

SENATE AMENDMENTS TO A-ENGROSSED SENATE BILL 337

By COMMITTEE ON RULES

June 2

- 1 Delete pages 2 through 12 of the printed A-engrossed bill.
- 2 On page 13, delete lines 1 through 3 and insert:
- 3 “**SECTION 1.** ORS 151.211 is amended to read:
- 4 “151.211. For purposes of ORS 151.211 to 151.221:
- 5 “[*(1) ‘Bar member’ means an individual who is an active member of the Oregon State Bar.*]
- 6 “[*(2) (1) ‘Chief Justice’ means the Chief Justice of the Supreme Court.*]
- 7 “[*(3) (2) ‘Commission’ means the [Public Defense Services Commission] Oregon Public Defense*
- 8 **Commission.**
- 9 “[*(4) ‘Director’ means the public defense services executive director appointed under ORS*
- 10 *151.216.*]
- 11 “[*(5) ‘Office of public defense services’ means the office established by the commission under the*
- 12 *director to handle the cases assigned and to carry out the administrative policies and procedures for*
- 13 *the public defense system.*]
- 14 “**SECTION 2.** ORS 151.213 is amended to read:
- 15 “151.213. (1) The [*Public Defense Services Commission*] **Oregon Public Defense Commission** is
- 16 established in the judicial branch of state government. Except for the appointment or removal of
- 17 commission members, the commission and employees of the commission are not subject to the exer-
- 18 cise of administrative authority and supervision by the Chief Justice of the Supreme Court as the
- 19 administrative head of the Judicial Department.
- 20 “(2)(a) [*The commission consists of*] **Nine voting members and four nonvoting members shall**
- 21 **be appointed to the commission** by order of the Chief Justice[. *In addition to the nine appointed*
- 22 *members, the Chief Justice serves as a nonvoting, ex officio member. The Chief Justice shall appoint*
- 23 *at least three persons who are not bar members, at least one person who was formerly engaged in the*
- 24 *provision of public defense services and at least one person who has been formerly represented by a*
- 25 *public defense provider in this state. All members must have a demonstrated record of commitment to*
- 26 *public defense. Except for the Chief Justice or a senior judge under ORS 1.300, a member may not*
- 27 *serve concurrently as a judge, a prosecuting attorney or an employee of a law enforcement agency. A*
- 28 *person who is primarily engaged in providing public defense services may not serve as a member of*
- 29 *the commission.*] **as follows:**
- 30 “(A) **The Chief Justice shall appoint:**
- 31 “(i) **One voting member who is a retired judge.**
- 32 “(ii) **Two additional voting members, one of whom has experience as a public defense**
- 33 **provider in criminal cases.**
- 34 “(B) **The Chief Justice shall appoint, from among persons recommended by the Governor:**
- 35 “(i) **One voting member who has been represented by a public defense provider.**

1 “(ii) Two additional voting members, one of whom has experience as a public defense
2 provider in juvenile delinquency or dependency cases.

3 “(iii) Two nonvoting members who are currently employed as public defense providers in
4 this state, one of whom is from an urban area and one of whom is from a rural area.

5 “(C) The Chief Justice shall appoint, from among persons recommended by the President
6 of the Senate:

7 “(i) One voting member who is a current dean or faculty member of an Oregon law
8 school.

9 “(ii) One nonvoting member who is a member of the Senate at the time of appointment.

10 “(D) The Chief Justice shall appoint, from among persons recommended by the Speaker
11 of the House of Representatives:

12 “(i) One voting member who has expertise in juvenile law and criminal defense, or who
13 is a juvenile justice or criminal justice reform advocate.

14 “(ii) One nonvoting member who is a member of the House of Representatives at the time
15 of appointment.

16 “(E) The Chief Justice shall appoint one voting member from among persons jointly re-
17 commended by the President of the Senate and the Speaker of the House of Representatives.

18 “(b) When recommending and appointing members of the commission, the Chief Justice,
19 Governor, President of the Senate and Speaker of the House of Representatives shall:

20 “(A) Consider input from individuals and organizations with an interest in the delivery
21 of public defense services.

22 “(B) Consider geographic, racial, ethnic and gender diversity.

23 “(C) Ensure that members appointed to the commission have significant experience with
24 issues related to public defense or in the case types subject to representation by public de-
25 fense providers.

26 “(D) Ensure that members appointed to the commission have demonstrated a strong
27 commitment to quality public defense representation.

28 “(e) The following persons may not be appointed to and may not serve as members of the
29 commission:

30 “(A) A prosecuting attorney.

31 “(B) A judge, magistrate or other person who performs judicial functions.

32 “(C) An employee of a law enforcement agency or the Department of Human Services.

33 “(d) A person who is primarily engaged in providing public defense services and who has
34 a financial interest in the delivery of public defense services at the state level may not serve
35 as a voting member of the commission.

36 “(e) As used in this subsection, ‘law enforcement agency’ means an entity that employs
37 corrections officers, parole and probation officers, police officers, certified reserve officers
38 or reserve officers, as those terms are defined in ORS 181A.355.

39 “(3) The term of a member is four years beginning on the effective date of the order of the Chief
40 Justice appointing the member. A member is eligible for reappointment if qualified for membership
41 at the time of reappointment, **but may serve no more than two consecutive four-year terms.**
42 [A member may be removed from the commission by order of the Chief Justice.] **The Chief Justice**
43 **may remove any member of the commission at any time for cause.** If a vacancy occurs for any
44 cause before the expiration of the term of a member, the Chief Justice shall make an appointment
45 **to fill the vacancy, in the same manner as an appointment to a full term,** to become imme-

diately effective for the unexpired term. **If the Chief Justice has not filled a vacancy within 45 days after the vacancy occurs, the remaining voting members of the commission shall, by a majority vote, select a member to fill the vacancy for the remainder of the term. The selected member must meet the requirements for membership described in this section.**

“(4) A chairperson and a vice chairperson shall be *[appointed by order of the Chief Justice]* **elected by the voting members of the commission** every two years with such functions as the commission may determine. A member is eligible for *[reappointment]* **reelection** as chairperson or vice chairperson.

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

“(6)(a) **All members of the commission shall:**

“(A) **Review the policies, procedures, standards and guidelines required by ORS 151.216 and provide input before the approval vote described in paragraph (b) of this subsection.**

“(B) **Review the budget of the commission and provide input before the approval vote described in paragraph (b) of this subsection.**

“(C) **Meet as needed to carry out the duties described in this subsection.**

“(b) **The voting members of the commission shall:**

“(A) **Appoint, by a two-thirds vote, an executive director for a term of office of four years. The term may be terminated for cause by a majority vote of the voting members after notice and a hearing. When the term of an executive director ends without termination, the voting members of the commission may reappoint the person currently in the position by a majority vote.**

“(B) **Upon the vacancy of the executive director position, immediately designate an acting executive director by a majority vote.**

“(C) **Approve by majority vote the policies, procedures, standards and guidelines required by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.**

“(D) **Approve by majority vote the budget of the commission before submission to the Legislative Assembly.**

“(7) **The members of the commission may not:**

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

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

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

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

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

“151.216. (1) The *[Public Defense Services Commission]* **Oregon Public Defense 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)] (b) **Adopt policies for *[contracting for]* public defense providers *[not employed by the office of public defense services]* that:**

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 comparable*
4 *to prosecution compensation and resources*] **Ensure all public defense provider contracts provide**
5 **for compensation that is commensurate with the character of service performed;**

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*] (c) Establish operational and contracting systems that allow for oversight, ensure trans-
13 parency and stakeholder engagement and promote equity, inclusion and culturally specific repre-
14 sentation.

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

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

21 “[*g*] (f) Submit the budget of the commission [*and the office of public defense services*] to the
22 Legislative Assembly after the budget is submitted to the commission by the **executive** director and
23 approved by the **voting members of the** commission. The Chief Justice of the Supreme Court and
24 the chairperson of the commission shall present the budget to the Legislative Assembly.

25 “[*h*] *Review and approve any public defense services contract negotiated by the director before the*
26 *contract can become effective.*]

27 “[*i*] (g) Adopt a compensation plan, classification system and [*personnel*] **affirmative action**
28 plan for the [*office of public defense services*] **commission** that are commensurate with other state
29 agencies.

30 “[*j*] (h) Adopt policies, procedures, standards and guidelines regarding:

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

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

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

37 “(D) Appointed counsel compensation disputes;

38 “(E) [*Any other*] **The** costs associated with the representation of a person by appointed counsel
39 in the state courts that are required to be paid by the state [*under ORS 34.355, 135.055, 138.500,*
40 *138.590, 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206,*
41 *419C.209, 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315*
42 *or any other provision of law that expressly provides for payment of such compensation, costs or ex-*
43 *penses by the commission*]; **and**

44 “[*F*] *Professional qualifications for counsel appointed to represent public defense clients;*]

45 “[*G*] *Performance for legal representation;*]

1 “[(H) *The contracting of public defense services;*]
2 “[(I) *Contracting with expert witnesses to allow contracting with out-of-state expert witnesses only*
3 *if in-state expert witnesses are not available or are more expensive than out-of-state expert witnesses;*
4 *and]*
5 **“(F) The types of fees and expenses subject to a preauthorization requirement.**
6 “[(J) *Any other matters necessary to carry out the duties of the commission.*]
7 “[(k) *Establish a peer review system for the approval of nonroutine fees and expenses incurred in*
8 *cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review shall*
9 *be conducted by a panel of attorneys who practice in the area of criminal defense.*]
10 “[(L) *Establish a complaint process that allows district attorneys, criminal defense counsel and the*
11 *public to file complaints concerning the payment from public funds of nonroutine fees and expenses*
12 *incurred in cases.*]
13 “[(m)] (i) Reimburse the State Court Administrator from funds deposited in the Public Defense
14 Services Account established by ORS 151.225 for the costs of personnel and other costs associated
15 with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State
16 Court Administrator.
17 **“(j) Develop, adopt and oversee the implementation, enforcement and modification of**
18 **policies, procedures, minimum standards and guidelines to ensure that public defense pro-**
19 **viders are providing effective assistance of counsel consistently to all eligible persons in this**
20 **state as required by statute and the Oregon and United States Constitutions. The policies,**
21 **procedures, standards and guidelines described in this paragraph apply to employees of the**
22 **commission and to any person or entity that contracts with the commission to provide public**
23 **defense services in this state.**
24 **“(k) Set minimum standards by which appointed counsel are trained and supervised.**
25 **“(L) Establish a system, policies and procedures for the mandatory collection of data**
26 **concerning the operation of the commission and all public defense providers.**
27 **“(m) Enter into contracts and hire attorneys to bring the delivery of public defense ser-**
28 **vices into and maintain compliance with the minimum policies, procedures, standards and**
29 **guidelines described in this subsection. All contracts for the provision of public defense ser-**
30 **vices to which the commission is a party must include a requirement for collection by the**
31 **commission of data determined by the commission to be qualitatively necessary for any re-**
32 **port required to be submitted to the Legislative Assembly.**
33 **“(n) At least once every two years, report to the interim committees of the Legislative**
34 **Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Gover-**
35 **nor and Chief Justice, concerning compliance metrics for the minimum standards described**
36 **in this subsection and recommendations for legislative changes.**
37 **“(o) Develop standard operating expectations for persons and entities providing public**
38 **defense services.**
39 **“(p) In consultation with the Judicial Department, ensure the existence of policies that**
40 **create a standardized process for determining and verifying financial eligibility for appointed**
41 **counsel under ORS 151.485.**
42 **“(q) Ensure access to systematic and comprehensive training programs for attorneys for**
43 **the purpose of meeting statewide standards set by the commission.**
44 **“(r) Enter into contracts or interagency agreements with the Oregon Department of**
45 **Administrative Services for the purpose of supporting state public defense population fore-**

1 casts and other related forecasts.

2 “(s) Pay invoices submitted to the commission within 45 days of receipt or in accordance
3 with statewide accounting policies established by the Oregon Department of Administrative
4 Services.

5 “(t) Establish any other policies, procedures, standards and guidelines for the conduct
6 of the commission’s affairs and promulgate policies necessary to carry out all powers and
7 duties of the commission.

8 “(2) When establishing the minimum policies, procedures, standards and guidelines de-
9 scribed in this section, the commission shall adhere to the following principles:

10 “(a) Appointed counsel shall be provided sufficient time and a space where attorney-client
11 confidentiality is safeguarded for meetings with clients.

12 “(b) The workload of appointed counsel must be controlled to permit effective represen-
13 tation. Economic disincentives or incentives that impair the ability of appointed counsel to
14 provide effective assistance of counsel must be avoided. The commission may develop work-
15 load controls to enhance appointed counsel’s ability to provide effective representation.

16 “(c) The ability, training and experience of appointed counsel must match the nature and
17 complexity of the case to which the counsel is appointed.

18 “(d) The same appointed counsel shall continuously represent a client throughout the
19 pendency of the case and shall appear at every court appearance other than ministerial
20 hearings.

21 “(e) The commission shall establish continuing legal education requirements for public
22 defense providers who are employed by or contract with the commission that are specific to
23 the subject matter area and practice of each type of court-appointed counsel.

24 “(f) The commission and public defense providers shall systematically review appointed
25 counsel for efficiency and for effective representation according to commission standards.

26 “(3) The commission shall be organized in a manner for the effective delivery of public
27 defense services as prescribed by the policies and procedures created pursuant to statute to
28 financially eligible persons and consistent with the budgetary structure established for the
29 commission by the Legislative Assembly.

30 “(4) The commission shall hire attorneys to serve as appointed counsel, including at the
31 trial level in Oregon circuit courts, and may establish a trial division within the commission
32 consisting of attorneys employed by the commission who are trial-level public defense pro-
33 viders.

34 “(5) The policies, procedures, standards and guidelines adopted by the commission must
35 be made available in an accessible manner to the public on the commission’s website.

36 “[2] (6) Policies, procedures, standards and guidelines adopted by the commission supersede
37 any conflicting rules, policies or procedures of the Public Defender Committee, State Court Admin-
38 istrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Re-
39 view Board related to the exercise of the commission’s administrative responsibilities under this
40 section and transferred duties, functions and powers as they occur.

41 “[3] (7) The commission may accept gifts, grants or contributions from any source, whether
42 public or private. However, the commission may not accept a gift, grant or contribution if accept-
43 ance would create a conflict of interest. Moneys accepted under this subsection shall be deposited
44 in the Public Defense Services Account established by ORS 151.225 and expended for the purposes
45 for which given or granted.

1 “[(4) *The commission may not:*]

2 “[(a) *Make any decision regarding the handling of any individual case;*]

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

4 “[(c) *Interfere with the director or any member of the staff of the director in carrying out profes-*

5 *sional duties involving the legal representation of public defense clients.*]

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

7 “151.219. (1) The [*public defense services*] executive director **of the Oregon Public Defense**

8 **Commission** shall:

9 “**(a) Designate a deputy director of the commission who serves at the pleasure of the**

10 **executive director.**

11 “**(b) Hire necessary staff for the commission.**

12 “[(a)] **(c)** Recommend to the [*Public Defense Services*] commission how to establish and maintain,

13 in a cost-effective manner, the delivery of legal services to persons entitled to, and, where applica-

14 ble, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon

15 Constitution, the United States Constitution and consistent with Oregon and national standards of

16 justice.

17 “[(b)] **(d)** Implement and ensure compliance with contracts, policies, procedures, standards and

18 guidelines adopted by the commission or required by statute.

19 “[(c)] **(e)** Prepare and submit to the commission for its approval the biennial budget of the

20 commission [*and the office of public defense services*].

21 “[(d)] **(f)** Negotiate contracts, as appropriate, for providing legal services to persons eligible for

22 appointed counsel at state expense. [*No contract so negotiated is binding or enforceable until the*

23 *contract has been reviewed and approved by the commission as provided in ORS 151.216.*]

24 “[(e)] **(g)** Employ personnel or contract for services as necessary to carry out the responsibilities

25 of the **executive** director and the [*office of public defense services*] **commission.**

26 “[(f)] **(h)** Supervise the personnel, operation and activities of the [*office of public defense*

27 *services*] **commission.**

28 “[(g)] **(i)** Provide services, facilities and materials necessary for the performance of the duties,

29 functions and powers of the [*Public Defense Services*] commission.

30 “[(h)] **(j)** Pay the expenses of the commission [*and the office of public defense services*].

31 “[(i)] **(k)** Prepare and submit to the **members of the** commission an annual report of the ac-

32 tivities of the [*office of public defense services*] **commission.**

33 “[(j)] *Prepare and submit to the Legislative Assembly a biennial report on the activities of the office*

34 *of public defense services.*]

35 “[(k)] **(L)** Provide for legal representation, advice and consultation for the commission, its

36 members, the **executive** director and staff of the [*office of public defense services*] **commission** who

37 require such services or who are named as defendants in lawsuits arising from their duties, functions

38 and responsibilities. If requested by the **executive** director, the Attorney General may also provide

39 for legal representation, advice and consultation for the commission, its members, the **executive**

40 director and staff of the [*office of public defense services*] **commission** in litigation.

41 “(2) The **executive** director may:

42 “**(a)** Designate persons as representatives of the **executive** director for the purposes of deter-

43 mining and paying bills submitted to the [*office of public defense services*] **commission** and deter-

44 mining preauthorization for incurring fees and expenses under ORS 135.055.

45 “**(b) Establish an external advisory group to assist in developing the standard operating**

1 **expectations for persons and entities providing public defense services.**

2 **“SECTION 5.** ORS 151.221 is amended to read:

3 “151.221. Officers and employees of the [*office of public defense services, who are appointed under*
4 *a personnel plan adopted by the Public Defense Services Commission,*] **Oregon Public Defense**
5 **Commission** are state officers or employees in the exempt service and are not subject to ORS
6 chapter 240.

7 **“SECTION 6.** ORS 151.225 is amended to read:

8 “151.225. (1) The Public Defense Services Account is established in the State Treasury, separate
9 and distinct from the General Fund. The Public Defense Services Account is continuously appropri-
10 ated to the [*Public Defense Services Commission*] **Oregon Public Defense Commission** for:

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

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

13 “(c) Legal representation of parents and children involved in foster care for which matching
14 funds under 45 C.F.R. 1356.60(c) may be used.

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

16 “(a) Moneys received by the commission from the State Court Administrator under ORS 151.216
17 [(1)(m)] (1)(i);

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

20 “(c) Federal matching funds received under 45 C.F.R. 1356.60(c); and

21 “(d) Miscellaneous revenues and receipts of the commission.

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

25 **“SECTION 7.** ORS 135.055 is amended to read:

26 “135.055. (1) Counsel appointed pursuant to ORS 135.045 or 135.050 shall be paid fair compen-
27 sation for representation in the case:

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

30 “(b) By the [*public defense services*] executive director **of the Oregon Public Defense Com-**
31 **mission** from funds available for the purpose, in a proceeding in a circuit court.

32 “(2) Except for counsel appointed pursuant to contracts or counsel employed by the [*public de-*
33 *fense services executive director*] **Oregon Public Defense Commission**, compensation payable to
34 appointed counsel under subsection (1) of this section:

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

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

38 “(3)(a) A person determined to be eligible for appointed counsel is entitled to necessary and
39 reasonable fees and expenses for investigation, preparation and presentation of the case for trial,
40 negotiation and sentencing. The person or the counsel for the person shall upon written request
41 secure preauthorization to incur fees and expenses that [*are not routine to representation but*] are
42 necessary and reasonable in the investigation, preparation and presentation of the case **and that**
43 **require preauthorization under a policy of the Oregon Public Defense Commission**, including
44 but not limited to [*nonroutine*] travel, photocopying or other reproduction of [*nonroutine*] documents,
45 necessary costs associated with obtaining the attendance of witnesses for the defense, investigator

1 fees and expenses, expert witness fees and expenses and fees for interpreters and assistive commu-
2 nication devices necessary for the purpose of communication between counsel and a client or wit-
3 ness in the case. Preauthorization to incur a fee or expense does not guarantee that a fee or
4 expense incurred pursuant to the preauthorization will be determined to be necessary or reasonable
5 when the fee or expense is submitted for payment.

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

12 “(c) In a circuit court, the request must be in the form and contain the information that is re-
13 quired by the policies, procedures, standards and guidelines of the [*Public Defense Services Com-*
14 *mission*] **Oregon Public Defense Commission**. If the [*public defense services*] executive director **of**
15 **the commission** denies a request for preauthorization to incur [*nonroutine*] fees and expenses
16 **subject to a preauthorization requirement**, the person making the request may appeal the deci-
17 sion to the presiding judge of the circuit court. The presiding judge has final authority to preau-
18 thorize incurring [*nonroutine*] fees and expenses under this paragraph.

19 “(d) Entitlement under subsection (7) of this section to payment for fees and expenses in circuit
20 court is subject to the policies, procedures, standards and guidelines adopted under ORS 151.216.
21 Entitlement to payment of [*nonroutine*] fees and expenses **subject to a preauthorization require-**
22 **ment** is dependent upon obtaining preauthorization from the court, if the case is in county or justice
23 court, or from the [*public defense services*] executive director **of the Oregon Public Defense Com-**
24 **mission**, if the case is in circuit court, except as otherwise provided in paragraph (c) of this sub-
25 section and in the policies, procedures, standards and guidelines adopted under ORS 151.216. Fees
26 and expenses shall be paid:

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

28 “(B) By the [*public defense services*] executive director **of the commission** from funds available
29 for the purpose, in respect to a proceeding in a circuit court.

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

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

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

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

45 “(7) In a circuit court, the total fees and expenses payable under this section must be submitted

1 to and are subject to review by the [*public defense services*] executive director **of the Oregon Public**
2 **Defense Commission**. The [*public defense services*] executive director **of the commission** shall
3 determine whether the amount is necessary, reasonable and properly payable from public funds for
4 fees and expenses for representation in the case as provided by the policies, procedures, standards
5 and guidelines of the [*Public Defense Services Commission*] **commission**. The [*public defense*
6 *services*] executive director **of the commission** shall pay the amount of the fees and expenses de-
7 termined necessary, reasonable and properly payable out of public funds. The court shall provide
8 any information identified and requested by the [*public defense services*] executive director **of the**
9 **commission** as needed for audit, statistical or any other purpose pertinent to ensure the proper
10 disbursement of state funds or pertinent to the provision of appointed counsel compensated at state
11 expense.

12 “(8) If the [*public defense services*] executive director **of the Oregon Public Defense Commis-**
13 **sion** denies, in whole or in part, fees and expenses submitted for review and payment, the person
14 who submitted the payment request may appeal the decision to the presiding judge of the circuit
15 court. The presiding judge or the designee of the presiding judge shall review the [*public defense*
16 *services*] executive director’s decision for abuse of discretion. The decision of the presiding judge
17 or the designee of the presiding judge is final.

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

19 “(a) Requests and administrative or court orders for preauthorization to incur [*nonroutine*] fees
20 and expenses **subject to a preauthorization requirement** in the investigation, preparation and
21 presentation of the case; and

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

23 “(10) Notwithstanding subsection (9) of this section, the total amount of moneys determined to
24 be necessary and reasonable for [*nonroutine*] fees and expenses **subject to a preauthorization re-**
25 **quirement** may be disclosed to the district attorney at the conclusion of the trial in the circuit
26 court.

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

29 “**SECTION 7a. (1) The Oregon Department of Administrative Services shall issue state**
30 **public defense population forecasts including, but not limited to, expected populations of**
31 **adults and juveniles eligible for appointed counsel, to be used by:**

32 “(a) **The Oregon Public Defense Commission, in preparing budget requests or for any**
33 **other purpose determined necessary by the commission; or**

34 “(b) **Any other state agency concerned with the effect of public defense populations or**
35 **policy developments on budgeting.**

36 “(2) **The department shall issue state public defense population forecasts on April 15 and**
37 **October 15 of each year.**

38 “(3) **When the department issues a state public defense population forecast, the forecast**
39 **must:**

40 “(a) **Discretely identify adult and juvenile populations that are eligible for appointed**
41 **counsel categorized by either circuit or appellate court;**

42 “(b) **Identify the forecast’s margin of error for adult and juvenile populations; and**

43 “(c) **Attribute growth or decline in the forecast, relative to previously issued forecasts,**
44 **to specific policies or to specific components of the baseline underlying the forecast.**

45 “(4) **The Oregon Public Defense Commission, the Oregon Criminal Justice Commission,**

1 the Judicial Department and, if requested by the Oregon Department of Administrative Ser-
2 vices, any other state agency, shall provide the Oregon Department of Administrative Ser-
3 vices with any information necessary for the department to prepare the forecasts described
4 in this section.

5 “(5) As used in this section, ‘baseline underlying the forecast’ includes population demo-
6 graphics and crime trends.

7
8 “(Transfer of Duties)
9

10 “**SECTION 8.** (1) The Public Defense Services Commission is abolished. On the operative
11 date of this section, the tenure of office of the members of the Public Defense Services
12 Commission ceases.

13 “(2) All of the duties, functions and powers of the Public Defense Services Commission,
14 except as those duties, functions and powers are modified by the amendments to ORS 151.213,
15 151.216 and 151.219 by sections 2 to 4 of this 2023 Act, are imposed upon, transferred to and
16 vested in the Oregon Public Defense Commission.

17 “**SECTION 9.** (1) The chairperson of the Public Defense Services Commission and the
18 public defense services executive director shall:

19 “(a) Deliver to the Oregon Public Defense Commission all records and property within
20 the jurisdiction of the chairperson and executive director that relate to the duties, functions
21 and powers transferred by section 8 of this 2023 Act; and

22 “(b) Transfer to the Oregon Public Defense Commission those employees engaged pri-
23 marily in the exercise of the duties, functions and powers transferred by section 8 of this
24 2023 Act.

25 “(2) The executive director of the Oregon Public Defense Commission shall take pos-
26 session of the records and property, and shall take charge of the employees and employ them
27 in the exercise of the duties, functions and powers transferred by section 8 of this 2023 Act,
28 without reduction of compensation but subject to change or termination of employment or
29 compensation as provided by law.

30 “**SECTION 10.** (1) The unexpended balances of amounts authorized to be expended by the
31 Public Defense Services Commission for the biennium beginning July 1, 2023, from revenues
32 dedicated, continuously appropriated, appropriated or otherwise made available for the pur-
33 pose of administering and enforcing the duties, functions and powers transferred by section
34 8 of this 2023 Act are transferred to and are available for expenditure by the Oregon Public
35 Defense Commission for the biennium beginning July 1, 2023, for the purpose of administer-
36 ing and enforcing the duties, functions and powers transferred by section 8 of this 2023 Act.

37 “(2) The expenditure classifications, if any, established by Acts authorizing or limiting
38 expenditures by the Public Defense Services Commission remain applicable to expenditures
39 by the Oregon Public Defense Commission under this section.

40 “**SECTION 11.** The transfer of duties, functions and powers to the Oregon Public Defense
41 Commission by section 8 of this 2023 Act does not affect any action, proceeding or prose-
42 cution involving or with respect to such duties, functions and powers begun before and
43 pending at the time of the transfer, except that the Oregon Public Defense Commission is
44 substituted for the Public Defense Services Commission in the action, proceeding or prose-
45 cution.

1 **“SECTION 12. (1) Nothing in this 2023 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by**
2 **section 8 of this 2023 Act. The Oregon Public Defense Commission may undertake the collection or enforcement of any such liability, duty or obligation.**

3
4
5 **“(2) The rights and obligations of the Public Defense Services Commission legally incurred under contracts, leases and business transactions executed, entered into or begun**
6 **before the operative date of section 8 of this Act are transferred to the Oregon Public Defense Commission. For the purpose of succession to these rights and obligations, the Oregon**
7 **Public Defense Commission is a continuation of the Public Defense Services Commission and not a new authority.**

8
9
10
11 **“SECTION 13. For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the ‘Public Defense Services**
12 **Commission’ or its officers, or the office of public defense services, wherever they occur in statutory law, words designating the ‘Oregon Public Defense Commission’ or its officers.**

13
14
15 **“SECTION 14. (1) Sections 7a to 13 of this 2023 Act and the amendments to ORS 151.211, 151.213, 151.216, 151.219, 151.221, 151.225 and 135.055 by sections 1 to 7 of this 2023 Act become**
16 **operative on January 1, 2024.**

17
18 **“(2) Notwithstanding subsection (1) of this section:**

19 **“(a) No later than November 1, 2023, the Chief Justice of the Supreme Court shall by order appoint four nonvoting members and nine new voting members to the Oregon Public**
20 **Defense Commission as provided in ORS 151.213 (2). Except as provided in subsection (3) of this section, the appointments described in this subsection take effect on January 1, 2024.**

21
22
23 **“(b) The Chief Justice, Governor, President of the Senate and Speaker of the House of Representatives may take any action before the operative date specified in subsection (1) of**
24 **this section that is necessary to effectuate the appointment process described in this subsection and ORS 151.213 (2).**

25
26
27 **“(3)(a) Notwithstanding ORS 151.213 (6)(b), and subject to the provisions of sections 92 (3) and 102 (2) of this 2023 Act, on January 1, 2024, the public defense services executive director**
28 **shall begin a four-year term as executive director of the Oregon Public Defense Commission, and is subject to termination or reappointment as described in ORS 151.213 (6)(b).**

29
30
31 **“(b) The public defense services executive director and the members of the commission may take any action before the operative date specified in subsection (1) of this section that**
32 **is necessary to enable the executive director and the members to exercise, on and after the operative date specified in subsection (1) of this section, the duties, functions and powers**
33 **conferred on the executive director and the members by sections 7a to 13 of this 2023 Act and the amendments to ORS 151.211, 151.213, 151.216, 151.219, 151.221, 151.225 and 135.055 by**
34 **sections 1 to 7 of this 2023 Act.**

35
36
37
38 **“(4) Notwithstanding ORS 151.213 (3), and subject to the provisions of sections 92 (3) and 102 (2) of this 2023 Act, the initial terms of persons appointed as voting members to the**
39 **Oregon Public Defense Commission under this section shall be staggered as follows:**

40
41 **“(a) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A), one of the voting members described in ORS 151.213 (2)(a)(B) and the voting member described**
42 **in ORS 151.213 (2)(a)(E) shall be four years.**

43
44 **“(b) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A) and the voting member described in ORS 151.213 (2)(a)(C) shall be three years.**

1 “(c) The initial term of one of the voting members described in ORS 151.213 (2)(a)(B) and
2 the voting member described in ORS 151.213 (2)(a)(D) shall be two years.

3 “(d) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A) and
4 one of the voting members described in ORS 151.213 (2)(a)(B) shall be one year.

5 “(5) A person who is a member of the Public Defense Services Commission on November
6 1, 2023, is eligible for appointment to the Oregon Public Defense Commission if the person
7 meets the requirements described in ORS 151.213 (2).”.

8 In line 12, delete “(1)(f)” and insert “(1)(i)”.

9 On page 66, delete lines 10 through 45 and delete pages 67 through 76 and insert:

10
11 **“TRANSFER OF COMMISSION TO EXECUTIVE BRANCH**
12 **“(Appointment and Duties)”**

13
14 **“SECTION 77.** ORS 151.213, as amended by section 2 of this 2023 Act, is amended to read:

15 “151.213. (1) The Oregon Public Defense Commission is established in the [judicial] **executive**
16 branch of state government. Except for the appointment or removal of commission members, the
17 commission and employees of the commission are not subject to the exercise of administrative au-
18 thority and supervision by the [Chief Justice of the Supreme Court as the administrative head of the
19 Judicial Department] **Governor**.

20 “(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission
21 by [order of the Chief Justice] **the Governor** as follows:

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

23 **“(i) One voting member who has been represented by a public defense provider.**

24 **“(ii) Two additional voting members, one of whom has experience as a public defense**
25 **provider in juvenile delinquency or dependency cases.**

26 **“(iii) Two nonvoting members who are currently employed as public defense providers in**
27 **this state, one of whom is from an urban area and one of whom is from a rural area.**

28 “[A] **(B) The Governor shall appoint, from among persons recommended by the Chief**
29 **Justice [shall appoint] of the Supreme Court:**

30 **“(i) One voting member who is a retired judge.**

31 **“(ii) Two additional voting members, one of whom has experience as a public defense provider**
32 **in criminal cases.**

33 **“[(B) The Chief Justice shall appoint, from among persons recommended by the Governor:]**

34 **“[(i) One voting member who has been represented by a public defense provider.]**

35 **“[(ii) Two additional voting members, one of whom has experience as a public defense provider in**
36 **juvenile delinquency or dependency cases.]**

37 **“[(iii) Two nonvoting members who are currently employed as public defense providers in this state,**
38 **one of whom is from an urban area and one of whom is from a rural area.]**

39 **“(C) The [Chief Justice] Governor shall appoint, from among persons recommended by the**
40 **President of the Senate:**

41 **“(i) One voting member who is a current dean or faculty member of an Oregon law school.**

42 **“(ii) One nonvoting member who is a member of the Senate at the time of appointment.**

43 **“(D) The [Chief Justice] Governor shall appoint, from among persons recommended by the**
44 **Speaker of the House of Representatives:**

45 **“(i) One voting member who has expertise in juvenile law and criminal defense, or who is a ju-**

1 venile justice or criminal justice reform advocate.

2 “(ii) One nonvoting member who is a member of the House of Representatives at the time of
3 appointment.

4 “(E) The [*Chief Justice*] **Governor** shall appoint one voting member from among persons jointly
5 recommended by the President of the Senate and the Speaker of the House of Representatives.

6 “(b) When recommending and appointing members of the commission, the [*Chief Justice*,] Gov-
7 ernor, **Chief Justice**, President of the Senate and Speaker of the House of Representatives shall:

8 “(A) Consider input from individuals and organizations with an interest in the delivery of public
9 defense services.

10 “(B) Consider geographic, racial, ethnic and gender diversity.

11 “(C) Ensure that members appointed to the commission have significant experience with issues
12 related to public defense or in the case types subject to representation by public defense providers.

13 “(D) Ensure that members appointed to the commission have demonstrated a strong commitment
14 to quality public defense representation.

15 “(c) The following persons may not be appointed to and may not serve as members of the com-
16 mission:

17 “(A) A prosecuting attorney.

18 “(B) A judge, magistrate or other person who performs judicial functions.

19 “(C) An employee of a law enforcement agency or the Department of Human Services.

20 “(d) A person who is primarily engaged in providing public defense services and who has a fi-
21 nancial interest in the delivery of public defense services at the state level may not serve as a
22 voting member of the commission.

23 “(e) As used in this subsection, ‘law enforcement agency’ means an entity that employs cor-
24 rections officers, parole and probation officers, police officers, certified reserve officers or reserve
25 officers, as those terms are defined in ORS 181A.355.

26 “(3) The term of a member is four years beginning on the effective date of the [*order of the Chief*
27 *Justice appointing the member*] **Governor’s appointment, but members serve at the pleasure of**
28 **the Governor**. A member is eligible for reappointment if qualified for membership at the time of
29 reappointment, but may serve no more than two consecutive four-year terms. The [*Chief Justice*]
30 **Governor** may remove any member of the commission at any time [*for cause*]. If a vacancy occurs
31 for any cause before the expiration of the term of a member, the [*Chief Justice*] **Governor** shall
32 make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to
33 become immediately effective for the unexpired term. [*If the Chief Justice has not filled a vacancy*
34 *within 45 days after the vacancy occurs, the remaining voting members of the commission shall, by a*
35 *majority vote, select a member to fill the vacancy for the remainder of the term. The selected member*
36 *must meet the requirements for membership described in this section.*]

37 “(4) A chairperson and a vice chairperson shall be elected by the voting members of the com-
38 mission every two years with such functions as the commission may determine. A member is eligible
39 for reelection as chairperson or vice chairperson.

40 “(5) A majority of the voting members constitutes a quorum for the transaction of business.

41 “(6)(a) All members of the commission shall:

42 “(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and
43 provide input before the approval vote described in paragraph (b) of this subsection.

44 “(B) Review the budget of the commission and provide input before the approval vote described
45 in paragraph (b) of this subsection.

1 “(C) Meet as needed to carry out the duties described in this subsection.

2 “(b) The voting members of the commission shall:

3 “[*(A) Appoint, by a two-thirds vote, an executive director for a term of office of four years. The*
4 *term may be terminated for cause by a majority vote of the voting members after notice and a hearing.*
5 *When the term of an executive director ends without termination, the voting members of the commission*
6 *may reappoint the person currently in the position by a majority vote.*]

7 “[*(B) Upon the vacancy of the executive director position, immediately designate an acting executive*
8 *director by a majority vote.*]

9 “[*(C)*] (A) Approve by majority vote the policies, procedures, standards and guidelines required
10 by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.

11 “[*(D)*] (B) Approve by majority vote the budget of the commission before submission to the
12 Legislative Assembly.

13 “(7) The members of the commission may not:

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

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

16 “(c) Interfere with the executive director or any member of the staff of the executive director
17 in carrying out professional duties involving the legal representation of public defense clients.

18 “(8) A member of the commission is entitled to compensation for services as a member, and to
19 expenses, as provided in ORS 292.495.

20 “(9)(a) **The Governor shall appoint an executive director of the commission, subject to**
21 **confirmation by the Senate in the manner prescribed by ORS 171.562 and 171.565. The person**
22 **appointed as executive director must be well qualified by training and experience to perform**
23 **the functions of the office.**

24 “(b) **The term of office of the executive director is four years, but the executive director**
25 **serves at the pleasure of the Governor.**

26 “(c) **Before the expiration of the executive director’s term, the Governor shall appoint a**
27 **successor to take office upon the date of the expiration. The executive director is eligible for**
28 **reappointment. If there is a vacancy for any cause, the Governor shall make an appointment**
29 **to become immediately effective for the unexpired term.**

30 “**SECTION 78.** ORS 151.216, as amended by section 3 of this 2023 Act, is amended to read:

31 “151.216. (1) The Oregon Public Defense Commission shall:

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

35 “(b) Adopt policies for public defense providers that:

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

38 “(B) Ensure all public defense provider contracts provide for compensation that is commensurate
39 with the character of service performed;

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

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

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

3 “(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and
4 revise the policies as necessary and at least every four years.

5 “(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph
6 (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice
7 structure and type of practice overseen by the commission.

8 “(f) Submit the budget of the commission to the Legislative Assembly after the budget is sub-
9 mitted to the commission by the executive director and approved by the voting members of the
10 commission. The [*Chief Justice of the Supreme Court and the*] chairperson of the commission shall
11 present the budget to the Legislative Assembly.

12 “(g) Adopt a compensation plan, classification system and affirmative action plan for the com-
13 mission that are commensurate with other state agencies.

14 “(h) Adopt policies, procedures, standards and guidelines regarding:

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

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

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

21 “(D) Appointed counsel compensation disputes;

22 “(E) The costs associated with the representation of a person by appointed counsel in the state
23 courts that are required to be paid by the state; and

24 “(F) The types of fees and expenses subject to a preauthorization requirement.

25 “(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Ser-
26 vices Account established by ORS 151.225 for the costs of personnel and other costs associated with
27 location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State
28 Court Administrator.

29 “(j) Develop, adopt and oversee the implementation, enforcement and modification of policies,
30 procedures, minimum standards and guidelines to ensure that public defense providers are providing
31 effective assistance of counsel consistently to all eligible persons in this state as required by statute
32 and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines
33 described in this paragraph apply to employees of the commission and to any person or entity that
34 contracts with the commission to provide public defense services in this state.

35 “(k) Set minimum standards by which appointed counsel are trained and supervised.

36 “(L) Establish a system, policies and procedures for the mandatory collection of data concerning
37 the operation of the commission and all public defense providers.

38 “(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into
39 and maintain compliance with the minimum policies, procedures, standards and guidelines described
40 in this subsection. All contracts for the provision of public defense services to which the commission
41 is a party must include a requirement for collection by the commission of data determined by the
42 commission to be qualitatively necessary for any report required to be submitted to the Legislative
43 Assembly.

44 “(n) At least once every two years, report to the interim committees of the Legislative Assembly
45 related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief

1 Justice, concerning compliance metrics for the minimum standards described in this subsection and
2 recommendations for legislative changes.

3 “(o) Develop standard operating expectations for persons and entities providing public defense
4 services.

5 “(p) In consultation with the Judicial Department, ensure the existence of policies that create
6 a standardized process for determining and verifying financial eligibility for appointed counsel under
7 ORS 151.485.

8 “(q) Ensure access to systematic and comprehensive training programs for attorneys for the
9 purpose of meeting statewide standards set by the commission.

10 “(r) Enter into contracts or interagency agreements with the Oregon Department of Adminis-
11 trative Services for the purpose of supporting state public defense population forecasts and other
12 related forecasts.

13 “[s] *Pay invoices submitted to the commission within 45 days of receipt or in accordance with*
14 *statewide accounting policies established by the Oregon Department of Administrative Services.*]

15 “[t] (s) Establish any other policies, procedures, standards and guidelines for the conduct of
16 the commission’s affairs and promulgate policies necessary to carry out all powers and duties of the
17 commission.

18 “(2) When establishing the minimum policies, procedures, standards and guidelines described in
19 this section, the commission shall adhere to the following principles:

20 “(a) Appointed counsel shall be provided sufficient time and a space where attorney-client
21 confidentiality is safeguarded for meetings with clients.

22 “(b) The workload of appointed counsel must be controlled to permit effective representation.
23 Economic disincentives or incentives that impair the ability of appointed counsel to provide effective
24 assistance of counsel must be avoided. The commission may develop workload controls to enhance
25 appointed counsel’s ability to provide effective representation.

26 “(c) The ability, training and experience of appointed counsel must match the nature and com-
27 plexity of the case to which the counsel is appointed.

28 “(d) The same appointed counsel shall continuously represent a client throughout the pendency
29 of the case and shall appear at every court appearance other than ministerial hearings.

30 “(e) The commission shall establish continuing legal education requirements for public defense
31 providers who are employed by or contract with the commission that are specific to the subject
32 matter area and practice of each type of court-appointed counsel.

33 “(f) The commission and public defense providers shall systematically review appointed counsel
34 for efficiency and for effective representation according to commission standards.

35 “(3) The commission shall be organized in a manner for the effective delivery of public defense
36 services as prescribed by the policies and procedures created pursuant to statute to financially eli-
37 gible persons and consistent with the budgetary structure established for the commission by the
38 Legislative Assembly.

39 “(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial
40 level in Oregon circuit courts, and may establish a trial division within the commission consisting
41 of attorneys employed by the commission who are trial-level public defense providers.

42 “(5) The policies, procedures, standards and guidelines adopted by the commission must be made
43 available in an accessible manner to the public on the commission’s website.

44 “(6) Policies, procedures, standards and guidelines adopted by the commission supersede any
45 conflicting rules, policies or procedures of the Public Defender Committee, State Court Administra-

1 tor, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review
2 Board related to the exercise of the commission's administrative responsibilities under this section
3 and transferred duties, functions and powers as they occur.

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

9 “(8) **With the approval of a majority of the voting members of the commission, the**
10 **commission may advocate for or against legislation before the Legislative Assembly or poli-**
11 **cies or budgets being considered by the Legislative Assembly.**

12 “(9) **The commission shall request that the Governor include in the Governor's requested**
13 **budget, for each fiscal period, at a minimum, the amount of funds identified by the com-**
14 **mission as being necessary to carry out the duties and activities of the commission.**

15 “(10) **The commission may adopt rules pursuant to ORS chapter 183.**

16
17 “(Conforming Amendments)
18

19 “**SECTION 79.** ORS 8.105, as amended by section 16 of this 2023 Act, is amended to read:

20 “8.105. (1) Before making any change to a compensation plan, an administrative division of the
21 judicial department must submit the proposed change to the Joint Committee on Ways and Means
22 during the period when the Legislative Assembly is in session, or to the Emergency Board or the
23 Joint Interim Committee on Ways and Means during the interim period between sessions.

24 “(2) This section applies to all boards, commissions, committees and departments of the judicial
25 department, as defined in ORS 174.113, including but not limited to [*the Oregon Public Defense*
26 *Commission and*] the Commission on Judicial Fitness and Disability.

27 “**SECTION 80.** ORS 42.125, as amended by section 19 of this 2023 Act, is amended to read:

28 “42.125. (1) For the purposes of ORS 40.510 (1)(a) and (d), each state officer and state agency
29 may have a seal which, unless specifically provided otherwise by law, shall consist of an impression,
30 imprint or likeness of the state seal accompanied by the name of the state officer or state agency.

31 “(2) As used in this section:

32 “(a) ‘Seal’ has the meaning given that term in ORS 42.110.

33 “(b) ‘State agency’ means every state officer, board, commission, department, institution, branch
34 or agency of the state government, except[:]

35 “[*(A)*] the Legislative Assembly and the courts and their officers and committees[; *and*]

36 “[*(B)*] *The Oregon Public Defense Commission*].

37 “(c) ‘State officer’ includes any appointed state official who is authorized by the Oregon De-
38 partment of Administrative Services to have a seal and any elected state official, except members
39 of the Legislative Assembly.

40 “**SECTION 81.** ORS 84.064, as amended by section 22 of this 2023 Act, is amended to read:

41 “84.064. (1) For purposes of ORS 84.049, 84.052 and 84.055, the State Chief Information Officer
42 shall make determinations and adopt standards for state agencies.

43 “(2) The State Chief Information Officer shall adopt rules to govern state agency use of elec-
44 tronic signatures. The rules must include control processes and procedures to ensure adequate in-
45 tegrity, security and confidentiality for business transactions that state agencies conduct using

1 electronic commerce and to ensure that the transactions can be audited as is necessary for the
2 normal conduct of business.

3 “(3) As used in this section, ‘state agency’ means every state officer and board, commission,
4 department, institution, branch and agency of the state government, the costs of which are paid
5 wholly or in part from funds held in the State Treasury, except[.]

6 “[*(a)*] the Legislative Assembly, the courts, the district attorney for each county and the officers
7 and committees of the Legislative Assembly, the courts and the district attorney[; *and*]

8 “[*(b)*] *The Oregon Public Defense Commission*].

9 “**SECTION 82.** ORS 171.133, as amended by section 45 of this 2023 Act, is amended to read:

10 “171.133. (1) A state agency shall not cause a bill or measure to be introduced before the Leg-
11 islative Assembly if the bill or measure has not been approved by the Governor.

12 “(2) As used in ORS 171.130 and this section, ‘state agency’ means every state agency whose
13 costs are paid wholly or in part from funds held in the State Treasury, except:

14 “(a) The Legislative Assembly, the courts and their officers and committees; **and**

15 “[*(b)*] *The Oregon Public Defense Commission; and*]

16 “[*(c)*] **(b)** The Secretary of State, the State Treasurer, the Attorney General and the Commis-
17 sioner of the Bureau of Labor and Industries.

18 “**SECTION 83.** ORS 190.490, as amended by section 47 of this 2023 Act, is amended to read:

19 “190.490. (1) Every agreement entered into under ORS 190.485 shall be submitted to the Attorney
20 General before taking effect. The Attorney General shall determine whether the agreement is in
21 proper form and compatible with the laws of this state. If the Attorney General determines that the
22 agreement is improper in some respect, the Attorney General shall give written notice to the state
23 agency concerning the specific respects in which the agreement fails to comply with law. Failure
24 of the Attorney General to give such notice to the state agency within 30 days of submission of the
25 agreement to the Attorney General’s office shall constitute approval of the agreement. The Attorney
26 General may exempt certain agreements, classes of agreements or form agreements from the re-
27 quirement that the agreement be approved by the Attorney General before taking effect.

28 “(2) The state agency shall file any agreement made under ORS 190.485 with the Oregon De-
29 partment of Administrative Services within 30 days of the effective date of the agreement. The de-
30 partment may adopt rules necessary for the administration of this subsection.

31 “(3) This section does not apply to the Legislative Assembly, the courts and their officers and
32 committees[,] **and** the Secretary of State and the State Treasurer in the performance of the duties
33 of their constitutional offices [*and the Oregon Public Defense Commission*].

34 “**SECTION 84.** ORS 283.110, as amended by section 49 of this 2023 Act, is amended to read:

35 “283.110. (1) Subject to rules prescribed by the Oregon Department of Administrative Services,
36 any state agency shall, as its own facilities permit, furnish to any other state agency such services
37 (including labor), facilities and materials as are requisitioned by the head of another agency. The
38 expense shall be charged to the agency served, which shall pay the expense to the agency furnishing
39 the services, facilities or materials in the manner other claims are paid. Agencies shall, as far as
40 practicable, cooperate with one another in the use of services, quarters and equipment.

41 “(2) Except as provided in ORS 283.076 (3), all moneys received by an agency in payment of
42 services, facilities or materials furnished to another state agency as provided in this section, or in
43 payment of services, facilities or materials furnished to other persons may be, or if required by the
44 Oregon Department of Administrative Services, shall be paid into the State Treasury for deposit to
45 the credit of the miscellaneous receipts account established pursuant to ORS 279A.290 for the

1 agency furnishing the services, facilities or materials.

2 “(3) The constitutional state officers and the Legislative Assembly or any of its statutory,
3 standing, special or interim committees, unless prohibited by law, may elect to furnish services, fa-
4 cilities and materials to one another and to state agencies and officers as defined in ORS 291.002,
5 and the courts, constitutional state officers[,] **and** the Legislative Assembly or any of its statutory,
6 standing, special or interim committees [*and the Oregon Public Defense Commission*] may elect to
7 requisition services, facilities and materials as provided in this section.

8 “**SECTION 85.** ORS 291.002, as amended by section 50 of this 2023 Act, is amended to read:

9 “291.002. As used in ORS 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260, 291.261,
10 291.307 and 291.990, unless the context requires otherwise:

11 “(1) ‘Classification of expenditures’ means the categories of expenses for the purpose of budget-
12 making and accounting that are provided in ORS 291.216 (6)(a).

13 “(2) ‘Dedicated fund’ means a fund in the State Treasury, or a separate account or fund in the
14 General Fund in the State Treasury, that by law is dedicated, appropriated or set aside for a limited
15 object or purpose, but ‘dedicated fund’ does not include a revolving fund or a trust fund.

16 “(3) ‘Department’ means the Oregon Department of Administrative Services.

17 “(4) ‘Director’ means the Director of the Oregon Department of Administrative Services.

18 “(5) ‘Legislatively adopted budget’ means the budget enacted by the Legislative Assembly during
19 an odd-numbered year regular session for the biennium beginning July 1 of the year in which the
20 regular session begins.

21 “(6) ‘Legislatively approved budget’ means the legislatively adopted budget as modified by the
22 Emergency Board meeting in an interim period or by the Legislative Assembly meeting in special
23 session or in an even-numbered year regular session.

24 “(7) ‘Revolving fund’ means a fund in the State Treasury, established by law, from which is paid
25 the cost of goods or services furnished to or by a state agency, and which is replenished through
26 charges made for such goods or services or through transfers from other accounts or funds.

27 “(8) ‘State agency’ or ‘agency’ means every state officer, board, commission, department, insti-
28 tution, branch or agency of the state government, whose costs are paid wholly or in part from funds
29 held in the State Treasury, except:

30 “(a) The Legislative Assembly, the courts and their officers and committees; **and**

31 “[*(b) The Oregon Public Defense Commission; and*]

32 “[*(c)*] **(b)** The Secretary of State and the State Treasurer in the performance of the duties of
33 their constitutional offices.

34 “(9) ‘State officer’ means any elected or appointed state officer, including members of boards and
35 commissions, except the members and officers of the Legislative Assembly, the courts, the Secretary
36 of State and the State Treasurer in the performance of the duties of their constitutional offices [*and*
37 *the members of the Oregon Public Defense Commission*].

38 “(10) ‘Trust fund’ means a fund in the State Treasury in which designated persons or classes of
39 persons have a vested beneficial interest or equitable ownership, or which was created or estab-
40 lished by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated
41 objects or purposes.

42 “**SECTION 86.** ORS 291.030, as amended by section 52 of this 2023 Act, is amended to read:

43 “291.030. As used in ORS 291.032 and 291.034, ‘state agency’ or ‘agency’ includes the Legislative
44 Assembly, at its option, or any of its statutory, standing, special or interim committees, at the option
45 of such committee, **and** the courts and their officers and committees and the constitutional state

1 officers, at their option[, and the Oregon Public Defense Commission, at the option of the
2 commission].

3 “**SECTION 87.** ORS 291.045, as amended by section 53 of this 2023 Act, is amended to read:

4 “291.045. As used in this section and ORS 291.047:

5 “(1) ‘Information technology’ includes, but is not limited to, all present and future forms of
6 hardware, software and services for data processing, office automation and telecommunications.

7 “(2) ‘State agency’ includes every state officer, board, commission, department, institution,
8 branch or agency of the state government, whose costs are paid wholly or in part from funds held
9 in the State Treasury, except[.]

10 “[*(a)*] the Legislative Assembly, the courts and their officers and committees[; and]

11 “[*(b)*] *The Oregon Public Defense Commission*].

12 “(3) ‘Public contract’ means any acquisition, disposition, purchase, lease, sale or transfer of
13 rights by a state agency of real or personal property, public improvements or services.

14 “(4) ‘Public improvement’ means projects for construction, reconstruction or renovation on real
15 property by or for a state agency.

16 “**SECTION 88.** ORS 291.227, as amended by section 54 of this 2023 Act, is amended to read:

17 “291.227. (1)(a) As part of the development of the legislatively adopted budget, each state agency
18 that employs more than 100 employees shall report to the Joint Committee on Ways and Means the
19 state agency’s maximum supervisory ratio for the biennium.

20 “(b) Before submitting the report to the committee, a state agency shall provide a copy of the
21 report to all labor organizations that represent employees of the state agency.

22 “(2) A state agency must determine its maximum supervisory ratio by starting from a baseline
23 ratio of one to 11 and adjusting the ratio based on some or all of the following factors:

24 “(a) Safety of the public or of state agency employees;

25 “(b) Geographic location of the agency’s employees;

26 “(c) Complexity of the agency’s duties;

27 “(d) Industry best practices and standards;

28 “(e) Size and hours of operation of the agency;

29 “(f) Unique personnel needs of the agency, including the agency’s use of volunteers or seasonal
30 or temporary employees, or the exercise of supervisory authority by agency supervisory employees
31 over personnel who are not agency employees; and

32 “(g) Financial scope and responsibility of the agency.

33 “(3) The Joint Committee on Ways and Means shall review the maximum supervisory ratios re-
34 ported by state agencies.

35 “(4) Subject to subsection (5) of this section, a state agency whose actual supervisory ratio is
36 greater than its maximum supervisory ratio may not fill a supervisory position.

37 “(5)(a) The Oregon Department of Administrative Services may exempt a state agency from the
38 limitations of subsection (4) of this section if the department determines that an additional supervi-
39 sory position is reasonably necessary to the state agency. The department must make the determi-
40 nation with reference to some or all of the factors set forth in subsection (2) of this section.

41 “(b) At least five business days before granting an exemption under this subsection, the depart-
42 ment shall notify all labor organizations that represent employees of the state agency of its intent
43 to grant the exemption.

44 “(6)(a) The department shall, once per quarter, produce reports on the actual supervisory ratio
45 of each state agency. The reports must include data on job families within each state agency to the

1 extent such data is reasonably available.

2 “(b) The department shall make the reports publicly available on the Internet and shall notify
3 all labor organizations that represent state employees when the reports are available.

4 “(7) The department may adopt rules for the administration of this section, including rules gov-
5 erning how temporary, seasonal or part-time employees are accounted for in the calculation of a
6 supervisory ratio.

7 “(8) As used in this section:

8 “(a) ‘Job families’ means groups of occupations based upon work performed, skills, education,
9 training and credentials.

10 “(b) ‘Legislatively adopted budget’ has the meaning given that term in ORS 291.002.

11 “(c)(A) ‘State agency’ means all state officers, boards, commissions, departments, institutions,
12 branches, agencies, divisions and other entities, without regard to the designation given to those
13 entities, that are within the executive branch of government as described in Article III, section 1,
14 of the Oregon Constitution.

15 “(B) ‘State agency’ does not include:

16 “(i) The legislative department as defined in ORS 174.114;

17 “(ii) The judicial department as defined in ORS 174.113;

18 “[*iii*] *The Oregon Public Defense Commission*;

19 “[*iv*] (iii) The Secretary of State and the State Treasurer;

20 “[*v*] (iv) Semi-independent state agencies listed in ORS 182.454;

21 “[*vi*] (v) The Oregon Tourism Commission;

22 “[*vii*] (vi) The Oregon Film and Video Office;

23 “[*viii*] (vii) Public universities listed in ORS 352.002;

24 “[*ix*] (viii) The Oregon Health and Science University;

25 “[*x*] (ix) The Travel Information Council;

26 “[*xi*] (x) Oregon Corrections Enterprises;

27 “[*xii*] (xi) The Oregon State Lottery Commission;

28 “[*xiii*] (xii) The State Accident Insurance Fund Corporation;

29 “[*xiv*] (xiii) The Oregon Utility Notification Center;

30 “[*xv*] (xiv) Oregon Community Power;

31 “[*xvi*] (xv) The Citizens’ Utility Board;

32 “[*xvii*] (xvi) A special government body as defined in ORS 174.117;

33 “[*xviii*] (xvii) Any other public corporation created under a statute of this state and specif-
34 ically designated as a public corporation; and

35 “[*xix*] (xviii) Any other semi-independent state agency denominated by statute as a semi-
36 independent state agency.

37 “(d) ‘Supervisory employee’ has the meaning given that term in ORS 243.650.

38 “(e) ‘Supervisory ratio’ means the ratio of employees who are supervisory employees to em-
39 ployees who are not supervisory employees.

40 “**SECTION 89.** ORS 293.300, as amended by section 55 of this 2023 Act, is amended to read:

41 “293.300. Except for claims based on obligations incurred or expenditures made by the Legisla-
42 tive Assembly and its officers and committees, the courts and their officers and committees[,] **and**
43 the Secretary of State and State Treasurer in the performance of the functions of their constitu-
44 tional offices [*and the Oregon Public Defense Commission*], a claim for payment from any moneys in
45 the State Treasury may not be paid if the claim is disapproved by the Oregon Department of Ad-

1 ministrative Services. The department shall disapprove a claim if provision for payment thereof is
2 not made by law and appropriation, the obligation or expenditure on which the claim is based is not
3 authorized as provided by law or the claim does not otherwise satisfy requirements as provided by
4 law.

5 “**SECTION 90.** ORS 293.590, as amended by section 56 of this 2023 Act, is amended to read:

6 “293.590. (1) The Oregon Department of Administrative Services shall direct and control the
7 accounting for all the fiscal affairs of the state government and agencies thereof, and shall provide
8 for the maintenance of accounting records, including accounts stated in summary or in detail, for
9 those fiscal affairs. The department is responsible for establishing and maintaining systems of ac-
10 counting for state government and agencies thereof. The principles, standards and related require-
11 ments of those systems of accounting shall be as prescribed by the department and except as
12 otherwise provided in this section shall be used by the state agencies thereof, unless otherwise di-
13 rected by the department.

14 “(2) In performing its functions under subsection (1) of this section, the department shall consult
15 with the Secretary of State, State Treasurer and, to the extent it considers necessary or desirable,
16 any other state agency or any federal agency.

17 “(3) The department may, as its own facilities permit, furnish to any other state agency such
18 accounting services (including labor), facilities and materials as are necessary, as determined by the
19 department, for compliance by the state agency with subsection (1) of this section. The cost to the
20 department of furnishing the services, facilities and materials, as determined by the department,
21 shall be charged to the state agency and paid to the department in the same manner as other claims
22 against the state agency are paid.

23 “(4) This section is applicable to the Legislative Assembly and its officers and committees, the
24 courts and their officers and committees[,] **and** the Secretary of State and State Treasurer in the
25 performance of the functions of their constitutional offices [*and the Oregon Public Defense Commis-*
26 *sion*] only at their option.

27 “**SECTION 91.** ORS 293.875, as amended by section 57 of this 2023 Act, is amended to read:

28 “293.875. (1) The State Treasurer is designated the sole banking and cash management officer
29 for the state and may review, establish and modify procedures for the efficient handling of moneys
30 under the control of the State Treasury, the Secretary of State, the Judicial Department, the Leg-
31 islative Assembly[, *the Oregon Public Defense Commission*] and state agencies as defined in ORS
32 291.002. The State Treasurer shall perform all activities necessary or desirable to fulfill the duties
33 of the treasurer as the banking and cash management officer. The activities may include, but are
34 not limited to, entering into contracts for the provision of services related to the management, de-
35 posit and transfer of, or payment from, moneys deposited with the State Treasurer through banks
36 and other financial institutions. The deposit, transfer or payment may be through physical presen-
37 tation or drafting of an instrument or document by electronic or other means.

38 “(2) The State Treasurer shall continuously review the effectiveness of the cash management
39 of state agencies, the Secretary of State, the Judicial Department and the Legislative Assembly, and
40 when the State Treasurer considers it appropriate shall report in writing to the subject agency the
41 findings of this review, along with any recommendations. A copy of the report shall be provided to
42 the Legislative Fiscal Officer and to the Secretary of State.

43 “(3) This section controls over any other law that gives another state agency general responsi-
44 bility for, or control over, the accounting, fiscal or electronic commerce affairs of the State Treas-
45 ury, the Secretary of State, the Judicial Department, the Legislative Assembly[, *the Oregon Public*

1 *Defense Commission*] and state agencies as defined in ORS 291.002. State agencies shall employ the
2 principles, standards and related requirements for cash management prescribed by the State Treas-
3 urer, including:

4 “(a) Practices related to the use of credit, debit or similar cards or devices;

5 “(b) The use of secure disbursing and receiving instruments, documents and systems; and

6 “(c) The use of secure information resources, information technology and networks that meet the
7 requirements of the State Treasurer for the electronic management, deposit or transfer of, or pay-
8 ment from, moneys deposited with the State Treasurer.

9 “(4) As used in this section, ‘information resources’ and ‘information technology’ have the
10 meanings given those terms in ORS 276A.206.

11
12 “(Operative Dates)

13
14 “**SECTION 92.** (1)(a) **The Oregon Public Defense Commission is transferred from the ju-
15 dicial branch to the executive branch on January 1, 2025.**

16 “(b) **The amendments to ORS 8.105, 42.125, 84.064, 151.213, 151.216, 171.133, 190.490, 283.110,
17 291.002, 291.030, 291.045, 291.227, 293.300, 293.590 and 293.875 by sections 77 to 91 of this 2023
18 Act become operative on January 1, 2025.**

19 “(2) **The Oregon Public Defense Commission, the Judicial Department, the Oregon De-
20 partment of Administrative Services and the Governor may take any action before the op-
21 erative date specified in subsection (1) of this section that is necessary to:**

22 “(a) **Facilitate the transfer of the commission to the executive branch.**

23 “(b) **Enable those entities to exercise, on and after the operative date specified in sub-
24 section (1) of this section, all of the duties, functions and powers conferred on those entities
25 by the amendments to ORS 8.105, 42.125, 84.064, 151.213, 151.216, 171.133, 190.490, 283.110,
26 291.002, 291.030, 291.045, 291.227, 293.300, 293.590 and 293.875 by sections 77 to 91 of this 2023
27 Act.**

28 “(3)(a) **A person who is a member of the Oregon Public Defense Commission on January
29 1, 2025, may finish the person’s term as a commission member and is eligible for reappoint-
30 ment if the person meets the requirements described in ORS 151.213 (2), but, beginning on
31 January 1, 2025, and continuing until July 1, 2027, serves at the pleasure of the Governor.**

32 “(b) **The person serving as executive director of the Oregon Public Defense Commission
33 on January 1, 2025, may finish the person’s term as executive director and is eligible for re-
34 appointment, but, beginning on January 1, 2025, and continuing until July 1, 2027, serves at
35 the pleasure of the Governor.**

36
37 “CHANGE IN SERVICE DELIVERY MODEL

38 “(Statutory Changes)

39
40 “**SECTION 93.** ORS 151.211, as amended by section 1 of this 2023 Act, is amended to read:

41 “151.211. For purposes of ORS 151.211 to 151.221:

42 “(1) **‘Appointed counsel’ includes trial-level and appellate attorneys who are employees
43 of the Oregon Public Defense Commission, attorneys employed by a nonprofit public defense
44 organization and attorneys on the panel of qualified counsel described in ORS 151.216 (5) who
45 contract with the commission to provide public defense services.**

1 “[1] (2) ‘Chief Justice’ means the Chief Justice of the Supreme Court.

2 “[2] (3) ‘Commission’ means the Oregon Public Defense Commission.

3 “(4) **‘Nonprofit public defense organization’ means a nonprofit organization that employs**
4 **attorneys who provide public defense services.**

5 “**SECTION 94.** ORS 151.216, as amended by sections 3 and 78 of this 2023 Act, is amended to
6 read:

7 “151.216. (1) The Oregon Public Defense Commission shall:

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

11 “(b) Adopt policies for public defense providers that:

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

14 “(B) Ensure all public defense provider contracts provide for compensation that is commensurate
15 with the character of service performed;

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

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

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

24 “(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and
25 revise the policies as necessary and at least every four years.

26 “(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph
27 (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice
28 structure and type of practice overseen by the commission.

29 “(f) Submit the budget of the commission to the Legislative Assembly after the budget is sub-
30 mitted to the commission by the executive director and approved by the voting members of the
31 commission. The chairperson of the commission shall present the budget to the Legislative Assem-
32 bly.

33 “(g) Adopt a compensation plan, classification system and affirmative action plan for the com-
34 mission that are commensurate with other state agencies.

35 “(h) Adopt policies, procedures, standards and guidelines regarding:

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

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

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

42 “(D) Appointed counsel compensation disputes;

43 “(E) The costs associated with the representation of a person by appointed counsel in the state
44 courts that are required to be paid by the state; and

45 “(F) The types of fees and expenses subject to a preauthorization requirement.

1 “(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Ser-
2 vices Account established by ORS 151.225 for the costs of personnel and other costs associated with
3 location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State
4 Court Administrator.

5 “(j) Develop, adopt and oversee the implementation, enforcement and modification of policies,
6 procedures, minimum standards and guidelines to ensure that public defense providers are providing
7 effective assistance of counsel consistently to all eligible persons in this state as required by statute
8 and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines
9 described in this paragraph apply to employees of the commission and to any person or entity that
10 contracts with the commission to provide public defense services in this state.

11 “(k) Set minimum standards by which appointed counsel are trained and supervised.

12 “(L) Establish a system, policies and procedures for the mandatory collection of data concerning
13 the operation of the commission and all public defense providers.

14 “(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into
15 and maintain compliance with the minimum policies, procedures, standards and guidelines described
16 in this subsection. All contracts for the provision of public defense services to which the commission
17 is a party must include a requirement for collection by the commission of data determined by the
18 commission to be qualitatively necessary for any report required to be submitted to the Legislative
19 Assembly.

20 “(n) At least once every two years, report to the interim committees of the Legislative Assembly
21 related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief
22 Justice, concerning compliance metrics for the minimum standards described in this subsection and
23 recommendations for legislative changes.

24 “(o) Develop standard operating expectations for persons and entities providing public defense
25 services.

26 “(p) In consultation with the Judicial Department, ensure the existence of policies that create
27 a standardized process for determining and verifying financial eligibility for appointed counsel under
28 ORS 151.485.

29 “(q) Ensure access to systematic and comprehensive training programs for attorneys for the
30 purpose of meeting statewide standards set by the commission.

31 “(r) Enter into contracts or interagency agreements with the Oregon Department of Adminis-
32 trative Services for the purpose of supporting state public defense population forecasts and other
33 related forecasts.

34 “(s) Establish any other policies, procedures, standards and guidelines for the conduct of the
35 commission’s affairs and promulgate policies necessary to carry out all powers and duties of the
36 commission.

37 “(2) When establishing the minimum policies, procedures, standards and guidelines described in
38 this section, the commission shall adhere to the following principles:

39 “(a) Appointed counsel shall be provided sufficient time and a space where attorney-client
40 confidentiality is safeguarded for meetings with clients.

41 “(b) The workload of appointed counsel must be controlled to permit effective representation.
42 Economic disincentives or incentives that impair the ability of appointed counsel to provide effective
43 assistance of counsel must be avoided. The commission may develop workload controls to enhance
44 appointed counsel’s ability to provide effective representation.

45 “(c) The ability, training and experience of appointed counsel must match the nature and com-

1 plexity of the case to which the counsel is appointed.

2 “(d) The same appointed counsel shall continuously represent a client throughout the pendency
3 of the case and shall appear at every court appearance other than ministerial hearings.

4 “(e) The commission shall establish continuing legal education requirements for public defense
5 providers who are employed by or contract with the commission that are specific to the subject
6 matter area and practice of each type of court-appointed counsel.

7 “(f) The commission and public defense providers shall systematically review appointed counsel
8 for efficiency and for effective representation according to commission standards.

9 “(3) The commission shall be organized in a manner for the effective delivery of public defense
10 services as prescribed by the policies and procedures created pursuant to statute to financially eli-
11 gible persons and consistent with the budgetary structure established for the commission by the
12 Legislative Assembly.

13 “(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial
14 level in Oregon circuit courts, and [may] **shall** establish a trial division within the commission
15 consisting of attorneys employed by the commission who are trial-level public defense providers.

16 “(5)(a) **The commission shall establish, supervise and maintain a panel of qualified coun-
17 sel who contract with the commission and are directly assigned to cases. The commission
18 shall develop a process for certification of attorneys to the panel with periodic eligibility and
19 case review. Panel attorneys are not employees of the commission.**

20 “(b) **The payment of panel counsel:**

21 “(A) **May not be lower than the hourly rate established by the commission.**

22 “(B) **Shall be adjusted to reflect the same percentage amount of any positive cost of liv-
23 ing adjustment granted to employees in the management service in other executive branch
24 agencies.**

25 “(C) **May not provide a financial conflict of interest or economic incentives or disincent-
26 tives that impair an attorney’s ability to provide effective representation.**

27 “(6)(a) **The commission may enter into contracts for the provision of public defense ser-
28 vices with nonprofit public defense organizations.**

29 “(b) **The commission may enter into contracts with entities that subcontract with other
30 entities or persons for the provision of public defense services.**

31 “(c) **The commission may not enter into a contract or agreement that pays appointed
32 counsel a flat fee per case.**

33 “[5] (7) The policies, procedures, standards and guidelines adopted by the commission must be
34 made available in an accessible manner to the public on the commission’s website.

35 “[6] (8) Policies, procedures, standards and guidelines adopted by the commission supersede
36 any conflicting rules, policies or procedures of the Public Defender Committee, State Court Admin-
37 istrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Re-
38 view Board related to the exercise of the commission’s administrative responsibilities under this
39 section and transferred duties, functions and powers as they occur.

40 “[7] (9) The commission may accept gifts, grants or contributions from any source, whether
41 public or private. However, the commission may not accept a gift, grant or contribution if accept-
42 ance would create a conflict of interest. Moneys accepted under this subsection shall be deposited
43 in the Public Defense Services Account established by ORS 151.225 and expended for the purposes
44 for which given or granted.

45 “[8] (10) With the approval of a majority of the voting members of the commission, the com-

1 mission may advocate for or against legislation before the Legislative Assembly or policies or
2 budgets being considered by the Legislative Assembly.

3 “[9] (11) The commission shall request that the Governor include in the Governor’s requested
4 budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as
5 being necessary to carry out the duties and activities of the commission.

6 “[10] (12) The commission may adopt rules pursuant to ORS chapter 183.

7 “**SECTION 95.** ORS 151.219, as amended by section 4 of this 2023 Act, is amended to read:

8 “151.219. (1) The executive director of the Oregon Public Defense Commission shall:

9 “(a) Designate a deputy director of the commission who serves at the pleasure of the executive
10 director.

11 “(b) Hire necessary staff for the commission.

12 “(c) Recommend to the commission how to establish and maintain, in a cost-effective manner,
13 the delivery of legal services to persons entitled to, and, where applicable, financially eligible for,
14 appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United
15 States Constitution and consistent with Oregon and national standards of justice.

16 “(d) Implement and ensure compliance with contracts, policies, procedures, standards and
17 guidelines adopted by the commission or required by statute.

18 “(e) Prepare and submit to the commission for its approval the biennial budget of the commis-
19 sion.

20 “(f) Negotiate contracts, as appropriate, for providing legal services to persons eligible for ap-
21 pointed counsel at state expense **in accordance with ORS 151.216 (5) and (6).**

22 “(g) Employ personnel or contract for services as necessary to carry out the responsibilities of
23 the executive director and the commission.

24 “(h) Supervise the personnel, operation and activities of the commission.

25 “(i) Provide services, facilities and materials necessary for the performance of the duties, func-
26 tions and powers of the commission.

27 “(j) Pay the expenses of the commission.

28 “(k) Prepare and submit to the members of the commission an annual report of the activities of
29 the commission.

30 “(L) Provide for legal representation, advice and consultation for the commission, its members,
31 the executive director and staff of the commission who require such services or who are named as
32 defendants in lawsuits arising from their duties, functions and responsibilities. If requested by the
33 executive director, the Attorney General may also provide for legal representation, advice and
34 consultation for the commission, its members, the executive director and staff of the commission in
35 litigation.

36 “(2) The executive director may:

37 “(a) Designate persons as representatives of the executive director for the purposes of deter-
38 mining and paying bills submitted to the commission and determining preauthorization for incurring
39 fees and expenses under ORS 135.055.

40 “(b) Establish an external advisory group to assist in developing the standard operating expect-
41 ations for persons and entities providing public defense services.

42
43 “(Temporary Provisions)
44

45 “**SECTION 96.** (1)(a) **The Oregon Public Defense Commission shall conduct a survey and**

1 economic analysis to establish a formula for the commission to use to calculate an hourly
2 pay rate, taking into account overhead expenses, market rates and regional differences in
3 the cost of living, for appointed counsel who are not employees of the commission or a
4 nonprofit public defense organization.

5 “(b) The commission may conduct the survey and economic analysis internally or may
6 contract with an outside entity. The survey and economic analysis must be completed and
7 the hourly pay rate calculated no later than July 1, 2025.

8 “(c) After the hourly pay rate described in paragraph (a) of this subsection has been
9 calculated, and beginning with contracts entered into on or after July 1, 2027, the hourly pay
10 for appointed counsel who are not employees of the commission or a nonprofit public defense
11 organization may not be lower than that amount.

12 “(d) The commission may conduct another survey and economic analysis as described in
13 this subsection to establish a new formula and calculate a new hourly pay rate.

14 “(2)(a) By January 1, 2031, at least 20 percent of all appointed counsel at the trial level
15 must be attorneys employed by the Oregon Public Defense Commission.

16 “(b) By January 1, 2035, at least 30 percent of all appointed counsel at the trial level must
17 be attorneys employed by the Oregon Public Defense Commission.

18 “SECTION 97. Section 96 of this 2023 Act is repealed on January 2, 2035.

19
20 “(Reporting to Legislature)

21
22 “SECTION 98. (1) No later than May 15, 2024, the Oregon Public Defense Commission
23 shall provide a comprehensive report on the commission’s plan for providing public defense
24 services in this state to the interim committees of the Legislative Assembly related to the
25 judiciary, in the manner described in ORS 192.245, that includes at least the following infor-
26 mation:

27 “(a) Financial projections for the commission based on anticipated workload;

28 “(b) A description of the commission’s proposed method for providing public defense
29 services based on anticipated workload;

30 “(c) The establishment of training and supervision requirements for public defense pro-
31 viders;

32 “(d) Steps taken to determine a reasonable hourly rate for appointed counsel who are not
33 employees of the commission or nonprofit public defense organizations that accounts for
34 overhead expenses; and

35 “(e) Steps taken to improve oversight and enforcement of statewide objective standards
36 for the provision of public defense.

37 “(2) No later than December 1, 2025, and no later than December 1, 2026, the commission
38 shall provide the interim committees of the Legislative Assembly related to the judiciary
39 with an updated version of the report described in subsection (1) of this section.

40 “(3) Beginning no later than December 1, 2027, and biennially thereafter until December
41 1, 2035, the commission shall provide the interim committees of the Legislative Assembly
42 related to the judiciary with an updated version of the report described in subsection (1) of
43 this section.

44 “SECTION 99. Section 98 of this 2023 Act is repealed on January 2, 2036.

1 “(Statutory Changes Operative July 1, 2027)
2

3 “**SECTION 100.** ORS 151.213, as amended by sections 2 and 77 of this 2023 Act, is amended to
4 read:

5 “151.213. (1) The Oregon Public Defense Commission is established in the executive branch of
6 state government. Except for the appointment or removal of commission members, the commission
7 and employees of the commission are not subject to the exercise of administrative authority and
8 supervision by the Governor.

9 “(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission
10 by the Governor as follows:

11 “(A) The Governor shall appoint:

12 “(i) One voting member who has been represented by a public defense provider.

13 “(ii) Two additional voting members, one of whom has experience as a public defense provider
14 in juvenile delinquency or dependency cases.

15 “(iii) Two nonvoting members who are currently employed as public defense providers in this
16 state, one of whom is from an urban area and one of whom is from a rural area.

17 “(B) The Governor shall appoint, from among persons recommended by the Chief Justice of the
18 Supreme Court:

19 “(i) One voting member who is a retired judge.

20 “(ii) Two additional voting members, one of whom has experience as a public defense provider
21 in criminal cases.

22 “(C) The Governor shall appoint, from among persons recommended by the President of the
23 Senate:

24 “(i) One voting member who is a current dean or faculty member of an Oregon law school.

25 “(ii) One nonvoting member who is a member of the Senate at the time of appointment.

26 “(D) The Governor shall appoint, from among persons recommended by the Speaker of the House
27 of Representatives:

28 “(i) One voting member who has expertise in juvenile law and criminal defense, or who is a ju-
29 venile justice or criminal justice reform advocate.

30 “(ii) One nonvoting member who is a member of the House of Representatives at the time of
31 appointment.

32 “(E) The Governor shall appoint one voting member from among persons jointly recommended
33 by the President of the Senate and the Speaker of the House of Representatives.

34 “(b) When recommending and appointing members of the commission, the Governor, Chief Jus-
35 tice, President of the Senate and Speaker of the House of Representatives shall:

36 “(A) Consider input from individuals and organizations with an interest in the delivery of public
37 defense services.

38 “(B) Consider geographic, racial, ethnic and gender diversity.

39 “(C) Ensure that members appointed to the commission have significant experience with issues
40 related to public defense or in the case types subject to representation by public defense providers.

41 “(D) Ensure that members appointed to the commission have demonstrated a strong commitment
42 to quality public defense representation.

43 “(c) The following persons may not be appointed to and may not serve as members of the com-
44 mission:

45 “(A) A prosecuting attorney.

1 “(B) A judge, magistrate or other person who performs judicial functions.

2 “(C) An employee of a law enforcement agency or the Department of Human Services.

3 “(d) A person who is primarily engaged in providing public defense services and who has a fi-
4 nancial interest in the delivery of public defense services at the state level may not serve as a
5 voting member of the commission.

6 “(e) As used in this subsection, ‘law enforcement agency’ means an entity that employs cor-
7 rections officers, parole and probation officers, police officers, certified reserve officers or reserve
8 officers, as those terms are defined in ORS 181A.355.

9 “(3) The term of a member is four years beginning on the effective date of the Governor’s
10 appointment[, *but members serve at the pleasure of the Governor*]. A member is eligible for reap-
11 pointment if qualified for membership at the time of reappointment, but may serve no more than two
12 consecutive four-year terms. The Governor may remove any member of the commission at any time
13 **for inefficiency, neglect of duty or malfeasance in office**. If a vacancy occurs for any cause be-
14 fore the expiration of the term of a member, the Governor shall make an appointment to fill the
15 vacancy, in the same manner as an appointment to a full term, to become immediately effective for
16 the unexpired term.

17 “(4) A chairperson and a vice chairperson shall be elected by the voting members of the com-
18 mission every two years with such functions as the commission may determine. A member is eligible
19 for reelection as chairperson or vice chairperson.

20 “(5) A majority of the voting members constitutes a quorum for the transaction of business.

21 “(6)(a) All members of the commission shall:

22 “(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and
23 provide input before the approval vote described in paragraph (b) of this subsection.

24 “(B) Review the budget of the commission and provide input before the approval vote described
25 in paragraph (b) of this subsection.

26 “(C) Meet as needed to carry out the duties described in this subsection.

27 “(b) The voting members of the commission shall:

28 “(A) **Appoint an executive director of the commission. The term of office of the executive**
29 **director is four years, but the executive director serves at the pleasure of the voting mem-**
30 **bers of the commission.**

31 “[A] (B) Approve by majority vote the policies, procedures, standards and guidelines required
32 by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.

33 “[B] (C) Approve by majority vote the budget of the commission before submission to the
34 Legislative Assembly.

35 “(7) The members of the commission may not:

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

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

38 “(c) Interfere with the executive director or any member of the staff of the executive director
39 in carrying out professional duties involving the legal representation of public defense clients.

40 “(8) A member of the commission is entitled to compensation for services as a member, and to
41 expenses, as provided in ORS 292.495.

42 “[9)(a) *The Governor shall appoint an executive director of the commission, subject to confirmation*
43 *by the Senate in the manner prescribed by ORS 171.562 and 171.565. The person appointed as executive*
44 *director must be well qualified by training and experience to perform the functions of the office.]*

45 “[b) *The term of office of the executive director is four years, but the executive director serves at*

1 *the pleasure of the Governor.]*

2 *“(c) Before the expiration of the executive director’s term, the Governor shall appoint a successor*
3 *to take office upon the date of the expiration. The executive director is eligible for reappointment. If*
4 *there is a vacancy for any cause, the Governor shall make an appointment to become immediately ef-*
5 *fective for the unexpired term.]*

6 **“SECTION 101.** ORS 151.216, as amended by sections 3, 78 and 94 of this 2023 Act, is amended
7 to read:

8 “151.216. (1) The Oregon Public Defense Commission shall:

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

12 “(b) Adopt policies for public defense providers that:

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

15 “(B) Ensure all public defense provider contracts provide for compensation that is commensurate
16 with the character of service performed;

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

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

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

25 “(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and
26 revise the policies as necessary and at least every four years.

27 “(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph
28 (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice
29 structure and type of practice overseen by the commission.

30 “(f) Submit the budget of the commission to the Legislative Assembly after the budget is sub-
31 mitted to the commission by the executive director and approved by the voting members of the
32 commission. The chairperson of the commission shall present the budget to the Legislative Assem-
33 bly.

34 “(g) Adopt a compensation plan, classification system and affirmative action plan for the com-
35 mission that are commensurate with other state agencies.

36 “(h) Adopt policies, procedures, standards and guidelines regarding:

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

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

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

43 “(D) Appointed counsel compensation disputes;

44 “(E) The costs associated with the representation of a person by appointed counsel in the state
45 courts that are required to be paid by the state; and

1 “(F) The types of fees and expenses subject to a preauthorization requirement.

2 “(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Ser-
3 vices Account established by ORS 151.225 for the costs of personnel and other costs associated with
4 location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State
5 Court Administrator.

6 “(j) Develop, adopt and oversee the implementation, enforcement and modification of policies,
7 procedures, minimum standards and guidelines to ensure that public defense providers are providing
8 effective assistance of counsel consistently to all eligible persons in this state as required by statute
9 and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines
10 described in this paragraph apply to employees of the commission and to any person or entity that
11 contracts with the commission to provide public defense services in this state.

12 “(k) Set minimum standards by which appointed counsel are trained and supervised.

13 “(L) Establish a system, policies and procedures for the mandatory collection of data concerning
14 the operation of the commission and all public defense providers.

15 “(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into
16 and maintain compliance with the minimum policies, procedures, standards and guidelines described
17 in this subsection. All contracts for the provision of public defense services to which the commission
18 is a party must include a requirement for collection by the commission of data determined by the
19 commission to be qualitatively necessary for any report required to be submitted to the Legislative
20 Assembly.

21 “(n) At least once every two years, report to the interim committees of the Legislative Assembly
22 related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief
23 Justice, concerning compliance metrics for the minimum standards described in this subsection and
24 recommendations for legislative changes.

25 “(o) Develop standard operating expectations for persons and entities providing public defense
26 services.

27 “(p) In consultation with the Judicial Department, ensure the existence of policies that create
28 a standardized process for determining and verifying financial eligibility for appointed counsel under
29 ORS 151.485.

30 “(q) Ensure access to systematic and comprehensive training programs for attorneys for the
31 purpose of meeting statewide standards set by the commission.

32 “(r) Enter into contracts or interagency agreements with the Oregon Department of Adminis-
33 trative Services for the purpose of supporting state public defense population forecasts and other
34 related forecasts.

35 “(s) Establish any other policies, procedures, standards and guidelines for the conduct of the
36 commission’s affairs and promulgate policies necessary to carry out all powers and duties of the
37 commission.

38 “(2) When establishing the minimum policies, procedures, standards and guidelines described in
39 this section, the commission shall adhere to the following principles:

40 “(a) Appointed counsel shall be provided sufficient time and a space where attorney-client
41 confidentiality is safeguarded for meetings with clients.

42 “(b) The workload of appointed counsel must be controlled to permit effective representation.
43 Economic disincentives or incentives that impair the ability of appointed counsel to provide effective
44 assistance of counsel must be avoided. The commission may develop workload controls to enhance
45 appointed counsel’s ability to provide effective representation.

1 “(c) The ability, training and experience of appointed counsel must match the nature and com-
2 plexity of the case to which the counsel is appointed.

3 “(d) The same appointed counsel shall continuously represent a client throughout the pendency
4 of the case and shall appear at every court appearance other than ministerial hearings.

5 “(e) The commission shall establish continuing legal education requirements for public defense
6 providers who are employed by or contract with the commission that are specific to the subject
7 matter area and practice of each type of court-appointed counsel.

8 “(f) The commission and public defense providers shall systematically review appointed counsel
9 for efficiency and for effective representation according to commission standards.

10 “(3) The commission shall be organized in a manner for the effective delivery of public defense
11 services as prescribed by the policies and procedures created pursuant to statute to financially eli-
12 gible persons and consistent with the budgetary structure established for the commission by the
13 Legislative Assembly.

14 “(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial
15 level in Oregon circuit courts, and shall establish a trial division within the commission consisting
16 of attorneys employed by the commission who are trial-level public defense providers.

17 “(5)(a) The commission shall establish, supervise and maintain a panel of qualified counsel who
18 contract with the commission and are directly assigned to cases. The commission shall develop a
19 process for certification of attorneys to the panel with periodic eligibility and case review. Panel
20 attorneys are not employees of the commission.

21 “(b) The payment of panel counsel:

22 “(A) May not be lower than the hourly rate established by the commission.

23 “(B) Shall be adjusted to reflect the same percentage amount of any positive cost of living ad-
24 justment granted to employees in the management service in other executive branch agencies.

25 “(C) May not provide a financial conflict of interest or economic incentives or disincentives that
26 impair an attorney’s ability to provide effective representation.

27 “(6)(a) The commission may enter into contracts for the provision of public defense services with
28 nonprofit public defense organizations.

29 “[*b*] *The commission may enter into contracts with entities that subcontract with other entities or*
30 *persons for the provision of public defense services.*]

31 “[*c*] **(b)** The commission may not enter into a contract or agreement that pays appointed
32 counsel a flat fee per case.

33 “(7) The policies, procedures, standards and guidelines adopted by the commission must be made
34 available in an accessible manner to the public on the commission’s website.

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

40 “(9) The commission may accept gifts, grants or contributions from any source, whether public
41 or private. However, the commission may not accept a gift, grant or contribution if acceptance
42 would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the
43 Public Defense Services Account established by ORS 151.225 and expended for the purposes for
44 which given or granted.

45 “(10) With the approval of a majority of the voting members of the commission, the commission

1 may advocate for or against legislation before the Legislative Assembly or policies or budgets being
2 considered by the Legislative Assembly.

3 “(11) The commission shall request that the Governor include in the Governor’s requested
4 budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as
5 being necessary to carry out the duties and activities of the commission.

6 “(12) The commission may adopt rules pursuant to ORS chapter 183.

7
8 **“(Operative Dates)”**

9
10 **“SECTION 102. (1)(a) The amendments to ORS 151.211, 151.216 and 151.219 by sections 93
11 to 95 of this 2023 Act become operative on July 1, 2025.**

12 **“(b) The amendments to ORS 151.213 and 151.216 by sections 100 and 101 of this 2023 Act
13 become operative on July 1, 2027.**

14 **“(2)(a) A person who is a member of the Oregon Public Defense Commission on July 1,
15 2027, may finish the person’s term as a commission member and is eligible for reappoint-
16 ment, but, beginning July 1, 2027, may be removed by the Governor only for inefficiency,
17 neglect of duty or malfeasance in office.**

18 **“(b) The person serving as executive director of the Oregon Public Defense Commission
19 on July 1, 2027, may finish the person’s term as executive director and is eligible for reap-
20 pointment, but, beginning on July 1, 2027, serves at the pleasure of the voting members of
21 the commission.**

22 **“(3) The Oregon Public Defense Commission, the Oregon Department of Administrative
23 Services and the Governor may take any action before the operative dates specified in sub-
24 section (1) of this section that is necessary to enable the commission to exercise, on and
25 after the operative dates specified in subsection (1) of this section, all of the duties, functions
26 and powers conferred on those entities by the amendments to ORS 151.211, 151.213, 151.216
27 and 151.219 by sections 93 to 95, 100 and 101 of this 2023 Act.**

28
29 **“CAPTIONS”**

30
31 **“SECTION 103. The unit captions used in this 2023 Act are provided only for the con-
32 venience of the reader and do not become part of the statutory law of this state or express
33 any legislative intent in the enactment of this 2023 Act.**

34
35 **“EMERGENCY CLAUSE”**

36
37 **“SECTION 104. This 2023 Act being necessary for the immediate preservation of the
38 public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes
39 effect on its passage.”.**