

Senate Bill 329

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Senate Interim Committee on Judiciary and Ballot Measure 110 Implementation for Public Defense Services Commission)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Authorizes Public Defense Services Commission to award grants for purpose of carrying out duties of commission.

A BILL FOR AN ACT

Relating to Public Defense Services Commission; amending ORS 151.216 and 151.225.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 151.216 is amended to read:

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

(a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Establish an office of public defense services and appoint a public defense services executive director who serves at the pleasure of the commission.

(c) Adopt policies for contracting for public defense providers not employed by the office of public defense services that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Promote policies for public defense provider compensation and resources that are comparable to prosecution compensation and resources;

(C) Ensure funding and resources to support required data collection and training requirements; and

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

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

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

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

(g) Submit the budget of the commission and the office of public defense services to the Legis-

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 lative Assembly after the budget is submitted to the commission by the director and approved by the
2 commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall
3 present the budget to the Legislative Assembly.

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

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

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

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

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

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

15 (D) Appointed counsel compensation disputes;

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

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

23 (G) Performance for legal representation;

24 (H) The contracting of public defense services;

25 (I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses
26 only if in-state expert witnesses are not available or are more expensive than out-of-state expert
27 witnesses; and

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

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

32 (L) Establish a complaint process that allows district attorneys, criminal defense counsel and the
33 public to file complaints concerning the payment from public funds of nonroutine fees and expenses
34 incurred in cases.

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

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

44 (3) The commission may accept gifts, grants or contributions from any source, whether public
45 or private. However, the commission may not accept a gift, grant or contribution if acceptance

1 would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the
 2 Public Defense Services Account established by ORS 151.225 and expended for the purposes for
 3 which given or granted.

4 **(4) The commission may:**

5 **(a) Award grants from funds appropriated by the Legislative Assembly to the commission**
 6 **or from funds otherwise available from any other source, for the purpose of carrying out the**
 7 **duties of the commission.**

8 **(b) Adopt rules to carry out the provisions of this subsection.**

9 [(4)] (5) The commission may not:

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

11 (b) Have access to any case file; or

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

14 **SECTION 2.** ORS 151.225 is amended to read:

15 151.225. (1) The Public Defense Services Account is established in the State Treasury, separate
 16 and distinct from the General Fund. The Public Defense Services Account is continuously appropri-
 17 ated to the Public Defense Services Commission for:

18 (a) Administration and support of the public defense system;

19 (b) Reimbursement of the State Court Administrator under ORS 151.216 (1)(m); [and]

20 (c) Legal representation of parents and children involved in foster care for which matching
 21 funds under 45 C.F.R. 1356.60(c) may be used[.]; **and**

22 **(d) Awarding grants under ORS 151.216.**

23 (2) The following moneys shall be deposited in the Public Defense Services Account:

24 (a) Moneys received by the commission from the State Court Administrator under ORS 151.216
 25 (1)(m);

26 (b) Moneys received by the Judicial Department under ORS 135.050 (8), 151.487 (1), 419A.211 or
 27 419B.198 (1);

28 (c) Federal matching funds received under 45 C.F.R. 1356.60(c); [and]

29 (d) Miscellaneous revenues and receipts of the commission[.]; **and**

30 **(e) Moneys appropriated by the Legislative Assembly for deposit in the account.**

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