

HOUSE AMENDMENTS TO HOUSE BILL 2467

By COMMITTEE ON JUDICIARY

April 11

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest of the line and insert
2 “creating new provisions; amending ORS 151.216 and 151.219; and prescribing an effective date.”.

3 Delete lines 3 through 15.

4 Delete lines 17 through 27 and delete pages 2 and 3 and insert:

“LOAN REPAYMENT ASSISTANCE

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8 “SECTION 1. (1) As used in this section:

9 “(a) ‘Public defense attorney’ means an attorney:

10 “(A) Who is appointed to represent eligible individuals as required by Oregon statutes,
11 the Oregon Constitution or the United States Constitution;

12 “(B) Whose legal work is funded by the office of public defense services and who is em-
13 ployed by the state or a public defense services contractor; and

14 “(C) Who meets any further definition of ‘public defense attorney’ set forth by the
15 Oregon State Bar.

16 “(b) ‘Public defense staff member’ means an investigator, support staff member or case
17 manager who is employed by a public defense services contractor.

18 “(2) The Public Defense Services Student Loan Repayment Assistance Program is estab-
19 lished in the Oregon State Bar.

20 “(3)(a) The program shall provide forgivable loans to an eligible public defense attorney
21 or public defense staff member for up to \$20,000 in payments of principal and interest on
22 outstanding public or private student loans for each 12 months of service.

23 “(b) The program may provide forgivable loans to a public defense attorney or public
24 defense staff member for 10 years or until the program has provided a total of \$200,000 in
25 forgivable loans, whichever occurs first.

26 “(4)(a) A public defense attorney is eligible for the program if:

27 “(A) The attorney resides in this state;

28 “(B) The provision of public defense services constitutes at least 70 percent of the
29 attorney’s working hours, as defined in the policies of the Public Defense Services Commis-
30 sion, while the attorney is participating in the program;

31 “(C) The attorney commits to provide public defense services for a period of 10 years; and

32 “(D) The attorney meets other requirements established by the Oregon State Bar under
33 subsection (5) of this section.

34 “(b) A public defense staff member is eligible for the program if:

35 “(A) The person resides in this state;

1 “(A) Ensure compensation, resources and caseloads are in accordance with national and re-
2 gional best practices;

3 “(B) Promote policies for public defense provider compensation and resources that are [*compa-*
4 *rable to prosecution*] **commensurate with the compensation and resources of state employees**
5 **providing comparable services or in comparable job classifications;**

6 “(C) Ensure funding and resources to support required data collection and training require-
7 ments; and

8 “(D) Recognize the need to consider overhead costs that account for the cost of living and
9 business cost differences in each county or jurisdiction, including but not limited to rent, profes-
10 sional membership dues, malpractice insurance and other insurance and other reasonable and usual
11 operating costs.

12 “(d) Establish operational and contracting systems that allow for oversight, ensure transparency
13 and stakeholder engagement and promote equity, inclusion and culturally specific representation.

14 “(e) Review the caseload policies described in paragraph (c)(A) of this subsection annually, and
15 revise the policies as necessary and at least every four years.

16 “(f) Adopt a statewide workload plan, based on the caseload policies described in paragraph
17 (c)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice
18 structure and type of practice overseen by the office of public defense services.

19 “(g) Submit the budget of the commission and the office of public defense services to the Legis-
20 lative Assembly after the budget is submitted to the commission by the director and approved by the
21 commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall
22 present the budget to the Legislative Assembly.

23 “(h) Review and approve any public defense services contract negotiated by the director before
24 the contract can become effective.

25 “(i) Adopt a compensation plan, classification system and personnel plan for the office of public
26 defense services that are commensurate with other state agencies.

27 “(j) Adopt policies, procedures, standards and guidelines regarding:

28 “(A) The determination of financial eligibility of persons entitled to be represented by appointed
29 counsel at state expense;

30 “(B) The appointment of counsel, including the appointment of counsel at state expense regard-
31 less of financial eligibility in juvenile delinquency matters;

32 “(C) The fair compensation of counsel appointed to represent a person financially eligible for
33 appointed counsel at state expense;

34 “(D) Appointed counsel compensation disputes;

35 “(E) Any other costs associated with the representation of a person by appointed counsel in the
36 state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,
37 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209,
38 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 or any
39 other provision of law that expressly provides for payment of such compensation, costs or expenses
40 by the commission;

41 “(F) Professional qualifications for counsel appointed to represent public defense clients;

42 “(G) Performance for legal representation;

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

44 “(I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses
45 only if in-state expert witnesses are not available or are more expensive than out-of-state expert

1 witnesses; and

2 “(J) Any other matters necessary to carry out the duties of the commission.

3 “(k) Establish a peer review system for the approval of nonroutine fees and expenses incurred
4 in cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review
5 shall be conducted by a panel of attorneys who practice in the area of criminal defense.

6 “(L) Establish a complaint process that allows district attorneys, criminal defense counsel and
7 the public to file complaints concerning the payment from public funds of nonroutine fees and ex-
8 penses incurred in cases.

9 “(m) Reimburse the State Court Administrator from funds deposited in the Public Defense Ser-
10 vices Account established by ORS 151.225 for the costs of personnel and other costs associated with
11 location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State
12 Court Administrator.

13 “(2) Policies, procedures, standards and guidelines adopted by the commission supersede any
14 conflicting rules, policies or procedures of the Public Defender Committee, State Court Administra-
15 tor, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review
16 Board related to the exercise of the commission’s administrative responsibilities under this section
17 and transferred duties, functions and powers as they occur.

18 “**(3) The commission may provide grants to entities that contract with the commission**
19 **to provide public defense services to support the recruitment of attorneys and other staff,**
20 **increase and diversify attorneys and other staff and help meet the public defense needs**
21 **within this state.**

22 “[3] (4) The commission may accept gifts, grants or contributions from any source, whether
23 public or private. However, the commission may not accept a gift, grant or contribution if accept-
24 ance would create a conflict of interest. Moneys accepted under this subsection shall be deposited
25 in the Public Defense Services Account established by ORS 151.225 and expended for the purposes
26 for which given or granted.

27 “[4] (5) The commission may not:

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

29 “(b) Have access to any case file; or

30 “(c) Interfere with the director or any member of the staff of the director in carrying out pro-
31 fessional duties involving the legal representation of public defense clients.

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

33 “151.219. (1) The public defense services executive director shall:

34 “(a) Recommend to the Public Defense Services Commission how to establish and maintain, in
35 a cost-effective manner, the delivery of legal services to persons entitled to, and, where applicable,
36 financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Con-
37 stitution, the United States Constitution and consistent with Oregon and national standards of jus-
38 tice.

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

41 “(c) Prepare and submit to the commission for its approval the biennial budget of the commis-
42 sion and the office of public defense services.

43 “(d) Negotiate contracts, as appropriate, for providing legal services to persons eligible for ap-
44 pointed counsel at state expense. No contract so negotiated is binding or enforceable until the
45 contract has been reviewed and approved by the commission as provided in ORS 151.216.

1 “(e) Employ personnel or contract for services as necessary to carry out the responsibilities of
2 the director and the office of public defense services.

3 “(f) Supervise the personnel, operation and activities of the office of public defense services.

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

6 “(h) Pay the expenses of the commission and the office of public defense services.

7 “(i) Prepare and submit to the commission an annual report of the activities of the office of
8 public defense services.

9 “(j) Prepare and submit to the Legislative Assembly a biennial report on the activities of the
10 office of public defense services.

11 “(k) Provide for legal representation, advice and consultation for the commission, its members,
12 the director and staff of the office of public defense services who require such services or who are
13 named as defendants in lawsuits arising from their duties, functions and responsibilities. If requested
14 by the director, the Attorney General may also provide for legal representation, advice and consul-
15 tation for the commission, its members, the director and staff of the office of public defense services
16 in litigation.

17 **“(L) Develop training programs for employees of the office of public defense services, set
18 training protocols and expectations for the trainings and coordinate with professional asso-
19 ciations to provide continuing legal education opportunities.**

20 **“(m) Ensure that the contracts negotiated under paragraph (d) of this subsection:**

21 **“(A) Provide for staff members within the offices of public defense providers who train
22 and supervise other attorneys, assist in the orientation of new employees and coordinate
23 continuing legal educational opportunities, while having the ability to have a lower caseload
24 than other attorneys within the office.**

25 **“(B) Compensate contracted public defense providers at the same rate as employees of
26 the office of public defense services performing comparable work.**

27 “(2) The director may designate persons as representatives of the director for the purposes of
28 determining and paying bills submitted to the office of public defense services and determining pre-
29 authorization for incurring fees and expenses under ORS 135.055.

30 **“SECTION 5. The Public Defense Services Commission shall report to the committees of
31 the Legislative Assembly related to the judiciary during each odd-numbered year regular
32 session of the Legislative Assembly on:**

33 **“(1) The number of attorneys working in Oregon as public defense providers, distin-
34 guishing those employed by the state or through consortiums or nonprofit organizations, and
35 tracking movement of providers between those two employment models.**

36 **“(2) The estimated number of public defense providers needed to meet caseload demand.**

37 **“(3) The attrition rate of attorneys leaving the public defense practice.**

38 **“(4) The percentage of new public defense providers coming to Oregon from outside the
39 state.**

40 **“(5) Recommendations for legislation to assist the commission with meeting goals for
41 recruiting public defense providers and providing constitutionally adequate services.**

42 **“(6) How the commission is working with law schools to develop incentives for law stu-
43 dents and recent alumni to become public defense providers.**

44 **“SECTION 6. The Public Defense Services Commission may provide grants to law schools
45 in Oregon for projects designed to increase the number of graduates choosing employment**

1 as public defense providers, including but not limited to:

2 “(1) Experiential clinics specialized in criminal defense, juvenile defense and juvenile de-
3 pendency defense.

4 “(2) Career fairs and networking events.

5 “(3) Scholarships and financial assistance for students working to become public defense
6 providers.

7 “(4) Loan forgiveness for graduates working as public defense providers.

8 “(5) Paid clerkships.

9 “(6) Paid positions for students taking a nontraditional path to taking the bar examina-
10 tion.

11 “SECTION 7. The Public Defense Services Commission shall conduct outreach at law
12 schools outside of this state and at nonprofit organizations to attract public defense provid-
13 ers to this state, with special dedication to recruiting providers with the following lived ex-
14 periences or background:

15 “(1) Experience of discrimination because of race or ethnicity.

16 “(2) Bilingual skills or experience living in a home where English is not the first lan-
17 guage.

18 “(3) Citizenship status belonging to a country other than the United States.

19 “(4) Low socioeconomic status.

20 “(5) Residence in a rural or frontier community.

21 “(6) Experience working with people experiencing mental illness.

22 “(7) Experience in providing trauma-informed services.

23
24 “CAPTIONS

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26 “SECTION 8. The unit captions used in this 2023 Act are provided only for the conven-
27 ience of the reader and do not become part of the statutory law of this state or express any
28 legislative intent in the enactment of this 2023 Act.

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30 “EFFECTIVE DATE

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32 “SECTION 9. This 2023 Act takes effect on the 91st day after the date on which the 2023
33 regular session of the Eighty-second Legislative Assembly adjourns sine die.”