficiently as possible.

43 “(2) The task force consists of 17 members appointed as follows:

44 “(a) The President of the Senate shall appoint two members from among members of the
45 Senate.

1 **“(b) The Speaker of the House of Representatives shall appoint two members from among**
2 **members of the House of Representatives.**

3 **“(c) The Governor shall appoint eight members as follows:**

4 **“(A) Two members with experience providing public defense services in municipal or**
5 **justice courts.**

6 **“(B) Two members representing municipal prosecutors.**

7 **“(C) One member representing the Public Defense Services Commission.**

8 **“(D) One member representing the Association of Oregon Counties.**

9 **“(E) One member representing city managers.**

10 **“(F) One member representing chiefs of police.**

11 **“(d) The Chief Justice of the Supreme Court shall appoint four members as follows:**

12 **“(A) Two members who are judges presiding over municipal or justice court proceedings.**

13 **“(B) One judge with experience on the circuit or appellate courts.**

14 **“(C) One member representing a civil legal services provider for low-income Oregonians.**

15 **“(e) The Attorney General shall appoint one member representing the Department of**
16 **Justice.**

17 **“(3) The task force shall:**

18 **“(a) Examine the role of municipal courts in the state justice system, the unique needs**
19 **and resources within each municipal court jurisdiction and statewide needs and resources;**

20 **“(b) Examine and make recommendations regarding:**

21 **“(A) The number of attorneys and staff members and the resources necessary to provide**
22 **sufficient public defense services in municipal and justice court criminal proceedings;**

23 **“(B) Appropriate caseloads for attorneys providing public defense services in municipal**
24 **and justice court criminal proceedings;**

25 **“(C) The administration and oversight of attorneys providing public defense services and**
26 **municipal and justice court criminal proceedings; and**

27 **“(D) Funding models for attorneys providing public defense services in municipal and**
28 **justice court criminal proceedings;**

29 **“(c) Examine the effects of municipal and justice court convictions on future sentences**
30 **of criminal defendants;**

31 **“(d) Examine whether models of holistic public defense would be appropriate and promote**
32 **better outcomes in municipal and justice courts;**

33 **“(e) Examine ways to create and ensure statewide consistency in the provision of public**
34 **defense services in municipal and justice courts;**

35 **“(f) Conduct surveys of:**

36 **“(A) Each county in the state to identify models of public defense representations and**
37 **effective practices in municipal and justice court criminal proceedings; and**

38 **“(B) Other states to identify models of effective representation and funding of public de-**
39 **fense services in municipal and justice courts;**

40 **“(g) Review statutory and case law related to the provision of public defense as required**
41 **by the Oregon and United States Constitutions; and**

42 **“(h) Identify obstacles in all counties to providing effective public defense services in**
43 **municipal and justice court criminal proceedings.**

44 **“(4) The recommendations and proposed legislative changes of the task force must en-**
45 **sure that:**

1 “(a) Public defense providers in municipal and justice court proceedings have workloads
2 that allow the attorneys to provide client-centered, competent and effective legal represen-
3 tation throughout the entire proceeding;

4 “(b) Judicial and attorney resources are sufficient to protect the legal rights of defend-
5 ants in municipal and justice court criminal proceedings; and

6 “(c) Oregon statutes are consistent with the models for legal representation proposed by
7 the task force.

8 “(5) A majority of the voting members of the task force constitutes a quorum for the
9 transaction of business.

10 “(6) Official action by the task force requires the approval of a majority of the voting
11 members of the task force.

12 “(7) The task force shall elect one of its members to serve as chairperson.

13 “(8) If there is a vacancy for any cause, the appointing authority shall make an appoint-
14 ment to become immediately effective.

15 “(9) The task force shall meet at times and places specified by the call of the chairperson
16 or of a majority of the voting members of the task force.

17 “(10) The task force may adopt rules necessary for the operation of the task force.

18 “(11) The task force shall submit a report, with the recommendations of the task force
19 and proposed legislative changes, in the manner provided by ORS 192.245 to the interim
20 committees of the Legislative Assembly related to the judiciary no later than September 15,
21 2021.

22 “(12) The Office of Public Defense Services shall provide staff support to the task force.

23 “(13) Members of the Legislative Assembly appointed to the task force are nonvoting
24 members of the task force and may act in an advisory capacity only.

25 “(14) Members of the task force who are not members of the Legislative Assembly are
26 not entitled to compensation, but may be reimbursed for actual and necessary travel and
27 other expenses incurred by them in the performance of their actual duties and in the manner
28 and amounts provided for in ORS 292.495. Claims for expenses incurred in performing func-
29 tions of the task force shall be paid out of funds appropriated to the Governor for purposes
30 of the task force.

31 “(15) All agencies of state government, as defined in ORS 174.111, are directed to assist
32 the task force in the performance of the duties of the task force and, to the extent permitted
33 by laws relating to confidentiality, to furnish information and advice the members of the task
34 force consider necessary to perform their duties.

35
36 **“CONFORMING AMENDMENTS**

37
38 **“SECTION 8.** ORS 1.009 is amended to read:

39 “1.009. (1) The Judicial Department Operating Account is established in the State Treasury,
40 separate and distinct from the General Fund. Interest earned by the account shall be credited to the
41 account. All moneys in the account are continuously appropriated to the Judicial Department and
42 may be used only to pay the operating expenses of the department.

43 “(2) All moneys received by the department pursuant to ORS 151.216 [(1)(i)] (1)(n) shall be de-
44 posited in the Judicial Department Operating Account.

45 “(3) The department may accept gifts, grants or contributions from any source, whether public

1 or private, for deposit in the Judicial Department Operating Account.

2 “**SECTION 9.** ORS 34.355 is amended to read:

3 “34.355. If counsel is appointed by a court to represent, in an initial proceeding by habeas cor-
4 pus or on appeal as provided in ORS 34.710, a person who is imprisoned or otherwise restrained of
5 liberty by virtue of a charge or conviction of crime and who is determined to be financially eligible
6 for appointed counsel at state expense, the [*public defense services*] executive director **of the Office**
7 **of Public Defense Services** shall determine compensation for counsel and costs and expenses of the
8 person in the proceeding or on appeal. Compensation for counsel and expenses of the person in an
9 initial proceeding or in a circuit court on appeal shall be determined and paid as provided in ORS
10 135.055. Compensation for counsel and costs and expenses of the person on appeal to the Court of
11 Appeals or on review by the Supreme Court shall be determined and paid as provided in ORS
12 138.500. The compensation and expenses so allowed in an initial proceeding in a county court shall
13 be paid by the county in which the person was charged or convicted of crime.

14 “**SECTION 10.** ORS 135.055 is amended to read:

15 “135.055. (1) Counsel appointed pursuant to ORS 135.045 or 135.050 shall be paid fair compen-
16 sation for representation in the case:

17 “(a) By the county, subject to the approval of the governing body of the county, in a proceeding
18 in a county or justice court.

19 “(b) By the [*public defense services*] executive director **of the Office of Public Defense Services**
20 from funds available for the purpose, in a proceeding in a circuit court.

21 “(2) Except for counsel appointed pursuant to contracts or counsel employed by the [*public de-*
22 *fense services*] executive director **of the Office of Public Defense Services**, compensation payable
23 to appointed counsel under subsection (1) of this section:

24 “(a) In a proceeding in a county or justice court may not be less than \$30 per hour.

25 “(b) In a proceeding in a circuit court is subject to the applicable compensation established
26 under ORS 151.216.

27 “(3)(a) A person determined to be eligible for appointed counsel is entitled to necessary and
28 reasonable fees and expenses for investigation, preparation and presentation of the case for trial,
29 negotiation and sentencing. The person or the counsel for the person shall upon written request
30 secure preauthorization to incur fees and expenses that are not routine to representation but are
31 necessary and reasonable in the investigation, preparation and presentation of the case, including
32 but not limited to nonroutine travel, photocopying or other reproduction of nonroutine documents,
33 necessary costs associated with obtaining the attendance of witnesses for the defense, investigator
34 fees and expenses, expert witness fees and expenses and fees for interpreters and assistive commu-
35 nication devices necessary for the purpose of communication between counsel and a client or wit-
36 ness in the case. Preauthorization to incur a fee or expense does not guarantee that a fee or expense
37 incurred pursuant to the preauthorization will be determined to be necessary or reasonable when
38 the fee or expense is submitted for payment.

39 “(b) In a county or justice court, the request must be in the form of a motion to the court. The
40 motion must be accompanied by a supporting affidavit that sets out in detail the purpose of the re-
41 quested expenditure, the name of the service provider or other recipient of the funds, the dollar
42 amount of the requested expenditure that may not be exceeded without additional authorization and
43 the date or dates during which the service will be rendered or events will occur for which the ex-
44 penditure is requested.

45 “(c) In a circuit court, the request must be in the form and contain the information that is re-

1 quired by the policies, procedures, standards and guidelines of the Public Defense Services Com-
2 mission. If the [*public defense services*] executive director **of the Office of Public Defense Services**
3 denies a request for preauthorization to incur nonroutine fees and expenses, the person making the
4 request may appeal the decision to the presiding judge of the circuit court. The presiding judge has
5 final authority to preauthorize incurring nonroutine fees and expenses under this paragraph.

6 “(d) Entitlement under subsection (7) of this section to payment for fees and expenses in circuit
7 court is subject to the policies, procedures, standards and guidelines adopted under ORS 151.216.
8 Entitlement to payment of nonroutine fees and expenses is dependent upon obtaining preauthori-
9 zation from the court, if the case is in county or justice court, or from the [*public defense services*]
10 executive director **of the Office of Public Defense Services**, if the case is in circuit court, except
11 as otherwise provided in paragraph (c) of this subsection and in the policies, procedures, standards
12 and guidelines adopted under ORS 151.216. Fees and expenses shall be paid:

13 “(A) By the county, in respect to a proceeding in a county or justice court.

14 “(B) By the [*public defense services*] executive director **of the Office of Public Defense Ser-**
15 **vices** from funds available for the purpose, in respect to a proceeding in a circuit court.

16 “(C) By the city, in respect to a proceeding in municipal court.

17 “(4) Upon completion of all services by the counsel of a person determined to be eligible for
18 appointed counsel, the counsel shall submit a statement of all necessary and reasonable fees and
19 expenses of investigation, preparation and presentation and, if counsel was appointed by the court,
20 a statement of all necessary and reasonable fees and expenses for legal representation, supported
21 by appropriate receipts or vouchers and certified by the counsel to be true and accurate.

22 “(5) In a county or justice court, the total fees and expenses payable under this section must
23 be submitted to the court by counsel or other providers and are subject to the review of the court.
24 The court shall certify that such amount is fair reimbursement for fees and expenses for represen-
25 tation in the case as provided in subsection (6) of this section. Upon certification and any verifica-
26 tion as provided under subsection (6) of this section, the amount of the fees and expenses approved
27 by the court and not already paid shall be paid by the county.

28 “(6) In a county or justice court, the court shall certify to the administrative authority respon-
29 sible for paying fees and expenses under this section that the amount for payment is reasonable and
30 that the amount is properly payable out of public funds.

31 “(7) In a circuit court, the total fees and expenses payable under this section must be submitted
32 to and are subject to review by the [*public defense services*] executive director **of the Office of**
33 **Public Defense Services**. The [*public defense services*] executive director shall determine whether
34 the amount is necessary, reasonable and properly payable from public funds for fees and expenses
35 for representation in the case as provided by the policies, procedures, standards and guidelines of
36 the Public Defense Services Commission. The [*public defense services*] executive director shall pay
37 the amount of the fees and expenses determined necessary, reasonable and properly payable out of
38 public funds. The court shall provide any information identified and requested by the [*public defense*
39 *services*] executive director as needed for audit, statistical or any other purpose pertinent to ensure
40 the proper disbursement of state funds or pertinent to the provision of appointed counsel compen-
41 sated at state expense.

42 “(8) If the [*public defense services*] executive director **of the Office of Public Defense Services**
43 denies, in whole or in part, fees and expenses submitted for review and payment, the person who
44 submitted the payment request may appeal the decision to the presiding judge of the circuit court.
45 The presiding judge or the designee of the presiding judge shall review the [*public defense services*]

1 executive director's decision for abuse of discretion. The decision of the presiding judge or the
2 designee of the presiding judge is final.

3 “(9) The following may not be disclosed to the district attorney prior to the conclusion of a case:

4 “(a) Requests and administrative or court orders for preauthorization to incur nonroutine fees
5 and expenses in the investigation, preparation and presentation of the case; and

6 “(b) Billings for such fees and expenses submitted by counsel or other providers.

7 “(10) Notwithstanding subsection (9) of this section, the total amount of moneys determined to
8 be necessary and reasonable for nonroutine fees and expenses may be disclosed to the district at-
9 torney at the conclusion of the trial in the circuit court.

10 “(11) As used in this section unless the context requires otherwise, ‘counsel’ includes a legal
11 advisor appointed under ORS 135.045.

12 “**SECTION 11.** ORS 136.603 is amended to read:

13 “136.603. (1)(a) Whenever any person attends any court, grand jury or committing magistrate as
14 a witness on behalf of the prosecution or of any person accused of a crime upon request of the
15 district attorney or city attorney or pursuant to subpoena, or by virtue of a recognizance for that
16 purpose, and it appears that the witness has come from outside the state or that the witness is in-
17 digent, the court may, by an order entered in its records, direct payment to the witness of such sum
18 of money as the court considers reasonable for the expenses of the witness. The order of the court,
19 so entered, is sufficient authority for the payment.

20 “(b) Except as otherwise specifically provided by law, if a witness who is to be paid expenses
21 pursuant to this subsection:

22 “(A) Attends a grand jury, a circuit court or judge thereof, a judge of a county court or a justice
23 of the peace, on behalf of the prosecution, payment shall be made by the county.

24 “(B) Attends a municipal court or judge thereof on behalf of the prosecution, payment shall be
25 made by the city.

26 “(C) Attends a circuit court or judge thereof on behalf of a financially eligible defendant, pay-
27 ment shall be made by the [*public defense services*] executive director **of the Office of Public De-**
28 **fense Services.**

29 “(D) Attends a judge of the county court or a justice of the peace on behalf of a financially el-
30 igible defendant, payment shall be made by the county.

31 “(E) Attends a municipal court or judge thereof on behalf of a financially eligible defendant,
32 payment shall be made by the city.

33 “(F) Attends any court on behalf of a defendant who is not financially eligible, payment shall
34 be made by the defendant, and the court shall so order.

35 “(2) In the case of a prisoner of a jurisdiction outside of this state who is required to attend as
36 a witness in this state, whether for the prosecution or the defense, the sheriff shall be responsible
37 for transporting the witness to the proper court of this state, and the sheriff shall assume any costs
38 incurred in connection with the witness while the witness is in the custody of the sheriff. However,
39 the sheriff and not the witness shall be entitled to the witness fees, mileage and expenses to which
40 the witness would otherwise be entitled under this section and ORS 136.627 or other applicable law.

41 “**SECTION 12.** ORS 138.310 is amended to read:

42 “138.310. When the [*public defense services*] executive director **of the Office of Public Defense**
43 **Services** pays costs, expenses or compensation under ORS 138.500 (5) on appeal in a criminal action,
44 the [*public defense services*] executive director shall notify the court below of the costs, expenses and
45 compensation paid in order that the court below may exercise its discretion under ORS 151.505 or

1 161.665 (2).

2 “**SECTION 13.** ORS 138.500 is amended to read:

3 “138.500. (1) If a defendant in a criminal action or a petitioner in a proceeding pursuant to ORS
4 138.510 to 138.680 wishes to appeal from an appealable adverse final order or judgment of a circuit
5 court and if the person is without funds to employ suitable counsel possessing skills and experience
6 commensurate with the nature and complexity of the case for the appeal, the person may request
7 the circuit court from which the appeal is or would be taken to appoint counsel to represent the
8 person on appeal. The following apply to a request under this subsection:

9 “(a) The request shall be in writing and shall be made within the time during which an appeal
10 may be taken or, if the notice of appeal has been filed, at any time thereafter. The request shall
11 include a brief statement of the assets, liabilities and income in the previous year of the person
12 unless the court already determined the person to be financially eligible for appointed counsel at
13 state expense for purposes of the specific case, in which instance, the written request need only so
14 indicate. However, if a request relies on a court’s previous determination that the person is finan-
15 cially eligible, the court, in its discretion, may require the person to submit a new statement of as-
16 sets, liabilities and income.

17 “(b) If, based upon a request under paragraph (a) of this subsection, the court finds that
18 petitioner or defendant previously received the services of appointed counsel or currently is without
19 funds to employ suitable counsel for an appeal, the court shall appoint counsel to represent
20 petitioner or defendant on the appeal.

21 “(2)(a) Notwithstanding subsection (1) of this section, when a defendant has been sentenced to
22 death, the request for appointed counsel shall be made to the Supreme Court. The Supreme Court
23 shall appoint suitable counsel to represent the defendant on the appeal.

24 “(b) After the notice of appeal has been filed, the Court of Appeals has concurrent authority to
25 appoint or substitute counsel or appoint or substitute a legal advisor for the defendant under ORS
26 138.504.

27 “(c) The Supreme Court has concurrent authority to appoint or substitute counsel or appoint
28 or substitute a legal advisor for the defendant under ORS 138.504 in connection with review of a
29 Court of Appeals decision under ORS 2.520.

30 “(d) Neither the Court of Appeals nor the Supreme Court may substitute one appointed counsel
31 for another under paragraph (b) or (c) of this subsection except pursuant to the policies, procedures,
32 standards and guidelines of the Public Defense Services Commission.

33 “(3) Whenever a defendant in a criminal action or a petitioner in a proceeding pursuant to ORS
34 138.510 to 138.680 has filed a notice of appeal from an appealable adverse final order or judgment
35 of a circuit court and the person is without funds to pay for a transcript, or portion thereof, nec-
36 essary to present adequately the case upon appeal, the person may request the [*public defense ser-*
37 *vices*] executive director **of the Office of Public Defense Services** to have the transcript, or
38 portion thereof, prepared for purposes of appeal. The following apply to a request under this sub-
39 section:

40 “(a) The [*public defense services*] executive director **of the Office of Public Defense Services**
41 shall authorize the preparation of a transcript after a court has determined that the person is eli-
42 gible for court-appointed counsel or, if the person has not applied for court-appointed counsel, the
43 person submits a statement of the person’s assets, liabilities and income in the previous year and
44 the director determines that the person is eligible for preparation of a transcript at state expense.

45 “(b) The cost of the transcript preparation under paragraph (a) of this subsection shall be in the

1 amount prescribed in ORS 21.345 and paid for as provided by the policies, procedures, standards and
2 guidelines of the Public Defense Services Commission.

3 “(4) After submission of the original brief by counsel, the [*public defense services*] executive di-
4 rector **of the Office of Public Defense Services** shall determine the cost of briefs and any other
5 expenses of appellant, except transcripts, necessary to appellate review and a reasonable amount
6 of compensation for counsel appointed under this section. Compensation payable to appointed coun-
7 sel shall be as established under ORS 151.216. On any review by the Supreme Court of the judgment
8 of the Court of Appeals the [*public defense services*] executive director shall similarly determine the
9 costs of briefs and any other expenses necessary for review and a reasonable amount of compen-
10 sation for counsel appointed under this section.

11 “(5) Costs, expenses and compensation determined by the [*public defense services*] executive di-
12 rector **of the Office of Public Defense Services** under subsection (4) of this section shall be paid
13 by the [*public defense services*] executive director from funds available for that purpose.

14 “(6) If the [*public defense services*] executive director **of the Office of Public Defense Services**
15 denies, in whole or in part, costs, expenses and compensation submitted for review and payment, the
16 person who submitted the payment request may appeal the decision to the Chief Judge of the Court
17 of Appeals, if the appeal is in the Court of Appeals, or to the Chief Justice of the Supreme Court,
18 if the appeal is in the Supreme Court. The Chief Judge, Chief Justice or the designee of the Chief
19 Judge or Chief Justice, as appropriate, shall review the [*public defense services*] executive director’s
20 decision for abuse of discretion. The decision of the Chief Judge, the Chief Justice or the designee
21 of the Chief Judge or Chief Justice is final.

22 “(7) The provisions of this section shall apply in favor of the defendant in a criminal action or
23 the petitioner in a proceeding pursuant to ORS 138.510 to 138.680 when the person is respondent in
24 an appeal taken by the state in a criminal action or by the defendant in a proceeding pursuant to
25 ORS 138.510 to 138.680.

26 “(8) As used in this section, ‘criminal action’ does not include an action that involves only vio-
27 lations.

28 “(9) As used in subsection (4) of this section, ‘counsel’ includes a legal advisor appointed under
29 ORS 138.504.

30 “**SECTION 14.** ORS 138.590 is amended to read:

31 “138.590. (1) Any petitioner who is unable to pay the expenses of a proceeding pursuant to ORS
32 138.510 to 138.680 or to employ suitable counsel possessing skills and experience commensurate with
33 the nature of the conviction and complexity of the case for the proceeding may proceed as a finan-
34 cially eligible person pursuant to this section upon order of the circuit court in which the petition
35 is filed.

36 “(2) If the petitioner wishes to proceed as a financially eligible person, the person shall file with
37 the petition an affidavit stating inability to pay the expenses of a proceeding pursuant to ORS
38 138.510 to 138.680, including, but not limited to, the filing fee required by ORS 138.560, or to employ
39 suitable counsel for such a proceeding. The affidavit shall contain a brief statement of the
40 petitioner’s assets and liabilities and income during the previous year. If the circuit court is satisfied
41 that the petitioner is unable to pay such expenses or to employ suitable counsel, it shall order that
42 the petitioner proceed as a financially eligible person. If the court finds that a petitioner who has
43 been sentenced to death is not competent to decide whether to accept or reject the appointment of
44 counsel, the court shall appoint counsel to represent the petitioner. However, when a circuit court
45 orders petitioner’s case transferred to another circuit court as provided in ORS 138.560 (4), the

1 matter of petitioner's proceeding as a financially eligible person shall be determined by the latter
2 court.

3 "(3) If a petitioner who has been sentenced to death qualifies for the appointment of counsel
4 under this section but rejects the appointment, the court shall determine, after a hearing if neces-
5 sary, whether the petitioner rejected the offer of counsel and made the decision with an under-
6 standing of its legal consequences. The court shall make appropriate findings on the record.

7 "(4) In the order to proceed as a financially eligible person, the circuit court shall appoint
8 suitable counsel to represent petitioner. Counsel so appointed shall represent petitioner throughout
9 the proceedings in the circuit court. The court may not substitute one appointed counsel for another
10 except pursuant to the policies, procedures, standards and guidelines of the Public Defense Services
11 Commission.

12 "(5) If counsel appointed by the circuit court determines that the petition as filed by petitioner
13 is defective, either in form or in substance, or both, counsel may move to amend the petition within
14 15 days following counsel's appointment, or within a further period as the court may allow. The
15 amendment shall be permitted as of right at any time during this period. If appointed counsel be-
16 lieves that the original petition cannot be construed to state a ground for relief under ORS 138.510
17 to 138.680, and cannot be amended to state a ground for relief, counsel shall, in lieu of moving to
18 amend the petition, inform the petitioner and notify the circuit court of counsel's belief by filing an
19 affidavit stating the belief and the reasons therefor with the clerk of the circuit court. This affidavit
20 does not constitute a ground for denying the petition prior to a hearing upon its sufficiency, but the
21 circuit court may consider the affidavit in deciding upon the sufficiency of the petition at the
22 hearing.

23 "(6) When a petitioner has been ordered to proceed as a financially eligible person, the expenses
24 which are necessary for the proceedings upon the petition in the circuit court and the compensation
25 to appointed counsel for petitioner as provided in this subsection shall be paid by the [*public defense*
26 *services*] executive director **of the Office of Public Defense Services** from funds available for the
27 purpose. At the conclusion of proceedings on a petition pursuant to ORS 138.510 to 138.680, the
28 [*public defense services*] executive director shall determine and pay, as provided by the policies,
29 procedures, standards and guidelines of the Public Defense Services Commission, the amount of ex-
30 penses of petitioner and compensation for the services of appointed counsel in the proceedings in
31 the circuit court.

32 "(7) If the [*public defense services*] executive director **of the Office of Public Defense Services**
33 denies, in whole or in part, expenses and compensation submitted for review and payment, the per-
34 son who submitted the payment request may appeal the decision to the presiding judge of the circuit
35 court. The presiding judge or the designee of the presiding judge shall review the [*public defense*
36 *services*] executive director's decision for abuse of discretion. The decision of the presiding judge or
37 the designee of the presiding judge is final.

38 "(8)(a) When a petitioner has been authorized to proceed as a financially eligible person, all
39 court fees in the circuit court, except for the filing fee required by ORS 138.560, are waived.

40 "(b) When a petitioner is allowed to file a petition without payment of the fee required by ORS
41 138.560 due to inability to pay, the fee is not waived but may be drawn from, or charged against,
42 the petitioner's trust account if the petitioner is an inmate in a correctional facility.

43 "(9) Notwithstanding any other provision of this chapter, a court may not appoint as counsel for
44 a petitioner who has been sentenced to death a counsel who previously represented the petitioner
45 at trial or on automatic and direct review in the case resulting in the death sentence unless the

1 petitioner and the counsel expressly request continued representation.

2 “**SECTION 15.** ORS 151.225 is amended to read:

3 “151.225. (1) The Public Defense Services Account is established in the State Treasury, separate
4 and distinct from the General Fund. The Public Defense Services Account is continuously appropri-
5 ated to the Public Defense Services Commission to:

6 “(a) Reimburse the actual costs and expenses, including personnel expenses, incurred in admin-
7 istration and support of the public defense system;

8 “(b) Reimburse the State Court Administrator under ORS 151.216 [(1)(i)] **(1)(n)**; and

9 “(c) Pay other expenses in connection with the legal representation of persons for which the
10 commission is responsible by law, including expenses incurred in the administration of the public
11 defense system.

12 “(2) All moneys received by the Judicial Department under ORS 135.050 (8), 151.487 (1),
13 419A.211, 419B.198 (1), 419C.203 (1) or 419C.535 (2) shall be deposited in the Public Defense Services
14 Account.

15 “(3) All gifts, grants or contributions accepted by the commission under ORS 151.216 shall be
16 deposited in a separate subaccount created in the Public Defense Services Account to be used by
17 the commission for the purpose for which the gift, grant or contribution was given or granted.

18 “**SECTION 16.** ORS 151.485 is amended to read:

19 “151.485. (1) For purposes of determining the financial eligibility for appointed counsel of per-
20 sons with a constitutional or statutory right to counsel in matters before the state courts and whose
21 counsel is authorized to be paid by the [public defense services] executive director **of the Office of**
22 **Public Defense Services** under ORS 151.219, a person is financially eligible for appointed counsel
23 if the person is determined to be financially unable to retain adequate counsel without substantial
24 hardship in providing basic economic necessities to the person or the person’s dependent family
25 under standards established by the Public Defense Services Commission under ORS 151.216.

26 “(2) A determination of financial eligibility shall be made upon the basis of information con-
27 tained in a detailed financial statement submitted by the person for whom counsel is requested or
28 appointed or, in an appropriate case, by the person’s parent, guardian or custodian. The financial
29 statement shall be in the form prescribed by the Public Defense Services Commission. The form shall
30 contain a full disclosure of all assets, liabilities, current income, dependents and other information
31 required by ORS 135.050 (4) and, in addition, any information required by the commission and state
32 courts as necessary to determine eligibility. The commission shall adopt uniform statewide guide-
33 lines and procedures that prescribe how to use the form and determine financial eligibility for ap-
34 pointed counsel.

35 “(3) If at any time after the appointment of counsel the court having jurisdiction of the case
36 finds that the defendant is financially able to obtain counsel, the court may terminate the appoint-
37 ment of counsel. If at any time during criminal proceedings the court having jurisdiction of the case
38 finds that the defendant is financially unable to pay counsel whom the defendant has retained, the
39 court may appoint counsel as provided in this section.

40 “(4) In addition to any criminal prosecution, a civil proceeding may be initiated by any public
41 body that has expended moneys for the defendant’s legal assistance within two years of judgment
42 if the defendant was not qualified for legal assistance in accordance with subsections (1) and (2) of
43 this section. As used in this subsection, ‘legal assistance’ includes legal counsel, transcripts, witness
44 fees and expenses and any other goods or services required by law to be provided to a financially
45 eligible person at state expense under ORS 151.216 and 151.219.

1 “(5) The civil proceeding shall be subject to the exemptions from execution as provided for by
2 law.

3 “**SECTION 17.** ORS 151.493 is amended to read:

4 “151.493. (1) Notwithstanding any other provision of law, any state agency as defined in ORS
5 192.311 that receives a request for release of information from the state courts for the purpose of
6 verifying the financial eligibility of a person under ORS 151.485 to 151.497 shall release all requested
7 information to the state court. The court shall forward to the state agency a certification signed by
8 the person about whom the requested information is sought that authorizes the release of the in-
9 formation.

10 “(2) Upon its own motion or motion of the [*public defense services*] executive director **of the**
11 **Office of Public Defense Services**, a court that has appointed counsel for a person by reason of
12 financial eligibility may order the release of any information relating to the person’s financial situ-
13 ation held by any other person.

14 “**SECTION 18.** ORS 161.309 is amended to read:

15 “161.309. (1) The defendant may not introduce evidence on the issue of insanity under ORS
16 161.295, unless the defendant:

17 “(a) Gives notice of intent to do so in the manner provided in subsection (3) of this section; and

18 “(b) Files with the court a report of a psychiatric or psychological evaluation, conducted by a
19 certified evaluator, in the manner provided in subsection (4) of this section.

20 “(2) The defendant may not introduce in the case in chief expert testimony regarding partial
21 responsibility or diminished capacity under ORS 161.300 unless the defendant gives notice of intent
22 to do so in the manner provided in subsection (3) of this section.

23 “(3) A defendant who is required under subsection (1) or (2) of this section to give notice shall
24 file a written notice of purpose at the time the defendant pleads not guilty. The defendant may file
25 the notice at any time after the plea but before trial when just cause for failure to file the notice
26 at the time of making the plea is shown. If the defendant fails to file notice, the defendant may not
27 introduce evidence for the establishment of a defense under ORS 161.295 or 161.300 unless the court,
28 in its discretion, permits the evidence to be introduced where just cause for failure to file the notice
29 is shown.

30 “(4) A defendant who is required under subsection (1) of this section to file a report of a psy-
31 chiatric or psychological evaluation shall file the report before trial. The report must be based on
32 an evaluation conducted after the date of the alleged offense and must address the issue of insanity
33 under ORS 161.295 and the dispositional determination described in ORS 161.325. If the defendant
34 fails to file a complete report before trial, the defendant may not introduce evidence for the estab-
35 lishment of a defense under ORS 161.295 unless:

36 “(a) The court, in its discretion, permits the evidence to be introduced when just cause for
37 failure to file the report is shown; and

38 “(b) If the defendant is charged with a felony, the defendant is tried by a jury.

39 “(5)(a) A court may not accept a plea of guilty except for insanity to a felony unless a report
40 described in subsection (4) of this section is filed with the court. If the report has not been filed, the
41 court may order that a psychiatric or psychological evaluation of the defendant be conducted by a
42 certified evaluator and a report of the evaluation be filed with the court.

43 “(b) When the court orders an evaluation of a financially eligible person under this subsection,
44 the court shall order the [*public defense services*] executive director **of the Office of Public Defense**
45 **Services** to pay a reasonable fee for the evaluation from funds available for that purpose.

1 “(c) A certified evaluator performing an evaluation of a defendant on the issue of insanity under
2 this subsection is not obligated to evaluate the defendant for fitness to proceed unless, during the
3 evaluation, the certified evaluator determines that the defendant’s fitness to proceed is drawn in
4 question.

5 “(6) As used in this section, ‘certified evaluator’ means a psychiatrist or psychologist who holds
6 a valid certification under the provisions of ORS 161.392.

7 “**SECTION 19.** ORS 161.346 is amended to read:

8 “161.346. (1) When the Psychiatric Security Review Board conducts a hearing under ORS 161.315
9 to 161.351, the board shall enter an order and make findings in support of the order. If the board
10 finds that a person under the jurisdiction of the board:

11 “(a) Is no longer affected by a qualifying mental disorder, or, if so affected, no longer presents
12 a substantial danger to others, the board shall order the person discharged from commitment and
13 conditional release.

14 “(b) Is still affected by a qualifying mental disorder and is a substantial danger to others, but
15 can be controlled adequately if conditionally released with treatment as a condition of release, the
16 board shall order the person conditionally released as provided in ORS 161.336.

17 “(c) Has not recovered from the qualifying mental disorder, is a substantial danger to others and
18 cannot adequately be controlled if conditionally released on supervision, the board shall order the
19 person committed to, or retained in, a state hospital, or if the person is under 18 years of age, a
20 secure intensive community inpatient facility, for care, custody and treatment.

21 “(2) To assist the board in making the determination described in subsection (1) of this section,
22 the board may, at any time, appoint a psychiatrist or licensed psychologist to examine the person
23 and to submit a report to the board. The report must include an opinion as to the mental condition
24 of the person, whether the person presents a substantial danger to others and whether the person
25 could be adequately controlled with treatment as a condition of release.

26 “(3) The board may make the determination regarding discharge or conditional release based
27 upon the written reports submitted pursuant to this section. If any member of the board desires
28 further information from the examining psychiatrist or licensed psychologist who submitted the re-
29 port, the board shall summon the person to give testimony. The board shall consider all evidence
30 available to it that is material, relevant and reliable regarding the issues before the board. The ev-
31 idence may include but is not limited to the record of trial, the information supplied by the attorney
32 representing the state or by any other interested party, including the person, and information con-
33 cerning the person’s mental condition and the entire psychiatric and criminal history of the person.
34 All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their
35 serious affairs shall be admissible at hearings. Testimony shall be taken upon oath or affirmation
36 of the witness from whom received. The officer presiding at the hearing shall administer oaths or
37 affirmations to witnesses.

38 “(4) The board shall furnish to the person about whom the hearing is being conducted, the at-
39 torney representing the person, the Attorney General and the district attorney of the county from
40 which the person was committed written notice of any hearing pending under this section within a
41 reasonable time prior to the hearing. The notice shall include:

42 “(a) The time, place and location of the hearing.

43 “(b) The nature of the hearing and the specific action for which a hearing has been requested,
44 the issues to be considered at the hearing and a reference to the particular sections of the statutes
45 and rules involved.

1 “(c) A statement of the legal authority and jurisdiction under which the hearing is to be held.
2 “(d) A statement of all rights under subsection (6) of this section.
3 “(5) Prior to the commencement of the hearing, the board shall serve personally or by mail a
4 written notice to each party as provided in ORS 183.413 (2).
5 “(6) At the hearing, the person about whom the hearing is being held shall have the right:
6 “(a) To appear at all proceedings held pursuant to this section, except for deliberations.
7 “(b) To cross-examine all witnesses appearing to testify at the hearing.
8 “(c) To subpoena witnesses and documents as provided in ORS 161.395.
9 “(d) To be represented by suitable legal counsel possessing skills and experience commensurate
10 with the nature and complexity of the case, to consult with counsel prior to the hearing and, if fi-
11 nancially eligible, to have suitable counsel appointed at state expense.
12 “(e) To examine all information, documents and reports that the board considers. If then avail-
13 able to the board, the information, documents and reports shall be disclosed to the person so as to
14 allow examination prior to the hearing.
15 “(7) A record shall be kept of all hearings conducted under ORS 161.315 to 161.351, except for
16 deliberations.
17 “(8) Upon request of any party, or on motion of the board, the hearing may be continued for a
18 reasonable period not to exceed 60 days to obtain additional information or testimony or for other
19 good cause shown.
20 “(9) Within 30 days following the conclusion of the hearing, the board shall provide to the per-
21 son, the attorney representing the person, the Attorney General or other attorney representing the
22 state, if any, written notice of the order entered by the board.
23 “(10) The burden of proof on all issues at hearings under ORS 161.315 to 161.351 shall be by a
24 preponderance of the evidence.
25 “(11) If the board determines that the person about whom the hearing is being held is financially
26 eligible, the board shall appoint suitable counsel to represent the person. Counsel so appointed shall
27 be an attorney who satisfies the professional qualifications established by the Public Defense Ser-
28 vices Commission under ORS 151.216. The [*public defense services*] executive director **of the Office**
29 **of Public Defense Services** shall determine and allow fair compensation for counsel appointed un-
30 der this subsection and the reasonable expenses of the person in respect to the hearing. Compen-
31 sation payable to appointed counsel shall not be less than the applicable compensation level
32 established under ORS 151.216. The compensation and expenses so allowed shall be paid by the
33 [*public defense services*] executive director from funds available for the purpose.
34 “(12) The Attorney General may represent the state at contested hearings under ORS 161.315
35 to 161.351 unless the district attorney of the county from which the person was committed elects to
36 represent the state. The district attorney of the county from which the person was committed shall
37 cooperate with the Attorney General in securing the material necessary for presenting a contested
38 hearing. If the district attorney elects to represent the state, the district attorney shall give timely
39 written notice of such election to the Attorney General, the board and the attorney representing the
40 person.
41 “**SECTION 20.** ORS 161.348 is amended to read:
42 “161.348. (1) When a person over whom the Psychiatric Security Review Board exercises juris-
43 diction under ORS 161.315 to 161.351 or 419C.544 is adversely affected or aggrieved by a final order
44 of the board, the person is entitled to judicial review of the final order. The person is entitled on
45 judicial review to suitable counsel possessing skills and experience commensurate with the nature

1 and complexity of the case. If the person is financially eligible, suitable counsel shall be appointed
2 by the reviewing court in the manner provided in ORS 138.500 (1). If the person is financially eligi-
3 ble, the [*public defense services*] executive director **of the Office of Public Defense Services** shall
4 determine and pay, as provided in ORS 138.500, the cost of briefs, any other expenses of the person
5 necessary to the review and compensation for counsel appointed for the person. The costs, expenses
6 and compensation so allowed shall be paid as provided in ORS 138.500.

7 “(2) The order and the proceedings underlying the order are subject to review by the Court of
8 Appeals upon petition to that court filed within 60 days of the order for which review is sought. The
9 board shall submit to the court the record of the proceeding or, if the person agrees, a shortened
10 record. The record may include a certified true copy of a tape recording of the proceedings at a
11 hearing in accordance with ORS 161.346. A copy of the record transmitted shall be delivered to the
12 person by the board.

13 “(3) The court may affirm, reverse or remand the order on the same basis as provided in ORS
14 183.482 (8).

15 “(4) The filing of the petition does not stay the order of the board, but the board or the Court
16 of Appeals may order a stay upon application on such terms as are deemed proper.

17 “**SECTION 21.** ORS 161.365 is amended to read:

18 “161.365. (1) When the court has reason to doubt the defendant’s fitness to proceed by reason
19 of incapacity as described in ORS 161.360, the court may call any witness to its assistance in
20 reaching its decision and shall order that a community mental health program director or the
21 director’s designee consult with the defendant to determine whether services and supervision nec-
22 essary to safely restore the defendant’s fitness to proceed are available in the community. After the
23 consultation, the program director or the director’s designee shall provide to the court a copy of the
24 findings resulting from the consultation. If the court determines the assistance of a psychiatrist or
25 psychologist would be helpful, the court may:

26 “(a) Order that a psychiatric or psychological examination of the defendant be conducted by a
27 certified evaluator as defined in ORS 161.309 and a report of the examination be prepared; or

28 “(b) Order the defendant to be committed for the purpose of an examination for a period not
29 exceeding 30 days to a state mental hospital or other facility designated by the Oregon Health Au-
30 thority if the defendant is at least 18 years of age, or to a secure intensive community inpatient
31 facility designated by the authority if the defendant is under 18 years of age.

32 “(2) The report of an examination described in this section must include, but is not necessarily
33 limited to, the following:

34 “(a) A description of the nature of the examination;

35 “(b) A statement of the mental condition of the defendant;

36 “(c) If the defendant suffers from a qualifying mental disorder, an opinion as to whether the
37 defendant is incapacitated within the description set out in ORS 161.360; and

38 “(d) If the defendant is incapacitated within the description set out in ORS 161.360, a recom-
39 mendation of treatment and services necessary to restore capacity.

40 “(3) Except when the defendant and the court both request to the contrary, the report may not
41 contain any findings or conclusions as to whether the defendant as a result of a qualifying mental
42 disorder was subject to the provisions of ORS 161.295 or 161.300 at the time of the criminal act
43 charged.

44 “(4) If the examination by the psychiatrist or psychologist cannot be conducted by reason of the
45 unwillingness of the defendant to participate in the examination, the report must so state and must

1 include, if possible, an opinion as to whether the unwillingness of the defendant was the result of
2 a qualifying mental disorder affecting capacity to proceed.

3 “(5) The report must be filed with the clerk of the court, who shall cause copies to be delivered
4 to the district attorney and to counsel for defendant.

5 “(6)(a) When upon motion of the court or a financially eligible defendant, the court has ordered
6 a psychiatric or psychological examination of the defendant, a county or justice court shall order
7 the county to pay, and a circuit court shall order the [*public defense services*] executive director **of**
8 **the Office of Public Defense Services** to pay from funds available for the purpose:

9 “(A) A reasonable fee if the examination of the defendant is conducted by a psychiatrist or
10 psychologist in private practice; and

11 “(B) All costs including transportation of the defendant if the examination is conducted by a
12 psychiatrist or psychologist in the employ of the Oregon Health Authority or a community mental
13 health program established under ORS 430.610 to 430.670.

14 “(b) When an examination is ordered at the request or with the acquiescence of a defendant who
15 is determined not to be financially eligible, the examination shall be performed at the defendant’s
16 expense. When an examination is ordered at the request of the prosecution, the county shall pay for
17 the expense of the examination.

18 “(7) The Oregon Health Authority shall establish by rule standards for the consultation de-
19 scribed in subsection (1) of this section.

20 “**SECTION 22.** ORS 161.665 is amended to read:

21 “161.665. (1) Except as provided in ORS 151.505, the court, only in the case of a defendant for
22 whom it enters a judgment of conviction, may include in its sentence thereunder a money award for
23 all costs specially incurred by the state in prosecuting the defendant. Costs include a reasonable
24 attorney fee for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable amount for
25 fees and expenses incurred pursuant to preauthorization under ORS 135.055. A reasonable attorney
26 fee is presumed to be a reasonable number of hours at the hourly rate authorized by the Public
27 Defense Services Commission under ORS 151.216. Costs do not include expenses inherent in provid-
28 ing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and
29 operation of government agencies that must be made by the public irrespective of specific violations
30 of law.

31 “(2) Except as provided in ORS 151.505, the court, after the conclusion of an appeal of its initial
32 judgment of conviction, may include in its general judgment, or enter a supplemental judgment that
33 includes, a money award that requires a convicted defendant to pay a reasonable attorney fee for
34 counsel appointed pursuant to ORS 138.500, including counsel who is appointed under ORS 151.216
35 or counsel who is under contract to provide services for the proceeding under ORS 151.219, and
36 other costs and expenses allowed by the [*public defense services*] executive director **of the Office**
37 **of Public Defense Services** under ORS 138.500 (4). A reasonable attorney fee is presumed to be a
38 reasonable number of hours at the hourly rate authorized by the commission under ORS 151.216.

39 “(3) For purposes of subsections (1) and (2) of this section, compensation of counsel is deter-
40 mined by reference to a schedule of compensation established by the commission under ORS 151.216.

41 “(4) The court may not sentence a defendant to pay costs under this section unless the defendant
42 is or may be able to pay them. In determining the amount and method of payment of costs, the court
43 shall take account of the financial resources of the defendant and the nature of the burden that
44 payment of costs will impose.

45 “(5) A defendant who has been sentenced to pay costs under this section and who is not in

1 contumacious default in the payment of costs may at any time petition the court that sentenced the
2 defendant for remission of the payment of costs or of any unpaid portion of costs. If it appears to
3 the satisfaction of the court that payment of the amount due will impose manifest hardship on the
4 defendant or the immediate family of the defendant, the court may enter a supplemental judgment
5 that remits all or part of the amount due in costs, or modifies the method of payment under ORS
6 161.675.

7 “(6) Except as provided in subsection (7) of this section, all moneys collected or paid under this
8 section shall be paid into the Criminal Fine Account.

9 “(7) The court may, in the judgment of conviction, include a money award requiring the de-
10 fendant to pay the costs of extraditing the defendant to this state. Any amounts awarded to the state
11 under this subsection must be listed separately in the money award portion of the judgment. All
12 moneys collected or paid under this subsection shall be deposited into the Arrest and Return Ac-
13 count established by ORS 133.865.

14 **“SECTION 23.** ORS 244.050 is amended to read:

15 “244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon
16 Government Ethics Commission a verified statement of economic interest as required under this
17 chapter:

18 “(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the
19 Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

20 “(b) Any judicial officer, including justices of the peace and municipal judges, except any pro
21 tem judicial officer who does not otherwise serve as a judicial officer.

22 “(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

23 “(d) The Deputy Attorney General.

24 “(e) The Deputy Secretary of State.

25 “(f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the
26 Legislative Policy and Research Director, the Secretary of the Senate and the Chief Clerk of the
27 House of Representatives.

28 “(g) The president and vice presidents, or their administrative equivalents, in each public uni-
29 versity listed in ORS 352.002.

30 “(h) The following state officers:

31 “(A) Adjutant General.

32 “(B) Director of Agriculture.

33 “(C) Manager of State Accident Insurance Fund Corporation.

34 “(D) Water Resources Director.

35 “(E) Director of Department of Environmental Quality.

36 “(F) Director of Oregon Department of Administrative Services.

37 “(G) State Fish and Wildlife Director.

38 “(H) State Forester.

39 “(I) State Geologist.

40 “(J) Director of Human Services.

41 “(K) Director of the Department of Consumer and Business Services.

42 “(L) Director of the Department of State Lands.

43 “(M) State Librarian.

44 “(N) Administrator of Oregon Liquor Control Commission.

45 “(O) Superintendent of State Police.

- 1 “(P) Director of the Public Employees Retirement System.
- 2 “(Q) Director of Department of Revenue.
- 3 “(R) Director of Transportation.
- 4 “(S) Public Utility Commissioner.
- 5 “(T) Director of Veterans’ Affairs.
- 6 “(U) Executive director of Oregon Government Ethics Commission.
- 7 “(V) Director of the State Department of Energy.
- 8 “(W) Director and each assistant director of the Oregon State Lottery.
- 9 “(X) Director of the Department of Corrections.
- 10 “(Y) Director of the Oregon Department of Aviation.
- 11 “(Z) Executive director of the Oregon Criminal Justice Commission.
- 12 “(AA) Director of the Oregon Business Development Department.
- 13 “(BB) Director of the Office of Emergency Management.
- 14 “(CC) Director of the Employment Department.
- 15 “(DD) Chief of staff for the Governor.
- 16 “(EE) Director of the Housing and Community Services Department.
- 17 “(FF) State Court Administrator.
- 18 “(GG) Director of the Department of Land Conservation and Development.
- 19 “(HH) Board chairperson of the Land Use Board of Appeals.
- 20 “(II) State Marine Director.
- 21 “(JJ) Executive director of the Oregon Racing Commission.
- 22 “(KK) State Parks and Recreation Director.
- 23 “(LL) [*Public defense services*] executive director **of the Office of Public Defense Services.**
- 24 “(MM) Chairperson of the Public Employees’ Benefit Board.
- 25 “(NN) Director of the Department of Public Safety Standards and Training.
- 26 “(OO) Executive director of the Higher Education Coordinating Commission.
- 27 “(PP) Executive director of the Oregon Watershed Enhancement Board.
- 28 “(QQ) Director of the Oregon Youth Authority.
- 29 “(RR) Director of the Oregon Health Authority.
- 30 “(SS) Deputy Superintendent of Public Instruction.
- 31 “(i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within
- 32 the Governor’s office.
- 33 “(j) Every elected city or county official.
- 34 “(k) Every member of a city or county planning, zoning or development commission.
- 35 “(L) The chief executive officer of a city or county who performs the duties of manager or
- 36 principal administrator of the city or county.
- 37 “(m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- 38 “(n) Every member of a governing body of a metropolitan service district and the auditor and
- 39 executive officer thereof.
- 40 “(o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- 41 “(p) The chief administrative officer and the financial officer of each common and union high
- 42 school district, education service district and community college district.
- 43 “(q) Every member of the following state boards and commissions:
- 44 “(A) Governing board of the State Department of Geology and Mineral Industries.
- 45 “(B) Oregon Business Development Commission.

1 “(C) State Board of Education.
2 “(D) Environmental Quality Commission.
3 “(E) Fish and Wildlife Commission of the State of Oregon.
4 “(F) State Board of Forestry.
5 “(G) Oregon Government Ethics Commission.
6 “(H) Oregon Health Policy Board.
7 “(I) Oregon Investment Council.
8 “(J) Land Conservation and Development Commission.
9 “(K) Oregon Liquor Control Commission.
10 “(L) Oregon Short Term Fund Board.
11 “(M) State Marine Board.
12 “(N) Mass transit district boards.
13 “(O) Energy Facility Siting Council.
14 “(P) Board of Commissioners of the Port of Portland.
15 “(Q) Employment Relations Board.
16 “(R) Public Employees Retirement Board.
17 “(S) Oregon Racing Commission.
18 “(T) Oregon Transportation Commission.
19 “(U) Water Resources Commission.
20 “(V) Workers’ Compensation Board.
21 “(W) Oregon Facilities Authority.
22 “(X) Oregon State Lottery Commission.
23 “(Y) Pacific Northwest Electric Power and Conservation Planning Council.
24 “(Z) Columbia River Gorge Commission.
25 “(AA) Oregon Health and Science University Board of Directors.
26 “(BB) Capitol Planning Commission.
27 “(CC) Higher Education Coordinating Commission.
28 “(DD) Oregon Growth Board.
29 “(EE) Early Learning Council.
30 “(r) The following officers of the State Treasurer:
31 “(A) Deputy State Treasurer.
32 “(B) Chief of staff for the office of the State Treasurer.
33 “(C) Director of the Investment Division.
34 “(s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725
35 or 777.915 to 777.953.
36 “(t) Every member of the board of directors of an authority created under ORS 441.525 to
37 441.595.
38 “(u) Every member of a governing board of a public university listed in ORS 352.002.
39 “(v) Every member of the board of directors of an authority created under ORS 465.600 to
40 465.621.
41 “(2) By April 15 next after the date an appointment takes effect, every appointed public official
42 on a board or commission listed in subsection (1) of this section shall file with the Oregon Govern-
43 ment Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070
44 and 244.090.
45 “(3) By April 15 next after the filing deadline for the primary election, each candidate described

1 in subsection (1) of this section shall file with the commission a statement of economic interest as
2 required under ORS 244.060, 244.070 and 244.090.

3 “(4) Not later than the 40th day before the date of the statewide general election, each candi-
4 date described in subsection (1) of this section who will appear on the statewide general election
5 ballot and who was not required to file a statement of economic interest under subsections (1) to (3)
6 of this section shall file with the commission a statement of economic interest as required under
7 ORS 244.060, 244.070 and 244.090.

8 “(5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or
9 appointed public officials as of April 15 and to persons who are candidates on April 15.

10 “(6) If a statement required to be filed under this section has not been received by the com-
11 mission within five days after the date the statement is due, the commission shall notify the public
12 official or candidate and give the public official or candidate not less than 15 days to comply with
13 the requirements of this section. If the public official or candidate fails to comply by the date set
14 by the commission, the commission may impose a civil penalty as provided in ORS 244.350.

15 “**SECTION 24.** ORS 419A.211 is amended to read:

16 “419A.211. (1) If the child, ward, youth, youth offender, parent or guardian is determined to be
17 entitled to, and financially eligible for, appointment of counsel at state expense in an appeal as
18 provided in ORS 419A.200 and 419A.208, the court, upon request of the person or upon its own mo-
19 tion, shall appoint suitable counsel to represent the person. Counsel appointed by the court shall
20 be paid compensation determined by the [*public defense services*] executive director **of the Office**
21 **of Public Defense Services** as provided in ORS 135.055 if the circuit court is the appellate court
22 or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court.
23 The court may not substitute one appointed counsel for another except pursuant to the policies,
24 procedures, standards and guidelines of the Public Defense Services Commission.

25 “(2)(a) When the court appoints counsel to represent the child, ward, youth or youth offender,
26 it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public
27 Defense Services Account established by ORS 151.225, through the clerk of the court, in full or in
28 part the administrative costs of determining the ability of the parents or estate to pay for legal
29 services and the costs of the legal and other services that are related to the provision of appointed
30 counsel.

31 “(b) The test of the parent’s or estate’s ability to pay costs under paragraph (a) of this sub-
32 section is the same test as applied to appointment of counsel for defendants under ORS 151.216. If
33 counsel is provided at state expense, the court shall apply this test in accordance with the guide-
34 lines adopted by the Public Defense Services Commission under ORS 151.485.

35 “(c) If counsel is provided at state expense, the court shall determine the amount the parents
36 or estate is required to pay for the costs of administrative, legal and other services related to the
37 provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

38 “(d) The court’s order of payment is enforceable in the same manner as an order of support
39 under ORS 419B.408 and 419C.600.

40 “(3) When the court appoints counsel and the child, ward, youth, youth offender, parent or
41 guardian has been determined to be entitled to, and financially eligible for, appointed counsel at
42 state expense, the compensation for counsel and costs and expenses necessary to the appeal shall
43 be determined and paid as provided in ORS 135.055 if the circuit court is the appellate court or as
44 provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court.

45 “**SECTION 25.** ORS 419C.380 is amended to read:

1 “419C.380. (1) An evaluation ordered under ORS 419C.378 must be conducted by a psychiatrist,
2 a licensed psychologist or a regulated social worker. If an evaluation is requested, the party at
3 whose request the evaluation was ordered shall notify the court and other parties of the date, time
4 and location of the evaluation and the name of the evaluator chosen by the party. A party or the
5 court may submit written information to the evaluator for consideration. When written information
6 that has not been provided to the court or an opposing party is submitted to the evaluator, the party
7 submitting the written information to the evaluator shall provide the written information to the
8 court and the opposing party.

9 “(2)(a) Upon motion of the youth, or upon the court’s own motion, a court shall determine
10 whether the youth is financially eligible under the policies, procedures, standards and guidelines of
11 the Public Defense Services Commission.

12 “(b) If a county court or justice court determines that the youth is financially eligible, the court
13 shall order the county to pay the fees and costs described in subsection (3) of this section from funds
14 available for that purpose.

15 “(c) If a circuit court determines that the youth is financially eligible, the court shall order the
16 [public defense services] executive director **of the Office of Public Defense Services** to pay the fees
17 and costs described in subsection (3) of this section from funds available for that purpose.

18 “(3) If a court determines that a youth is financially eligible under subsection (2) of this section,
19 the court shall order that:

20 “(a) A reasonable fee be paid to a psychiatrist, licensed psychologist or regulated social worker
21 in private practice who conducts the evaluation; and

22 “(b) All costs, including transportation of the youth, be paid if the evaluation is conducted by
23 a psychiatrist, licensed psychologist or regulated social worker employed by the Department of Hu-
24 man Services or is conducted by a community mental health program or community developmental
25 disabilities program established under ORS 430.610 to 430.695.

26 “(4) If an evaluation is ordered under ORS 419C.378 at the request of or with the acquiescence
27 of a youth, and the youth is determined not to be financially eligible under subsection (2) of this
28 section, the evaluation shall be performed at the youth’s expense.

29 “(5) If an evaluation is ordered under ORS 419C.378 at the request of the district attorney or
30 juvenile department, the county shall pay for the expense of the evaluation.

31 “(6) After a motion is made by the court or the youth under ORS 419C.378 (3), the state shall
32 have the right to seek an independent evaluation at its own expense.

33 “(7) A youth may not be removed from the youth’s current placement for the purpose of an
34 evaluation performed under this section unless the youth has been placed in a detention facility as
35 defined in ORS 419A.004 or a youth correction facility as defined in ORS 420.005.

36 “**SECTION 26.** ORS 419C.535 is amended to read:

37 “419C.535. (1) If the juvenile panel of the Psychiatric Security Review Board determines that a
38 young person about whom a hearing under ORS 419C.532 is being held is financially eligible, the
39 juvenile panel shall appoint suitable counsel to represent the young person. Counsel appointed must
40 be an attorney who satisfies the professional qualification standards established by the Public De-
41 fense Services Commission under ORS 151.216. The [public defense services] executive director **of the**
42 **Office of Public Defense Services** shall determine and allow fair compensation for counsel ap-
43 pointed under this subsection and the reasonable expenses of the young person in respect to the
44 hearing. Compensation payable to appointed counsel may not be less than the applicable compen-
45 sation level established under ORS 151.216. The [public defense services] executive director shall pay

1 compensation and expenses allowed from funds available for that purpose.

2 “(2) When the juvenile panel appoints counsel to represent the young person, the juvenile panel
3 may order the young person, if able, parent, if able, or guardian of the estate, if the estate is able,
4 to pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the
5 court, in full or in part, the administrative costs of determining the ability of the young person,
6 parent or estate to pay for legal services and the costs of the legal and other services that are re-
7 lated to the provision of appointed counsel. The juvenile panel’s order of payment may be entered
8 in the County Clerk Lien Record and enforced as provided in ORS 205.126.

9 “(3) The test of the young person’s, parent’s or estate’s ability to pay costs under subsection (2)
10 of this section is the same test as applied to appointment of counsel for defendants under ORS
11 135.050 or under the rules adopted under ORS 151.216. If counsel is provided at state expense, the
12 juvenile panel shall apply this test in accordance with the guidelines adopted by the Public Defense
13 Services Commission under ORS 151.485.

14 “(4) If counsel is provided at state expense, the juvenile panel shall determine the amount the
15 young person, parent or estate is required to pay for the costs of administrative, legal and other
16 services related to the provision of appointed counsel in the same manner as this amount is deter-
17 mined under ORS 151.487.

18 “(5) The Attorney General may represent the state at contested hearings before the juvenile
19 panel unless the district attorney of the county in which the young person was adjudicated elects
20 to represent the state. The district attorney of the county in which the young person was adjudi-
21 cated shall cooperate with the Attorney General in securing the material necessary for presenting
22 a contested hearing before the juvenile panel. If the district attorney elects to represent the state,
23 the district attorney shall give timely written notice to the Attorney General, the juvenile panel and
24 the attorney representing the young person.

25 “**SECTION 27.** ORS 426.135 is amended to read:

26 “426.135. If a person determined to be a person with mental illness as provided in ORS 426.130,
27 or determined to be an extremely dangerous person with mental illness under ORS 426.701 or
28 426.702, appeals the determination or the disposition, and is determined to be financially eligible for
29 appointed counsel at state expense, upon request of the person or upon its own motion, the court
30 shall appoint suitable legal counsel to represent the person. The compensation for legal counsel and
31 costs and expenses necessary to the appeal shall be determined and paid by the [*public defense ser-*
32 *vices*] executive director **of the Office of Public Defense Services** as provided in ORS 135.055 if
33 the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or
34 Supreme Court is the appellate court. The compensation, costs and expenses shall be paid as pro-
35 vided in ORS 138.500.

36 “**SECTION 28.** ORS 426.250 is amended to read:

37 “426.250. The following is a nonexclusive list of responsibilities for payment of various costs
38 related to commitment proceedings under this chapter as described:

39 “(1) Any physician or qualified professional recommended by the Oregon Health Authority who
40 is employed under ORS 426.110 to make an examination as to the mental condition of a person al-
41 leged to have a mental illness shall be allowed a fee as the court in its discretion determines rea-
42 sonable for the examination.

43 “(2) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal
44 cases, and are subject to compulsory attendance in the same manner as provided in ORS 136.567 to
45 136.603. The attendance of out-of-state witnesses may be secured in the same manner as provided in

1 ORS 136.623 to 136.637. The party who subpoenas the witness or requests the court to subpoena the
2 witness is responsible for payment of the cost of the subpoena and payment for the attendance of
3 the witness at a hearing. When the witness has been subpoenaed on behalf of a person alleged to
4 have a mental illness who is represented by appointed counsel, the fees and costs allowed for that
5 witness shall be paid pursuant to ORS 135.055. If the costs of witnesses subpoenaed by the person
6 are paid as provided under this subsection, the procedure for subpoenaing witnesses shall comply
7 with ORS 136.570.

8 “(3) If a person with a right to a counsel under ORS 426.100, 426.701 or 426.702 is determined
9 to be financially eligible for appointed counsel at state expense, the [*public defense services*] execu-
10 tive director **of the Office of Public Defense Services** shall determine and pay, as provided in ORS
11 135.055, the reasonable expenses related to the representation of the person and compensation for
12 legal counsel. The expenses and compensation so allowed shall be paid by the [*public defense*
13 *services*] executive director from funds available for the purpose.

14 “(4) The authority shall pay the costs of expenses incurred under ORS 426.100 by the Attorney
15 General’s office. Any costs for district attorneys or other counsel appointed to assume responsibility
16 for presenting the state’s case shall be paid by the county where the commitment hearing is held,
17 subject to reimbursement under ORS 426.310.

18 “(5) All costs incurred in connection with a proceeding under ORS 426.180, 426.701 or 426.702,
19 including the costs of transportation, commitment and delivery of the person, shall be paid by the
20 community mental health program in the county of which the person is a resident. If the person is
21 not a resident of this state, then the costs incurred in connection with the proceeding shall be paid
22 by the community mental health program in the county from which the emergency admission was
23 made.

24 “(6) All costs incurred in connection with a proceeding under ORS 426.180 for the commitment
25 of a person from a reservation, including the cost of transportation, commitment and delivery of the
26 person, shall be paid by the governing body of the reservation of which the person is a resident.

27 “**SECTION 29.** ORS 427.265 is amended to read:

28 “427.265. (1) At the time that a person who is alleged to have an intellectual disability and to
29 be in need of commitment for residential care, treatment and training is brought before the court,
30 the court shall advise the person of the reason for being brought before the court, the nature of the
31 proceedings and the possible results of the proceedings. The court shall also advise the person of
32 the right to subpoena witnesses and to suitable legal counsel possessing skills and experience
33 commensurate with the nature of the allegations and complexity of the case during the proceedings,
34 and that if the person does not have funds with which to retain suitable legal counsel, the court
35 shall appoint such legal counsel to represent the person. If the person does not request legal coun-
36 sel, the legal guardian, relative or friend may request the assistance of legal counsel on behalf of
37 the person.

38 “(2) If no request for legal counsel is made, the court shall appoint suitable legal counsel.

39 “(3) If the person is unable to afford legal counsel, the court, if the matter is before a county
40 or justice court, or the [*public defense services*] executive director **of the Office of Public Defense**
41 **Services**, if the matter is before the circuit court, shall determine and allow, as provided in ORS
42 135.055, the reasonable expenses of the person and compensation for legal counsel. The expenses and
43 compensation so allowed by a county court shall be paid by the county of residence of the person.
44 The expenses and compensation determined by the [*public defense services*] executive director shall
45 be paid by the [*public defense services*] executive director from funds available for the purpose. In

1 all cases legal counsel shall be present at the hearing and may examine all witnesses offering tes-
2 timony, and otherwise represent the person.

3 “(4) The court may, for good cause, postpone the hearing for not more than 72 hours to allow
4 preparation for the hearing and order the continuation of detention authorized under ORS 427.255
5 during a postponement, if requested by the person, the legal counsel, parent or guardian of the
6 person, an examiner or on the court’s own motion.

7 “**SECTION 30.** ORS 427.295 is amended to read:

8 “427.295. If a person appeals a commitment order issued under ORS 427.290, the court, upon
9 request of the person or upon its own motion and upon finding that the person is financially eligible
10 for appointed counsel at state expense, shall appoint suitable legal counsel to represent the person.
11 The compensation for legal counsel and costs and expenses necessary to the appeal shall be deter-
12 mined and paid by the [*public defense services*] executive director **of the Office of Public Defense**
13 **Services** as provided in ORS 135.055 if the circuit court is the appellate court or as provided in
14 ORS 138.500 if the Court of Appeals or Supreme Court is the appellate court. The compensation,
15 costs and expenses so allowed shall be paid as provided in ORS 138.500.

16 “**SECTION 31.** ORS 433.466 is amended to read:

17 “433.466. (1) A person or group of persons subject to isolation or quarantine or other public
18 health measure pursuant to ORS 433.121 or 433.123 has the right to be represented by legal counsel
19 if the person or group of persons so elects. If the person or group of persons requests legal counsel
20 and cannot afford counsel, the court shall appoint legal counsel. If no request for legal counsel is
21 made, the court must appoint legal counsel unless counsel is expressly, knowingly and intelligently
22 refused by the person or the group of persons. The person or the group of persons may request legal
23 counsel at any time during the period of imposition of the isolation, quarantine or other public
24 health measure.

25 “(2) If a person is unable to afford legal counsel, the [*public defense services*] executive director
26 **of the Office of Public Defense Services** shall determine and pay, as provided in ORS 135.055, the
27 reasonable expenses of the person and compensation for legal counsel appointed to represent the
28 person.

29
30 **“MISCELLANEOUS**

31
32 “**SECTION 32.** Section 7 of this 2019 Act is repealed on December 31, 2021.

33 “**SECTION 33.** The unit captions used in this 2019 Act are provided only for the conven-
34 **ience of the reader and do not become part of the statutory law of this state or express any**
35 **legislative intent in the enactment of this 2019 Act.**

36 “**SECTION 34.** This 2019 Act being necessary for the immediate preservation of the public
37 **peace, health and safety, an emergency is declared to exist, and this 2019 Act takes effect**
38 **on its passage.”**