



March 18, 2021

Re: [House Bill 2003](#) (Modifications to the Public Defense Services Commission)

Dear Chair Bynum, Vice Chairs Noble and Power, and members of the House Committee on Judiciary:

The Office of Public Defense Services (OPDS) is pleased to provide you with testimony in support of House Bill (HB) 2003,¹ a bill that supports a trajectory of progress in Oregon public defense, on Gideon Day 2021.

Gideon’s legacy:

Gideon Day is the day we celebrate the U.S. Supreme Court’s ruling in [Gideon v. Wainwright](#), 372 U.S. 335 (1963), the case that held that the Sixth Amendment right to counsel is a fundamental right essential to a fair trial, including for those too poor to hire an attorney. It took Mr. Clarence Earl Gideon, a poor man with an eighth-grade education, writing a letter to the United States Supreme Court from his Florida jail cell, questioning why the Sixth Amendment did not provide him with an attorney, to change our criminal legal system forever.

Fifty-eight years later, HB 2003 makes common sense changes to the Public Defense Services Commission (Commission) statutes to further advance public defense in Oregon.

Ongoing improvements to Oregon public defense:

The OPDS, the administrative agency of the Commission, provides trial and appellate public defense services across Oregon. In Oregon, all trial-level public defense providers are contractors with the state through the OPDS. In 2019, the Sixth Amendment Center issued [a comprehensive report](#), commissioned by the Legislature, concluding that Oregon’s public defense system was failing its constitutional duty for reasons including an outdated case assignment model and provider caseloads being simply unreasonably high. The Commission has taken significant steps over the last two years to reform the public defense system following that report.

¹ HB 2003 (2021 Regular Session) is a reboot of [HB 4004 \(2020 Regular Session\)](#), which passed the House chamber with 57 ayes (passed unanimously out of House Judiciary), and was to be heard on the Senate floor for third reading on the day of the sine die (passed unanimously out of Senate Judiciary).



Examples of OPDS accomplishments over the last two years include:

- Reforming how public defense providers are assigned cases and paid, allowing for more reasonable caseloads so that providers may spend adequate time getting to know each client and their case;
- Adding more than 30 public defense providers across the state to help reduce caseloads;
- Creating a more equitable and transparent provider compensation structure; and
- Expanding the use of a best practice multi-disciplinary defense model for children and parents in the child welfare system.

HB 2003's capacity to solidify meaningful progress and provide for future gains:

In HB 2003, you will find proposed changes to the Commission's statutory scheme to ensure that we maintain our forward progress. These proposed statutory changes include, among others:

- Requiring that members of the Commission have a demonstrated record of supporting public defense;
- Requiring the Commission to establish and maintain policies that ensure compensation, resources, and caseloads are in accordance with national and regional best practices;
- Requiring the Commission to establish policies that recognize overhead costs that account for the cost of living and business cost differences in each county or jurisdiction;
- Requiring the Commission to establish policies that allow for oversight, ensure transparency and stakeholder engagement, as well as promote equity, inclusion, and culturally specific representation; and
- Requiring the Commission to report back to the Legislature to demonstrate continued forward progress on implementation and outcomes.

HB 2003's addition of client voice to the Commission's decision-making role:

HB 2003 also adds members to the Commission, including a position that must be filled by a person who has lived experience as a client receiving public defense services in Oregon. This is important to ensure that people most impacted by the criminal legal system are always given a seat at the table when decisions about public defense are made.



HB 2003 supports our provider workforce and our clients and communities:

The public defense provider community includes attorneys, administrative staff, investigators, interpreters, transcriptionists, case managers, and other key personnel integral to providing competent public defense. These providers serve communities in all 36 counties across the state. Improvements to the Commission’s administration of public defense contracting will improve workforce outcomes for our providers.

Additionally, the vast majority of people in Oregon’s criminal legal system rely on public defense for representation, which tells us that the majority of people in our criminal legal system are poor. We also know that communities of color are over-represented at every stage in the criminal legal system, making public defense a key to mitigating institutional racism. Effective representation is about basic fairness against the power of the state for everyone, it increases the likelihood that clients get services rather than incarceration, and it supports maintaining housing and employment, as well as other key community stability measures.

The key takeaways:

While great strides have been made in improving Oregon’s public defense system, there is still much work to be done. HB 2003 makes modest but meaningful progress towards supporting better and best practices for our provider community and the clients they serve by improving the way public defense services are provided and administered by the state. The bill also supports key oversight and stakeholder engagement measures.

The OPDS is grateful for the support of our public defense community partners in moving this bill forward. We respectfully urge you to support HB 2003 as a key step forward in building a criminal legal system that ensures fairness and protects the rights of every Oregonian who enters a courtroom, regardless of income, race or ethnicity, identity, or geography. Thank you for this opportunity to ask for your support of HB 2003.

Sincerely,

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