

Requested by SENATE COMMITTEE ON JUDICIARY

**PROPOSED AMENDMENTS TO
SENATE BILL 337**

1 In line 2 of the printed bill, after “defense” insert “; creating new pro-
2 visions; amending ORS 1.009, 8.105, 34.355, 40.225, 42.125, 45.275, 45.285,
3 84.064, 125.035, 125.080, 135.050, 135.055, 136.603, 137.020, 138.310, 138.480,
4 138.500, 138.590, 144.335, 144.337, 147.537, 147.560, 151.211, 151.213, 151.216,
5 151.219, 151.221, 151.225, 151.485, 151.487, 151.493, 151.505, 161.309, 161.346,
6 161.348, 161.365, 161.665, 171.133, 181A.010, 190.490, 244.050, 283.110, 291.002,
7 291.011, 291.030, 291.045, 291.227, 293.300, 293.590, 293.875, 419A.200, 419A.211,
8 419A.252, 419A.255, 419B.112, 419B.195, 419B.198, 419B.237, 419B.532, 419B.647,
9 419C.200, 419C.380, 419C.535, 426.135, 426.250, 427.265, 427.295 and 433.466; and
10 declaring an emergency”.

11 Delete lines 4 through 9 and insert:
12

13 **“ESTABLISHMENT OF THE OREGON**
14 **PUBLIC DEFENSE COMMISSION**
15 **“(Appointment and Duties)**
16

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

18 “151.211. For purposes of ORS 151.211 to 151.221:

19 “[*(1) ‘Bar member’ means an individual who is an active member of the*
20 *Oregon State Bar.*]

21 “[*(2) (1) ‘Chief Justice’ means the Chief Justice of the Supreme Court.*]

1 “[~~(3)~~] **(2)** ‘Commission’ means the [*Public Defense Services Commission*]
2 **Oregon Public Defense Commission.**

3 “[~~(4)~~] ‘Director’ means the public defense services executive director ap-
4 pointed under ORS 151.216.]

5 “[~~(5)~~] ‘Office of public defense services’ means the office established by the
6 commission under the director to handle the cases assigned and to carry out
7 the administrative policies and procedures for the public defense system.]

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

9 “151.213. (1) The [*Public Defense Services Commission*] **Oregon Public**
10 **Defense Commission** is established in the judicial branch of state govern-
11 ment. Except for the appointment or removal of commission members, the
12 commission and employees of the commission are not subject to the exercise
13 of administrative authority and supervision by the Chief Justice of the Su-
14 preme Court as the administrative head of the Judicial Department.

15 “(2)(a) [*The commission consists of*] Nine **voting members and four**
16 **nonvoting members shall be appointed to the commission** by order of the
17 Chief Justice[. *In addition to the nine appointed members, the Chief Justice*
18 *serves as a nonvoting, ex officio member. The Chief Justice shall appoint at*
19 *least three persons who are not bar members, at least one person who was*
20 *formerly engaged in the provision of public defense services and at least one*
21 *person who has been formerly represented by a public defense provider in this*
22 *state. All members must have a demonstrated record of commitment to public*
23 *defense. Except for the Chief Justice or a senior judge under ORS 1.300, a*
24 *member may not serve concurrently as a judge, a prosecuting attorney or an*
25 *employee of a law enforcement agency. A person who is primarily engaged in*
26 *providing public defense services may not serve as a member of the*
27 *commission.*] **as follows:**

28 **“(A) The Chief Justice shall appoint:**

29 **“(i) One voting member who is a retired judge, or who is serving**
30 **as a senior judge under ORS 1.300, with criminal law experience.**

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

3 “(B) The Chief Justice shall appoint, from among persons recom-
4 mended by the Governor:

5 “(i) One voting member who has been represented by a public de-
6 fense provider.

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

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

12 “(C) The Chief Justice shall appoint, from among persons recom-
13 mended by the President of the Senate:

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

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

18 “(D) The Chief Justice shall appoint, from among persons recom-
19 mended by the Speaker of the House of Representatives:

20 “(i) One voting member who has expertise in juvenile law and
21 criminal law, or who is a juvenile justice advocate.

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

24 “(E) The Chief Justice shall appoint one voting member from
25 among persons jointly recommended by the President of the Senate
26 and the Speaker of the House of Representatives.

27 “(b) When recommending and appointing members of the commis-
28 sion, the Chief Justice, Governor, President of the Senate and Speaker
29 of the House of Representatives shall:

30 “(A) Consider input from individuals and organizations with an in-

1 **terest in the delivery of public defense services.**

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

3 **“(C) Ensure that members appointed to the commission have sig-**
4 **nificant experience with issues related to public defense or in the case**
5 **types subject to representation by public defense providers.**

6 **“(D) Ensure that members appointed to the commission have dem-**
7 **onstrated a strong commitment to quality public defense represen-**
8 **tation.**

9 **“(c) The following persons may not be appointed to and may not**
10 **serve as members of the commission:**

11 **“(A) A prosecuting attorney.**

12 **“(B) A judge, magistrate or other person who performs judicial**
13 **functions, other than a senior judge under ORS 1.300.**

14 **“(C) An employee of a law enforcement agency.**

15 **“(d) A person who is primarily engaged in providing public defense**
16 **services and who has a financial interest in the delivery of public de-**
17 **fense services at the state level may not serve as a voting member of**
18 **the commission.**

19 **“(3) The term of a member is four years beginning on the effective date**
20 **of the order of the Chief Justice appointing the member. A member is eligible**
21 **for reappointment if qualified for membership at the time of reappointment,**
22 **but may serve no more than two consecutive four-year terms. [A**
23 **member may be removed from the commission by order of the Chief Justice.]**
24 **The Chief Justice may remove any member of the commission at any**
25 **time for cause. If a vacancy occurs for any cause before the expiration of**
26 **the term of a member, the Chief Justice shall make an appointment to fill**
27 **the vacancy, in the same manner as an appointment to a full term, to**
28 **become immediately effective for the unexpired term. If the Chief Justice**
29 **has not filled a vacancy within 45 days after the vacancy occurs, the**
30 **remaining voting members of the commission shall, by a majority**

1 **vote, select a member to fill the vacancy for the remainder of the**
2 **term.**

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

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

10 “(6) **The members of the commission shall:**

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

17 “(b) **Review and approve the policies, procedures, standards and**
18 **guidelines required by ORS 151.216 before those policies, procedures,**
19 **standards and guidelines may take effect.**

20 “(c) **Review and approve the budget of the commission before sub-**
21 **mission to the Legislative Assembly.**

22 “(d) **Meet as needed to carry out the duties described in this sub-**
23 **section.**

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

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

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

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

1 “[6] (8) A member of the commission is [not] entitled to compensation
2 for services as a member, [but is entitled] **and** to expenses, as provided in
3 ORS 292.495 [(2)].

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

5 “151.216. (1) The [Public Defense Services Commission] **Oregon Public**
6 **Defense Commission** shall:

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

10 “[b] *Establish an office of public defense services and appoint a public*
11 *defense services executive director who serves at the pleasure of the commis-*
12 *sion.*]

13 “[c] (b) Adopt policies for [contracting for] public defense providers [not
14 employed by the office of public defense services] that:

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

17 “(B) [Promote policies] **Provide** for public defense provider compensation
18 and resources that are comparable to prosecution compensation and
19 resources[;].

20 “[C] *Ensure funding and resources to support required data collection and*
21 *training requirements; and]*

22 “[D] *Recognize the need to consider overhead costs that account for the cost*
23 *of living and business cost differences in each county or jurisdiction, including*
24 *but not limited to rent, professional membership dues, malpractice insurance*
25 *and other insurance and other reasonable and usual operating costs.*]

26 “[d] *Establish operational and contracting systems that allow for oversight,*
27 *ensure transparency and stakeholder engagement and promote equity, inclusion*
28 *and culturally specific representation.*]

29 “[e] *Review the caseload policies described in paragraph (c)(A) of this*
30 *subsection annually, and revise the policies as necessary and at least every four*

1 years.]

2 “[f] *Adopt a statewide workload plan, based on the caseload policies de-*
3 *scribed in paragraph (c)(A) of this subsection, that takes into account the needs*
4 *of each county or jurisdiction, practice structure and type of practice overseen*
5 *by the office of public defense services.]*

6 “[g] (c) Submit the budget of the commission [*and the office of public*
7 *defense services*] to the Legislative Assembly after the budget is submitted
8 to the commission by the **executive** director and approved by the **voting**
9 **members of the** commission. The Chief Justice of the Supreme Court and
10 the chairperson of the commission shall present the budget to the Legislative
11 Assembly.

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

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

17 “[j] (e) Adopt policies, procedures, standards and guidelines regarding:

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

20 “(B) The appointment of counsel, including the appointment of counsel
21 at state expense regardless of financial eligibility in juvenile delinquency
22 matters;

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

25 “(D) Appointed counsel compensation disputes;

26 “(E) [*Any other*] **The** costs associated with the representation of a person
27 by appointed counsel in the state courts that are required to be paid by the
28 state [*under ORS 34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365,*
29 *419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408,*
30 *419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315*

1 *or any other provision of law that expressly provides for payment of such*
2 *compensation, costs or expenses by the commission];*

3 *“[(F) Professional qualifications for counsel appointed to represent public*
4 *defense clients;]*

5 *“[(G) Performance for legal representation;]*

6 *“[(H) The contracting of public defense services;]*

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

10 **“(F) The qualifications required for senior staff of the commission;**
11 **and**

12 **“(G) The types of fees and expenses subject to a preauthorization**
13 **requirement.**

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

16 *“[(k) Establish a peer review system for the approval of nonroutine fees and*
17 *expenses incurred in cases involving aggravated murder and the crimes listed*
18 *in ORS 137.700 and 137.707. The review shall be conducted by a panel of at-*
19 *torneys who practice in the area of criminal defense.]*

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

23 *“[(m)]* **(f)** Reimburse the State Court Administrator from funds deposited
24 in the Public Defense Services Account established by ORS 151.225 for the
25 costs of personnel and other costs associated with location of eligibility
26 verification and screening personnel pursuant to ORS 151.489 by the State
27 Court Administrator.

28 **“(g) Establish minimum standards for the delivery of public defense**
29 **services that provide for the effective assistance of counsel to eligible**
30 **persons throughout this state. The minimum standards must be de-**

1 **signed to ensure that public defense services meet all requirements for**
2 **the effective assistance of counsel under statute and the Oregon and**
3 **United States Constitutions.**

4 **“(h) Establish and implement policies, procedures, standards and**
5 **guidelines necessary to guarantee the right of eligible persons to the**
6 **assistance of counsel as required by statute and by the Oregon and**
7 **United States Constitutions.**

8 **“(i) Develop and oversee the implementation, enforcement and**
9 **modification of minimum policies, procedures, standards and guide-**
10 **lines to ensure that public defense providers are providing effective**
11 **assistance of counsel consistently to all eligible persons in this state**
12 **as required by statute and the Oregon and United States Constitutions.**
13 **The policies, procedures, standards and guidelines described in this**
14 **paragraph apply to employees of the commission and to any entity**
15 **that contracts with the commission to provide public defense services**
16 **in this state.**

17 **“(j) Set minimum standards by which appointed counsel are trained**
18 **and supervised.**

19 **“(k) Establish procedures for the mandatory collection of data**
20 **concerning the operation of the commission and all public defense**
21 **providers.**

22 **“(L) Enter into contracts to bring the delivery of public defense**
23 **services into compliance with the minimum policies, procedures,**
24 **standards and guidelines described in this subsection.**

25 **“(m) At least once every two years, report to the interim commit-**
26 **tees of the Legislative Assembly related to the judiciary, in the man-**
27 **ner provided in ORS 192.245, and to the Governor and Chief Justice,**
28 **concerning compliance metrics for the minimum standards described**
29 **in this subsection and recommendations for legislative changes.**

30 **“(n) Develop standard operating expectations for persons providing**

1 **public defense services.**

2 **“(o) In consultation with the Judicial Department, ensure the ex-**
3 **istence of policies that create a standardized process for determining**
4 **and verifying financial eligibility for appointed counsel under ORS**
5 **151.485.**

6 **“(p) Centralize services and resources, including training, so that**
7 **the services and resources can be utilized by both commission em-**
8 **ployees and public service providers who contract with the commis-**
9 **sion.**

10 **“(q) Establish any other policies, procedures, standards and guide-**
11 **lines for the conduct of the commission’s affairs and promulgate pol-**
12 **icies necessary to carry out all powers and duties of the commission.**

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

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

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

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

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

1 “(e) The commission shall establish continuing legal education re-
2 quirements relevant to the practice of public defense or juvenile rep-
3 resentation for public defense providers who are employed by or
4 contract with the commission.

5 “(f) The commission and public defense providers shall systemat-
6 ically review appointed counsel for efficiency and for effective repre-
7 sentation according to commission standards.

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

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

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

20 “[(2)] (6) Policies, procedures, standards and guidelines adopted by the
21 commission supersede any conflicting rules, policies or procedures of the
22 Public Defender Committee, State Court Administrator, circuit courts, the
23 Court of Appeals, the Supreme Court and the Psychiatric Security Review
24 Board related to the exercise of the commission’s administrative responsi-
25 bilities under this section and transferred duties, functions and powers as
26 they occur.

27 “[(3)] (7) The commission may accept gifts, grants or contributions from
28 any source, whether public or private. However, the commission may not
29 accept a gift, grant or contribution if acceptance would create a conflict of
30 interest. Moneys accepted under this subsection shall be deposited in the

1 Public Defense Services Account established by ORS 151.225 and expended
2 for the purposes for which given or granted.

3 “[4] *The commission may not:*]

4 “[a] *Make any decision regarding the handling of any individual case;*]

5 “[b] *Have access to any case file; or*]

6 “[c] *Interfere with the director or any member of the staff of the director*
7 *in carrying out professional duties involving the legal representation of public*
8 *defense clients.*]

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

10 “151.219. (1) The [*public defense services*] executive director **of the**
11 **Oregon Public Defense Commission** shall:

12 **“(a) Appoint a deputy director of the commission who serves at the**
13 **pleasure of the executive director.**

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

15 “[a] (c) Recommend to the [*Public Defense Services*] commission how to
16 establish and maintain, in a cost-effective manner, the delivery of legal ser-
17 vices to persons entitled to, and, where applicable, financially eligible for,
18 appointed counsel at state expense under Oregon statutes, the Oregon Con-
19 stitution, the United States Constitution and consistent with Oregon and
20 national standards of justice.

21 “[b] (d) Implement and ensure compliance with contracts, policies, pro-
22 cedures, standards and guidelines adopted by the commission or required by
23 statute.

24 “[c] (e) Prepare and submit to the commission for its approval the
25 biennial budget of the commission [*and the office of public defense services*].

26 “[d] (f) Negotiate contracts, as appropriate, for providing legal services
27 to persons eligible for appointed counsel at state expense. [*No contract so*
28 *negotiated is binding or enforceable until the contract has been reviewed and*
29 *approved by the commission as provided in ORS 151.216.*]

30 “[e] (g) Employ personnel or contract for services as necessary to carry

1 out the responsibilities of the **executive** director and the [*office of public*
2 *defense services*] **commission**.

3 “[*f*] **(h)** Supervise the personnel, operation and activities of the [*office*
4 *of public defense services*] **commission**.

5 “[*g*] **(i)** Provide services, facilities and materials necessary for the per-
6 formance of the duties, functions and powers of the [*Public Defense*
7 *Services*] commission.

8 “[*h*] **(j)** Pay the expenses of the commission [*and the office of public de-*
9 *fense services*].

10 “[*i*] **(k)** Prepare and submit to the **members of the** commission an an-
11 nual report of the activities of the [*office of public defense services*] **com-**
12 **mission**.

13 “[*j*] *Prepare and submit to the Legislative Assembly a biennial report on*
14 *the activities of the office of public defense services.*]

15 “[*k*] **(L)** Provide for legal representation, advice and consultation for the
16 commission, its members, the **executive** director and staff of the [*office of*
17 *public defense services*] **commission** who require such services or who are
18 named as defendants in lawsuits arising from their duties, functions and re-
19 sponsibilities. If requested by the **executive** director, the Attorney General
20 may also provide for legal representation, advice and consultation for the
21 commission, its members, the **executive** director and staff of the [*office of*
22 *public defense services*] **commission** in litigation.

23 **“(m) Assist the commission in developing standard operating ex-**
24 **pectations for persons providing public defense services. The executive**
25 **director may establish a standards advisory group to assist in devel-**
26 **oping the expectations.**

27 **“(2) The executive** director may designate persons as representatives of
28 the **executive** director for the purposes of determining and paying bills
29 submitted to the [*office of public defense services*] **commission** and deter-
30 mining preauthorization for incurring fees and expenses under ORS 135.055.

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

2 “151.221. Officers and employees of the [*office of public defense services,*
3 *who are appointed under a personnel plan adopted by the Public Defense*
4 *Services Commission,*] **Oregon Public Defense Commission** are state offi-
5 cers or employees in the exempt service and are not subject to ORS chapter
6 240.

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

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

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

13 “(b) Reimbursement of the State Court Administrator under ORS 151.216
14 [(1)(m)] (1)(f); and

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

17 “(2) The following moneys shall be deposited in the Public Defense Ser-
18 vices Account:

19 “(a) Moneys received by the commission from the State Court Adminis-
20 trator under ORS 151.216 [(1)(m)] (1)(f);

21 “(b) Moneys received by the Judicial Department under ORS 135.050 (8),
22 151.487 (1), 419A.211 or 419B.198 (1);

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

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

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

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

30 “135.055. (1) Counsel appointed pursuant to ORS 135.045 or 135.050 shall

1 be paid fair compensation for representation in the case:

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

4 “(b) By the [*public defense services*] executive director **of the Oregon**
5 **Public Defense Commission** from funds available for the purpose, in a
6 proceeding in a circuit court.

7 “(2) Except for counsel appointed pursuant to contracts or counsel em-
8 ployed by the [*public defense services executive director*] **Oregon Public De-**
9 **fense Commission**, compensation payable to appointed counsel under
10 subsection (1) of this section:

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

13 “(b) In a proceeding in a circuit court is subject to the applicable com-
14 pensation established under ORS 151.216.

15 “(3)(a) A person determined to be eligible for appointed counsel is entitled
16 to necessary and reasonable fees and expenses for investigation, preparation
17 and presentation of the case for trial, negotiation and sentencing. The person
18 or the counsel for the person shall upon written request secure preauthori-
19 zation to incur fees and expenses that [*are not routine to representation but*]
20 are necessary and reasonable in the investigation, preparation and presen-
21 tation of the case **and that require preauthorization under a policy of**
22 **the Oregon Public Defense Commission**, including but not limited to
23 [*nonroutine*] travel, photocopying or other reproduction of [*nonroutine*] doc-
24 uments, necessary costs associated with obtaining the attendance of wit-
25 nesses for the defense, investigator fees and expenses, expert witness fees and
26 expenses and fees for interpreters and assistive communication devices nec-
27 essary for the purpose of communication between counsel and a client or
28 witness in the case. Preauthorization to incur a fee or expense does not
29 guarantee that a fee or expense incurred pursuant to the preauthorization
30 will be determined to be necessary or reasonable when the fee or expense is

1 submitted for payment.

2 “(b) In a county or justice court, the request must be in the form of a
3 motion to the court. The motion must be accompanied by a supporting affi-
4 davit that sets out in detail the purpose of the requested expenditure, the
5 name of the service provider or other recipient of the funds, the dollar
6 amount of the requested expenditure that may not be exceeded without ad-
7 ditional authorization and the date or dates during which the service will
8 be rendered or events will occur for which the expenditure is requested.

9 “(c) In a circuit court, the request must be in the form and contain the
10 information that is required by the policies, procedures, standards and
11 guidelines of the [*Public Defense Services Commission*] **Oregon Public De-**
12 **fense Commission**. If the [*public defense services*] executive director **of the**
13 **commission** denies a request for preauthorization to incur [*nonroutine*] fees
14 and expenses **subject to a preauthorization requirement**, the person
15 making the request may appeal the decision to the presiding judge of the
16 circuit court. The presiding judge has final authority to preauthorize incur-
17 ring [*nonroutine*] fees and expenses under this paragraph.

18 “(d) Entitlement under subsection (7) of this section to payment for fees
19 and expenses in circuit court is subject to the policies, procedures, standards
20 and guidelines adopted under ORS 151.216. Entitlement to payment of [*non-*
21 *routine*] fees and expenses **subject to a preauthorization requirement** is
22 dependent upon obtaining preauthorization from the court, if the case is in
23 county or justice court, or from the [*public defense services*] executive direc-
24 tor **of the Oregon Public Defense Commission**, if the case is in circuit
25 court, except as otherwise provided in paragraph (c) of this subsection and
26 in the policies, procedures, standards and guidelines adopted under ORS
27 151.216. Fees and expenses shall be paid:

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

30 “(B) By the [*public defense services*] executive director **of the commis-**

1 **sion** from funds available for the purpose, in respect to a proceeding in a
2 circuit court.

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

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

11 “(5) In a county or justice court, the total fees and expenses payable un-
12 der this section must be submitted to the court by counsel or other providers
13 and are subject to the review of the court. The court shall certify that such
14 amount is fair reimbursement for fees and expenses for representation in the
15 case as provided in subsection (6) of this section. Upon certification and any
16 verification as provided under subsection (6) of this section, the amount of
17 the fees and expenses approved by the court and not already paid shall be
18 paid by the county.

19 “(6) In a county or justice court, the court shall certify to the adminis-
20 trative authority responsible for paying fees and expenses under this section
21 that the amount for payment is reasonable and that the amount is properly
22 payable out of public funds.

23 “(7) In a circuit court, the total fees and expenses payable under this
24 section must be submitted to and are subject to review by the [*public defense*
25 *services*] executive director **of the Oregon Public Defense Commission**.
26 The [*public defense services*] executive director **of the commission** shall
27 determine whether the amount is necessary, reasonable and properly payable
28 from public funds for fees and expenses for representation in the case as
29 provided by the policies, procedures, standards and guidelines of the [*Public*
30 *Defense Services Commission*] **commission**. The [*public defense services*]

1 executive director **of the commission** shall pay the amount of the fees and
2 expenses determined necessary, reasonable and properly payable out of public
3 funds. The court shall provide any information identified and requested by
4 the [*public defense services*] executive director **of the commission** as needed
5 for audit, statistical or any other purpose pertinent to ensure the proper
6 disbursement of state funds or pertinent to the provision of appointed coun-
7 sel compensated at state expense.

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

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

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

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

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

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

30

1 **“SECTION 10. (1) The unexpended balances of amounts authorized**
2 **to be expended by the Public Defense Services Commission for the**
3 **biennium beginning July 1, 2023, from revenues dedicated, contin-**
4 **uously appropriated, appropriated or otherwise made available for the**
5 **purpose of administering and enforcing the duties, functions and**
6 **powers transferred by section 8 of this 2023 Act are transferred to and**
7 **are available for expenditure by the Oregon Public Defense Commis-**
8 **sion for the biennium beginning July 1, 2023, for the purpose of ad-**
9 **ministering and enforcing the duties, functions and powers transferred**
10 **by section 8 of this 2023 Act.**

11 **“(2) The expenditure classifications, if any, established by Acts au-**
12 **thorizing or limiting expenditures by the Public Defense Services**
13 **Commission remain applicable to expenditures by the Oregon Public**
14 **Defense Commission under this section.**

15 **“SECTION 11. The transfer of duties, functions and powers to the**
16 **Oregon Public Defense Commission by section 8 of this 2023 Act does**
17 **not affect any action, proceeding or prosecution involving or with re-**
18 **spect to such duties, functions and powers begun before and pending**
19 **at the time of the transfer, except that the Oregon Public Defense**
20 **Commission is substituted for the Public Defense Services Commission**
21 **in the action, proceeding or prosecution.**

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

27 **“(2) The rights and obligations of the Public Defense Services**
28 **Commission legally incurred under contracts, leases and business**
29 **transactions executed, entered into or begun before the operative date**
30 **of section 8 of this Act are transferred to the Oregon Public Defense**

1 Commission. For the purpose of succession to these rights and obli-
2 gations, the Oregon Public Defense Commission is a continuation of
3 the Public Defense Services Commission and not a new authority.

4 **“SECTION 13.** For the purpose of harmonizing and clarifying stat-
5 utory law, the Legislative Counsel may substitute for words designat-
6 ing the ‘Public Defense Services Commission’ or its officers, or the
7 office of public defense services, wherever they occur in statutory law,
8 words designating the ‘Oregon Public Defense Commission’ or its of-
9 ficers.

10 **“SECTION 14.** (1) Sections 8 to 13 of this 2023 Act and the amend-
11 ments to ORS 151.211, 151.213, 151.216, 151.219, 151.221, 151.225 and
12 135.055 by sections 1 to 7 of this 2023 Act become operative on January
13 1, 2024.

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

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

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

26 **“(c)** The executive director of the Oregon Public Defense Commis-
27 sion shall be appointed by the members of the commission before the
28 operative date specified in subsection (1) of this section and may take
29 any action before that date that is necessary to enable the executive
30 director and the commission to exercise, on and after the operative

1 date specified in subsection (1) of this section, the duties, functions
2 and powers conferred on the executive director and the commission
3 by the amendments to ORS 151.211, 151.213, 151.216, 151.219, 151.221,
4 151.225 and 135.055 by sections 1 to 7 of this 2023 Act.

5 “(3) Notwithstanding ORS 151.213 (3), the initial terms of persons
6 appointed as voting members to the Oregon Public Defense Commis-
7 sion under this section shall be staggered as follows:

8 “(a) The initial term of one of the voting members described in ORS
9 151.213 (2)(a)(A), one of the voting members described in ORS 151.213
10 (2)(a)(B) and the voting member described in ORS 151.213 (2)(a)(E) shall
11 be four years.

12 “(b) The initial term of one of the voting members described in ORS
13 151.213 (2)(a)(A) and the voting member described in ORS 151.213
14 (2)(a)(C) shall be three years.

15 “(c) The initial term of one of the voting members described in ORS
16 151.213 (2)(a)(B) and the voting member described in ORS 151.213
17 (2)(a)(D) shall be two years.

18 “(d) The initial term of one of the voting members described in ORS
19 151.213 (2)(a)(A) and one of the voting members described in ORS
20 151.213 (2)(a)(B) shall be one year.

21 “(4) A person who is a member of the Public Defense Services
22 Commission on November 1, 2023, is eligible for appointment to the
23 Oregon Public Defense Commission if the person meets the require-
24 ments described in ORS 151.213 (2).

25

26 “(Conforming Amendments)

27

28 “SECTION 15. ORS 1.009 is amended to read:

29 “1.009. (1) The Judicial Department Operating Account is established in
30 the State Treasury, separate and distinct from the General Fund. Interest

1 earned by the account shall be credited to the account. All moneys in the
2 account are continuously appropriated to the Judicial Department and may
3 be used only to pay the operating expenses of the department.

4 “(2) All moneys received by the department pursuant to ORS 151.216
5 [(1)(m)] **(1)(f)** shall be deposited in the Judicial Department Operating Ac-
6 count.

7 “(3) The department may accept gifts, grants or contributions from any
8 source, whether public or private, for deposit in the Judicial Department
9 Operating Account.

10 **“SECTION 16.** ORS 8.105 is amended to read:

11 “8.105. (1) Before making any change to a compensation plan, an admin-
12 istrative division of the judicial department must submit the proposed change
13 to the Joint Committee on Ways and Means during the period when the
14 Legislative Assembly is in session, or to the Emergency Board or the Joint
15 Interim Committee on Ways and Means during the interim period between
16 sessions.

17 “(2) This section applies to all boards, commissions, committees and de-
18 partments of the judicial department, as defined in ORS 174.113, including
19 but not limited to the [*Public Defense Services Commission*] **Oregon Public**
20 **Defense Commission** and the Commission on Judicial Fitness and Disabil-
21 ity.

22 **“SECTION 17.** ORS 34.355 is amended to read:

23 “34.355. If counsel is appointed by a court to represent, in an initial pro-
24 ceeding by habeas corpus or on appeal as provided in ORS 34.710, a person
25 who is imprisoned or otherwise restrained of liberty by virtue of a charge
26 or conviction of crime and who is determined to be financially eligible for
27 appointed counsel at state expense, the [*public defense services*] executive
28 director **of the Oregon Public Defense Commission** shall determine com-
29 pensation for counsel and costs and expenses of the person in the proceeding
30 or on appeal. Compensation for counsel and expenses of the person in an

1 initial proceeding or in a circuit court on appeal shall be determined and
2 paid as provided in ORS 135.055. Compensation for counsel and costs and
3 expenses of the person on appeal to the Court of Appeals or on review by
4 the Supreme Court shall be determined and paid as provided in ORS 138.500.
5 The compensation and expenses so allowed in an initial proceeding in a
6 county court shall be paid by the county in which the person was charged
7 or convicted of crime.

8 **SECTION 18.** ORS 40.225 is amended to read:

9 “40.225. (1) As used in this section, unless the context requires otherwise:

10 “(a) ‘Client’ means:

11 “(A) A person, public officer, corporation, association or other organiza-
12 tion or entity, either public or private, who is rendered professional legal
13 services by a lawyer, or who consults a lawyer with a view to obtaining
14 professional legal services from the lawyer.

15 “(B) A person, public officer, corporation, association or other organiza-
16 tion or entity, either public or private, who consults a lawyer referral service
17 with a view to obtaining professional legal services from a lawyer.

18 “(b) ‘Confidential communication’ means a communication not intended
19 to be disclosed to third persons other than those to whom disclosure is in
20 furtherance of the rendition of professional legal services to the client or
21 those reasonably necessary for the transmission of the communication.

22 “(c) ‘Lawyer’ means a person authorized, or reasonably believed by the
23 client to be authorized, to practice law in any state or nation.

24 “(d) ‘Lawyer referral service’ means an entity that, as a regular part of
25 its business, refers potential clients to lawyers, including but not limited to
26 a public nonprofit entity sponsored or operated by the Oregon State Bar.

27 “(e) ‘Representative of the client’ means:

28 “(A) A principal, an officer or a director of the client; or

29 “(B) A person who has authority to obtain professional legal services, or
30 to act on legal advice rendered, on behalf of the client, or a person who, for

1 the purpose of effectuating legal representation for the client, makes or re-
2 ceives a confidential communication while acting in the person's scope of
3 employment for the client.

4 “(f) ‘Representative of the lawyer’ means one employed to assist the law-
5 yer in the rendition of professional legal services, but does not include a
6 physician making a physical or mental examination under ORCP 44.

7 “(2) A client has a privilege to refuse to disclose and to prevent any other
8 person from disclosing confidential communications made for the purpose of
9 facilitating the rendition of professional legal services to the client:

10 “(a) Between the client or the client's representative and the client's
11 lawyer or a representative of the lawyer;

12 “(b) Between the client's lawyer and the lawyer's representative or the
13 client's lawyer referral service;

14 “(c) By the client or the client's lawyer to a lawyer representing another
15 in a matter of common interest;

16 “(d) Between representatives of the client or between the client and a
17 representative of the client;

18 “(e) Between lawyers representing the client; or

19 “(f) Between the client or a representative of the client and a lawyer re-
20 ferral service.

21 “(3) The privilege created by this section may be claimed by the client,
22 a guardian or conservator of the client, the personal representative of a de-
23 ceased client, or the successor, trustee, or similar representative of a corpo-
24 ration, association, or other organization, whether or not in existence. The
25 person who was the lawyer or lawyer referral service or the lawyer's repre-
26 sentative at the time of the communication is presumed to have authority
27 to claim the privilege but only on behalf of the client.

28 “(4) There is no privilege under this section:

29 “(a) If the services of the lawyer or lawyer referral service were sought
30 or obtained to enable or aid anyone to commit or plan to commit what the

1 client knew or reasonably should have known to be a crime or fraud;

2 “(b) As to a communication relevant to an issue between parties who
3 claim through the same deceased client, regardless of whether the claims are
4 by testate or intestate succession or by inter vivos transaction;

5 “(c) As to a communication relevant to an issue of breach of duty by the
6 lawyer or lawyer referral service to the client or by the client to the lawyer
7 or lawyer referral service;

8 “(d) As to a communication relevant to an issue concerning an attested
9 document to which the lawyer or lawyer referral service is an attesting
10 witness; or

11 “(e) As to a communication relevant to a matter of common interest be-
12 tween two or more clients if the communication was made by any of them
13 to a lawyer retained or consulted in common, when offered in an action be-
14 tween any of the clients.

15 “(5) Notwithstanding ORS 40.280, a privilege is maintained under this
16 section for a communication made to the [*office of public defense services es-*
17 *tablished under ORS 151.216*] **Oregon Public Defense Commission** for the
18 purpose of seeking preauthorization for or payment of [*nonroutine*] fees or
19 expenses under ORS 135.055.

20 “(6) Notwithstanding subsection (4)(c) of this section and ORS 40.280, a
21 privilege is maintained under this section for a communication that is made
22 to the [*office of public defense services established under ORS 151.216*]
23 **Oregon Public Defense Commission** for the purpose of making, or pro-
24 viding information regarding, a complaint against a lawyer providing public
25 defense services.

26 “(7) Notwithstanding ORS 40.280, a privilege is maintained under this
27 section for a communication ordered to be disclosed under ORS 192.311 to
28 192.478.

29 **“SECTION 19.** ORS 42.125 is amended to read:

30 “42.125. (1) For the purposes of ORS 40.510 (1)(a) and (d), each state offi-

1 cer and state agency may have a seal which, unless specifically provided
2 otherwise by law, shall consist of an impression, imprint or likeness of the
3 state seal accompanied by the name of the state officer or state agency.

4 “(2) As used in this section:

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

6 “(b) ‘State agency’ means every state officer, board, commission, depart-
7 ment, institution, branch or agency of the state government, except:

8 “(A) The Legislative Assembly and the courts and their officers and
9 committees; and

10 “(B) The [*Public Defense Services Commission*] **Oregon Public Defense**
11 **Commission.**

12 “(c) ‘State officer’ includes any appointed state official who is authorized
13 by the Oregon Department of Administrative Services to have a seal and any
14 elected state official, except members of the Legislative Assembly.

15 **“SECTION 20.** ORS 45.275 is amended to read:

16 “45.275. (1)(a) The court shall appoint a qualified interpreter in a civil or
17 criminal proceeding, and a hearing officer or the designee of a hearing offi-
18 cer shall appoint a qualified interpreter in an adjudicatory proceeding,
19 whenever it is necessary:

20 “(A) To interpret the proceedings to a non-English-speaking party;

21 “(B) To interpret the testimony of a non-English-speaking party or wit-
22 ness; or

23 “(C) To assist the court, agency or hearing officer in performing the du-
24 ties and responsibilities of the court, agency or hearing officer.

25 “(b) The court shall appoint a qualified interpreter in a criminal pro-
26 ceeding whenever it is necessary to interpret the proceedings to a non-
27 English-speaking victim who seeks to exercise in open court a right that is
28 granted by Article I, section 42 or 43, of the Oregon Constitution, including
29 the right to be present at a critical stage of the proceeding.

30 “(2) A fee may not be charged to any person for the appointment of an

1 interpreter to interpret testimony of a non-English-speaking party or witness,
2 to interpret the proceedings to a non-English-speaking party or victim or to
3 assist the court, agency or hearing officer in performing the duties and re-
4 sponsibilities of the court, agency or hearing officer. A fee may not be
5 charged to any person for the appointment of an interpreter if appointment
6 is made to determine whether the person is non-English-speaking for the
7 purposes of this section.

8 “(3) Fair compensation for the services of an interpreter appointed under
9 this section shall be paid:

10 “(a) By the county, subject to the approval of the terms of the contract
11 by the governing body of the county, in a proceeding in a county or justice
12 court.

13 “(b) By the city, subject to the approval of the terms of the contract by
14 the governing body of the city, in a proceeding in a municipal court.

15 “(c) By the state in a proceeding in a circuit court. Amounts payable by
16 the state are not payable from the Public Defense Services Account estab-
17 lished by ORS 151.225 or from moneys appropriated to the [*Public Defense*
18 *Services Commission*] **Oregon Public Defense Commission**. Fees of an in-
19 terpreter necessary for the purpose of communication between appointed
20 counsel and a client or witness in a criminal case are payable from the
21 Public Defense Services Account or from moneys appropriated to the [*Public*
22 *Defense Services Commission*] **Oregon Public Defense Commission**.

23 “(d) By the agency in an adjudicatory proceeding.

24 “(4) If a party, victim or witness is dissatisfied with the interpreter ap-
25 pointed by the court, the hearing officer or the designee of the hearing offi-
26 cer, the party, victim or witness may request the appointment of a different
27 interpreter. A request under this subsection must be made in a manner con-
28 sistent with the policies and notice requirements of the court or agency re-
29 lating to the appointment and scheduling of interpreters. If the substitution
30 of another interpreter will delay the proceeding, the person making the re-

1 quest must show good cause for the substitution. Any party may object to
2 use of any interpreter for good cause. Unless the court, hearing officer or
3 the designee of the hearing officer has appointed a different interpreter for
4 cause, the party using any interpreter other than the interpreter originally
5 appointed by the court, hearing officer or the designee of the hearing officer
6 shall bear any additional costs beyond the amount required to pay the ori-
7 ginal interpreter.

8 “(5) A judge or hearing officer, on the judge’s or hearing officer’s own
9 motion, may substitute a different interpreter for the interpreter initially
10 appointed in a proceeding. A judge or hearing officer may make a substi-
11 tution under this subsection at any time and for any reason.

12 “(6) A court may allow as costs reasonable expenses incurred by a party
13 in employing the services of an interpreter in civil proceedings in the manner
14 provided by ORCP 68.

15 “(7) A court, a hearing officer or the designee of a hearing officer shall
16 require any person serving as an interpreter for the court or agency to state
17 the person’s name on the record and whether the person is certified under
18 ORS 45.291. If the person is certified under ORS 45.291, the interpreter need
19 not make the oath or affirmation required by ORS 40.325 or submit the
20 interpreter’s qualifications on the record. If the person is not certified under
21 ORS 45.291, the interpreter must make the oath or affirmation required by
22 ORS 40.325 and submit the interpreter’s qualifications on the record.

23 “(8) For the purposes of this section:

24 “(a) ‘Hearing officer’ includes an administrative law judge.

25 “(b) ‘Non-English-speaking person’ means a person who, by reason of
26 place of birth or culture, speaks a language other than English and does not
27 speak English with adequate ability to communicate effectively in the pro-
28 ceedings.

29 “(c) ‘Qualified interpreter’ means a person who is readily able to com-
30 municate with the non-English-speaking person and who can orally transfer

1 the meaning of statements to and from English and the language spoken by
2 the non-English-speaking person. A qualified interpreter must be able to in-
3 terpret in a manner that conserves the meaning, tone, level, style and regis-
4 ter of the original statement, without additions or omissions. ‘Qualified
5 interpreter’ does not include any person who is unable to interpret the dia-
6 lect, slang or specialized vocabulary used by the party, victim or witness.

7 **“SECTION 21.** ORS 45.285 is amended to read:

8 “45.285. (1) For the purposes of this section:

9 “(a) ‘Assistive communication device’ means any equipment designed to
10 facilitate communication by a person with a disability.

11 “(b) ‘Hearing officer’ includes an administrative law judge.

12 “(c) ‘Person with a disability’ means a person who cannot readily under-
13 stand the proceedings because of deafness or a physical hearing impairment,
14 or cannot communicate in the proceedings because of a physical speaking
15 impairment.

16 “(d) ‘Qualified interpreter’ means a person who is readily able to com-
17 municate with the person with a disability, interpret the proceedings and
18 accurately repeat and interpret the statements of the person with a disability
19 to the court.

20 “(2) In any civil action, adjudicatory proceeding or criminal proceeding,
21 including a court-ordered deposition if no other person is responsible for
22 providing an interpreter, in which a person with a disability is a party or
23 witness, the court, hearing officer or the designee of the hearing officer shall
24 appoint a qualified interpreter and make available appropriate assistive
25 communication devices whenever it is necessary to interpret the proceedings
26 to the person with a disability, or to interpret the testimony of the person
27 with a disability.

28 “(3) In any criminal proceeding, the court shall appoint a qualified in-
29 terpreter and make available appropriate assistive communication devices
30 whenever it is necessary to interpret the proceedings to a victim who is a

1 person with a disability and who seeks to exercise in open court a right that
2 is granted by Article I, section 42 or 43, of the Oregon Constitution, includ-
3 ing the right to be present at a critical stage of the proceeding.

4 “(4) A fee may not be charged to the person with a disability for the ap-
5 pointment of an interpreter or use of an assistive communication device un-
6 der this section. A fee may not be charged to any person for the appointment
7 of an interpreter or the use of an assistive communication device if ap-
8 pointment or use is made to determine whether the person is a person with
9 a disability for the purposes of this section.

10 “(5) Fair compensation for the services of an interpreter or the cost of
11 an assistive communication device under this section shall be paid:

12 “(a) By the county, subject to the approval of the terms of the contract
13 by the governing body of the county, in a proceeding in a county or justice
14 court.

15 “(b) By the city, subject to the approval of the terms of the contract by
16 the governing body of the city, in a proceeding in a municipal court.

17 “(c) By the state in a proceeding in a circuit court. Amounts payable by
18 the state are not payable from the Public Defense Services Account estab-
19 lished by ORS 151.225 or from moneys appropriated to the [*Public Defense*
20 *Services Commission*] **Oregon Public Defense Commission**. Fees of an in-
21 terpreter necessary for the purpose of communication between appointed
22 counsel and a client or witness in a criminal case are payable from the
23 Public Defense Services Account or from moneys appropriated to the [*Public*
24 *Defense Services Commission*] **Oregon Public Defense Commission**.

25 “(d) By the agency in an adjudicatory proceeding.”.

26 “**SECTION 22.** ORS 84.064 is amended to read:

27 “84.064. (1) For purposes of ORS 84.049, 84.052 and 84.055, the State Chief
28 Information Officer shall make determinations and adopt standards for state
29 agencies.

30 “(2) The State Chief Information Officer shall adopt rules to govern state

1 agency use of electronic signatures. The rules must include control processes
2 and procedures to ensure adequate integrity, security and confidentiality for
3 business transactions that state agencies conduct using electronic commerce
4 and to ensure that the transactions can be audited as is necessary for the
5 normal conduct of business.

6 “(3) As used in this section, ‘state agency’ means every state officer and
7 board, commission, department, institution, branch and agency of the state
8 government, the costs of which are paid wholly or in part from funds held
9 in the State Treasury, except:

10 “(a) The Legislative Assembly, the courts, the district attorney for each
11 county and the officers and committees of the Legislative Assembly, the
12 courts and the district attorney; and

13 “(b) The [*Public Defense Services Commission*] **Oregon Public Defense**
14 **Commission.**

15 “**SECTION 23.** ORS 125.035 is amended to read:

16 “125.035. (1) As used in this section:

17 “(a) ‘Case subtype’ means guardianship, conservatorship or guardianship
18 and conservatorship.

19 “(b) ‘Case type’ means adult protective proceeding or minor protective
20 proceeding.

21 “(2) No later than September 15 of each year, the Judicial Department
22 shall submit, to the interim committees of the Legislative Assembly related
23 to the judiciary, a report on county-level data concerning protective pro-
24 ceedings in Multnomah, Lane and Columbia Counties during the two calen-
25 dar years immediately preceding the year of the report, including:

26 “(a) The number of protective proceedings initiated, broken out by case
27 type and case subtype;

28 “(b) The number of protective proceedings where the respondent was 65
29 years of age or older at the time the petition was filed;

30 “(c) The number of protective proceedings granted, broken out by case

1 type and case subtype; and

2 “(d) The number of respondents or protected persons for whom the court
3 appointed counsel under ORS 125.080, broken out by case subtype.

4 “(3) The department, in consultation with the [*office of public defense*
5 *services*] **Oregon Public Defense Commission**, shall also include in the
6 report described in subsection (2) of this section, to the extent the data is
7 available:

8 “(a) The number of cases with court-appointed counsel where payment for
9 court-appointed counsel was from the assets of the respondent or protected
10 person, broken out by case subtype; and

11 “(b) The aggregate number of hours court-appointed counsel spent repre-
12 senting respondents or protected persons and the average number of hours
13 court-appointed counsel spent per case.

14 **“SECTION 24.** ORS 125.080 is amended to read:

15 “125.080. (1) The court may require that a hearing be held on any petition
16 or motion in a protective proceeding.

17 “(2) A hearing must be held on a petition or motion if the respondent or
18 protected person makes or files an objection to the petition or motion and
19 the objection is not withdrawn before the time scheduled for the hearing.

20 “(3) A hearing must be held on a motion to modify a guardian’s powers
21 under ORS 125.323.

22 “(4) The respondent or protected person may appear at a hearing in per-
23 son or by counsel.

24 “(5) If the hearing is regarding a petition for appointment of a guardian
25 for a vulnerable youth or a petition involving a vulnerable youth
26 guardianship, the court:

27 “(a) May allow the respondent or protected person, proposed guardian,
28 guardian or any other witness to appear by telephone, video or other remote
29 technology;

30 “(b)(A) May take testimony from or confer with the respondent or pro-

1 tected person and may exclude from the conference others if the court finds
2 that doing so would be in the best interests of the respondent or protected
3 person; and

4 “(B) Notwithstanding subparagraph (A) of this paragraph, shall permit
5 any attorney for the respondent or protected person to attend the conference
6 and the conference must be reported;

7 “(c) May not inquire into the nationality or current immigration status
8 of the proposed guardian, guardian or any other witness; and

9 “(d) May not inquire about any prior immigration status of the respond-
10 ent or protected person or about the manner or place in which the respond-
11 ent or protected person entered the United States of America.

12 “(6)(a) If the court requires that a hearing be held or a hearing is other-
13 wise required under this section, the court shall appoint counsel for the re-
14 spondent or protected person when:

15 “(A) The respondent or protected person requests that counsel be ap-
16 pointed;

17 “(B) An objection is made or filed to the petition or motion by any person;

18 “(C) The court has appointed a visitor under ORS 125.150, 125.160 or
19 125.605, and the visitor recommends appointment of counsel for the respond-
20 ent or protected person; or

21 “(D) The court determines that the respondent or protected person is in
22 need of legal counsel.

23 “(b) The court is not required to appoint counsel under this subsection
24 if the respondent or protected person is already represented by counsel or
25 otherwise objects to appointment of counsel.

26 “(7) If the court appoints counsel under subsection (6) of this section:

27 “(a) The court shall order payment of attorney fees and costs from the
28 guardianship or conservatorship estate of the respondent or protected person
29 if sufficient funds exist to pay all or a portion of the attorney fees and costs
30 due; or

1 “(b) The court may determine that a respondent or protected person is
2 financially eligible for appointed counsel at state expense and, if so, the
3 compensation for legal counsel and costs and expenses necessary for repre-
4 sentation of the respondent or protected person shall be determined and paid
5 by the [*public defense services*] executive director **of the Oregon Public**
6 **Defense Commission** as provided under ORS 135.055.

7 **“SECTION 25.** ORS 135.050 is amended to read:

8 “135.050. (1) Suitable counsel for a defendant shall be appointed by a
9 municipal, county or justice court if:

10 “(a) The defendant is before a court on a matter described in subsection
11 (5) of this section;

12 “(b) The defendant requests aid of counsel;

13 “(c) The defendant provides to the court a written and verified financial
14 statement; and

15 “(d) It appears to the court that the defendant is financially unable to
16 retain adequate representation without substantial hardship in providing
17 basic economic necessities to the defendant or the defendant’s dependent
18 family.

19 “(2) Suitable counsel for a defendant shall be appointed by a circuit court
20 if:

21 “(a) The defendant is before the court on a matter described in subsection
22 (5) of this section;

23 “(b) The defendant requests aid of counsel;

24 “(c) The defendant provides to the court a written and verified financial
25 statement; and

26 “(d)(A) The defendant is determined to be financially eligible under ORS
27 151.485 and the standards established by the [*Public Defense Services Com-*
28 *mission*] **Oregon Public Defense Commission** under ORS 151.216; or

29 “(B) The court finds, on the record, substantial and compelling reasons
30 why the defendant is financially unable to retain adequate representation

1 without substantial hardship in providing basic economic necessities to the
2 defendant or the defendant's dependent family despite the fact that the de-
3 fendant does not meet the financial eligibility standards established by the
4 commission.

5 “(3) Appointed counsel may not be denied to any defendant merely be-
6 cause the defendant's friends or relatives have resources adequate to retain
7 counsel or because the defendant has deposited or is capable of depositing
8 security for release. However, appointed counsel may be denied to a defend-
9 ant if the defendant's spouse has adequate resources which the court deter-
10 mines should be made available to retain counsel.

11 “(4) The defendant's financial statement under subsection (1) or (2) of this
12 section shall include, but not be limited to:

13 “(a) A list of bank accounts in the name of defendant or defendant's
14 spouse, and the balance in each;

15 “(b) A list of defendant's interests in real property and those of
16 defendant's spouse;

17 “(c) A list of automobiles and other personal property of significant value
18 belonging to defendant or defendant's spouse;

19 “(d) A list of debts in the name of defendant or defendant's spouse, and
20 the total of each; and

21 “(e) A record of earnings and other sources of income in the name of de-
22 fendant or defendant's spouse, and the total of each.

23 “(5) Counsel must be appointed for a defendant who meets the require-
24 ments of subsection (1) or (2) of this section and who is before a court on
25 any of the following matters:

26 “(a) Charged with a crime.

27 “(b) For a hearing to determine whether an enhanced sentence should be
28 imposed when such proceedings may result in the imposition of a felony
29 sentence.

30 “(c) For extradition proceedings under the provisions of the Uniform

1 Criminal Extradition Act.

2 “(d) For any proceeding concerning an order of probation, including but
3 not limited to the revoking or amending thereof.

4 “(6) Unless otherwise ordered by the court, the appointment of counsel
5 under this section shall continue during all criminal proceedings resulting
6 from the defendant’s arrest through acquittal or the imposition of punish-
7 ment. The court having jurisdiction of the case may not substitute one ap-
8 pointed counsel for another except pursuant to the policies, procedures,
9 standards and guidelines of the [*Public Defense Services Commission*] **Oregon**
10 **Public Defense Commission** under ORS 151.216.

11 “(7) If, at any time after the appointment of counsel, the court having
12 jurisdiction of the case finds that the defendant is financially able to obtain
13 counsel, the court may terminate the appointment of counsel. If, at any time
14 during criminal proceedings, the court having jurisdiction of the case finds
15 that the defendant is financially unable to pay counsel whom the defendant
16 has retained, the court may appoint counsel as provided in this section.

17 “(8) The court may order the defendant in a circuit court to pay to the
18 Public Defense Services Account established by ORS 151.225, through the
19 clerk of the court, in full or in part the administrative costs of determining
20 the eligibility of the defendant for appointed counsel and the costs of the
21 legal and other services that are related to the provision of appointed coun-
22 sel under ORS 151.487.

23 “(9) In addition to any criminal prosecution, a civil proceeding may be
24 initiated by any public body which has expended moneys for the defendant’s
25 legal assistance within two years of judgment if the defendant was not
26 qualified in accordance with subsection (1) or (2) of this section for legal
27 assistance.

28 “(10) The civil proceeding shall be subject to the exemptions from exe-
29 cution as provided for by law.

30 “(11) As used in this section unless the context requires otherwise,

1 'counsel' includes a legal advisor appointed under ORS 135.045.

2 **“SECTION 26.** ORS 136.603 is amended to read:

3 “136.603. (1)(a) Whenever any person attends any court, grand jury or
4 committing magistrate as a witness on behalf of the prosecution or of any
5 person accused of a crime upon request of the district attorney or city at-
6 torney or pursuant to subpoena, or by virtue of a recognizance for that
7 purpose, and it appears that the witness has come from outside the state or
8 that the witness is indigent, the court may, by an order entered in its re-
9 cords, direct payment to the witness of such sum of money as the court
10 considers reasonable for the expenses of the witness. The order of the court,
11 so entered, is sufficient authority for the payment.

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

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

17 “(B) Attends a municipal court or judge thereof on behalf of the prose-
18 cution, payment shall be made by the city.

19 “(C) Attends a circuit court or judge thereof on behalf of a financially
20 eligible defendant, payment shall be made by the [*public defense services*]
21 executive director **of the Oregon Public Defense Commission.**

22 “(D) Attends a judge of the county court or a justice of the peace on be-
23 half of a financially eligible defendant, payment shall be made by the county.

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

26 “(F) Attends any court on behalf of a defendant who is not financially
27 eligible, payment shall be made by the defendant, and the court shall so or-
28 der.

29 “(2) In the case of a prisoner of a jurisdiction outside of this state who
30 is required to attend as a witness in this state, whether for the prosecution

1 or the defense, the sheriff shall be responsible for transporting the witness
2 to the proper court of this state, and the sheriff shall assume any costs in-
3 curred in connection with the witness while the witness is in the custody
4 of the sheriff. However, the sheriff and not the witness shall be entitled to
5 the witness fees, mileage and expenses to which the witness would otherwise
6 be entitled under this section and ORS 136.627 or other applicable law.

7 **SECTION 27.** ORS 137.020 is amended to read:

8 “137.020. (1) After a plea or verdict of guilty, or after a verdict against
9 the defendant on a plea of former conviction or acquittal, if the judgment is
10 not arrested or a new trial granted, the court shall appoint a time for pro-
11 nouncing judgment.

12 “(2)(a) The time appointed shall be at least two calendar days after the
13 plea or verdict if the court intends to remain in session so long. If the court
14 does not intend to remain in session at least two calendar days, the time
15 appointed may be sooner than two calendar days, but shall be as remote a
16 time as can reasonably be allowed. However, in the latter case, the judgment
17 shall not be given less than six hours after the plea or verdict, except with
18 the consent of the defendant.

19 “(b) Except for good cause shown or as otherwise provided in this para-
20 graph, a court shall not delay for more than 31 calendar days after the plea
21 or verdict the sentencing of a defendant held in custody on account of the
22 pending proceedings. Except for good cause shown or as otherwise provided
23 in this paragraph, a court shall not delay for more than 56 calendar days
24 after the plea or verdict the sentencing of a defendant not held in custody
25 on account of the pending proceedings. If the defendant is not in custody and
26 the court does not pronounce judgment within 56 calendar days after the plea
27 or verdict, any period of probation imposed as a part of a subsequent judg-
28 ment shall begin to run from the date of the plea or verdict.

29 “(3) If the defendant is in custody following the verdict, the court shall
30 pronounce judgment as soon as practicable, but in any case within seven

1 calendar days following the verdict if no presentence investigation is or-
2 dered, and within seven calendar days after delivery of the presentence re-
3 port to the court if a presentence investigation has been ordered; however,
4 the court may delay pronouncement of judgment beyond the limits of this
5 subsection for good cause shown.

6 “(4) If the final calendar day a defendant must be sentenced is not a ju-
7 dicial day then sentencing may be delayed until the next judicial day.

8 “(5)(a) At the time a court pronounces judgment the defendant, if present,
9 shall be advised of the right to appeal and of the procedure for protecting
10 that right. If the defendant is not present, the court shall advise the de-
11 fendant in writing of the right to appeal and of the procedure for protecting
12 that right.

13 “(b) If the trial court sentences the defendant subsequent to a plea of
14 guilty or no contest or upon probation revocation or sentence suspension,
15 or if the trial court sentences the defendant after judgment of an appellate
16 court or a post-conviction relief court, the court shall advise the defendant
17 of the limitations on reviewability imposed by ORS 138.105 in person or, if
18 the defendant is not present, in writing.

19 “(6) If the defendant is financially eligible for appointment of counsel at
20 state expense on appeal under ORS 138.500, trial counsel shall determine
21 whether the defendant wishes to pursue an appeal. If the defendant wishes
22 to pursue an appeal, trial counsel shall transmit to the [*office of public de-*
23 *fense services established under ORS 151.216*] **Oregon Public Defense**
24 **Commission**, on a form prepared by the office, information necessary to
25 perfect the appeal.

26 “**SECTION 28.** ORS 138.310 is amended to read:

27 “138.310. When the [*public defense services*] executive director **of the**
28 **Oregon Public Defense Commission** pays costs, expenses or compensation
29 under ORS 138.500 (5) on appeal in a criminal action, the [*public defense*
30 *services*] executive director shall notify the court below of the costs, expenses

1 and compensation paid in order that the court below may exercise its dis-
2 cretion under ORS 151.505 or 161.665 (2).

3 **“SECTION 29.** ORS 138.480 is amended to read:

4 “138.480. The Supreme Court or the Court of Appeals may, in its dis-
5 cretion, at the request of an individual who is deprived of liberty by a
6 judgment, is without means to retain an attorney and is without the aid of
7 an attorney, direct the [*Public Defense Services Commission*] **Oregon Public**
8 **Defense Commission** to provide representation for the individual in a pro-
9 ceeding before it to test the validity of that judgment.

10 **“SECTION 30.** ORS 138.500 is amended to read:

11 “138.500. (1) If a defendant in a criminal action or a petitioner in a pro-
12 ceeding pursuant to ORS 138.510 to 138.680 wishes to appeal from an
13 appealable adverse final order or judgment of a circuit court and if the per-
14 son is without funds to employ suitable counsel possessing skills and expe-
15 rience commensurate with the nature and complexity of the case for the
16 appeal, the person may request the circuit court from which the appeal is
17 or would be taken to appoint counsel to represent the person on appeal. The
18 following apply to a request under this subsection:

19 “(a) The request shall be in writing and shall be made within the time
20 during which an appeal may be taken or, if the notice of appeal has been
21 filed, at any time thereafter. The request shall include a brief statement of
22 the assets, liabilities and income in the previous year of the person unless
23 the court already determined the person to be financially eligible for ap-
24 pointed counsel at state expense for purposes of the specific case, in which
25 instance, the written request need only so indicate. However, if a request
26 relies on a court’s previous determination that the person is financially eli-
27 gible, the court, in its discretion, may require the person to submit a new
28 statement of assets, liabilities and income.

29 “(b) If, based upon a request under paragraph (a) of this subsection, the
30 court finds that petitioner or defendant previously received the services of

1 appointed counsel or currently is without funds to employ suitable counsel
2 for an appeal, the court shall appoint counsel to represent petitioner or de-
3 fendant on the appeal.

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

8 “(b) After the notice of appeal has been filed, the Court of Appeals has
9 concurrent authority to appoint or substitute counsel or appoint or substi-
10 tute a legal advisor for the defendant under ORS 138.504.

11 “(c) The Supreme Court has concurrent authority to appoint or substitute
12 counsel or appoint or substitute a legal advisor for the defendant under ORS
13 138.504 in connection with review of a Court of Appeals decision under ORS
14 2.520.

15 “(d) Neither the Court of Appeals nor the Supreme Court may substitute
16 one appointed counsel for another under paragraph (b) or (c) of this sub-
17 section except pursuant to the policies, procedures, standards and guidelines
18 of the [*Public Defense Services Commission*] **Oregon Public Defense Com-**
19 **mission.**

20 “(3) Whenever a defendant in a criminal action or a petitioner in a pro-
21 ceeding pursuant to ORS 138.510 to 138.680 has filed a notice of appeal from
22 an appealable adverse final order or judgment of a circuit court and the
23 person is without funds to pay for a transcript, or portion thereof, necessary
24 to present adequately the case upon appeal, the person may request the
25 [*public defense services*] executive director **of the Oregon Public Defense**
26 **Commission** to have the transcript, or portion thereof, prepared for pur-
27 poses of appeal. The following apply to a request under this subsection:

28 “(a) The [*public defense services*] executive director shall authorize the
29 preparation of a transcript after a court has determined that the person is
30 eligible for court-appointed counsel or, if the person has not applied for

1 court-appointed counsel, the person submits a statement of the person’s as-
2 sets, liabilities and income in the previous year and the director determines
3 that the person is eligible for preparation of a transcript at state expense.

4 “(b) The cost of the transcript preparation under paragraph (a) of this
5 subsection shall be in the amount prescribed in ORS 21.345 and paid for as
6 provided by the policies, procedures, standards and guidelines of the [*Public*
7 *Defense Services Commission*] **Oregon Public Defense Commission**.

8 “(4) After submission of the original brief by counsel, the [*public defense*
9 *services*] executive director **of the Oregon Public Defense Commission**
10 shall determine the cost of briefs and any other expenses of appellant, except
11 transcripts, necessary to appellate review and a reasonable amount of com-
12 pensation for counsel appointed under this section. Compensation payable to
13 appointed counsel shall be as established under ORS 151.216. On any review
14 by the Supreme Court of the judgment of the Court of Appeals the [*public*
15 *defense services*] executive director shall similarly determine the costs of
16 briefs and any other expenses necessary for review and a reasonable amount
17 of compensation for counsel appointed under this section.

18 “(5) Costs, expenses and compensation determined by the [*public defense*
19 *services*] executive director **of the Oregon Public Defense Commission**
20 under subsection (4) of this section shall be paid by the [*public defense ser-*
21 *vices*] executive director from funds available for that purpose.

22 “(6) If the [*public defense services*] executive director **of the Oregon**
23 **Public Defense Commission** denies, in whole or in part, costs, expenses and
24 compensation submitted for review and payment, the person who submitted
25 the payment request may appeal the decision to the Chief Judge of the Court
26 of Appeals, if the appeal is in the Court of Appeals, or to the Chief Justice
27 of the Supreme Court, if the appeal is in the Supreme Court. The Chief
28 Judge, Chief Justice or the designee of the Chief Judge or Chief Justice, as
29 appropriate, shall review the [*public defense services*] executive director’s
30 decision for abuse of discretion. The decision of the Chief Judge, the Chief

1 Justice or the designee of the Chief Judge or Chief Justice is final.

2 “(7) The provisions of this section shall apply in favor of the defendant
3 in a criminal action or the petitioner in a proceeding pursuant to ORS
4 138.510 to 138.680 when the person is respondent in an appeal taken by the
5 state in a criminal action or by the defendant in a proceeding pursuant to
6 ORS 138.510 to 138.680.

7 “(8) As used in this section, ‘criminal action’ does not include an action
8 that involves only violations.

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

11 **“SECTION 31.** ORS 138.590 is amended to read:

12 “138.590. (1) Any petitioner who is unable to pay the expenses of a pro-
13 ceeding pursuant to ORS 138.510 to 138.680 or to employ suitable counsel
14 possessing skills and experience commensurate with the nature of the con-
15 viction and complexity of the case for the proceeding may proceed as a fi-
16 nancially eligible person pursuant to this section upon order of the circuit
17 court in which the petition is filed.

18 “(2) If the petitioner wishes to proceed as a financially eligible person,
19 the person shall file with the petition an affidavit stating inability to pay
20 the expenses of a proceeding pursuant to ORS 138.510 to 138.680, including,
21 but not limited to, the filing fee required by ORS 138.560, or to employ
22 suitable counsel for such a proceeding. The affidavit shall contain a brief
23 statement of the petitioner’s assets and liabilities and income during the
24 previous year. If the circuit court is satisfied that the petitioner is unable
25 to pay such expenses or to employ suitable counsel, it shall order that the
26 petitioner proceed as a financially eligible person. If the court finds that a
27 petitioner who has been sentenced to death is not competent to decide
28 whether to accept or reject the appointment of counsel, the court shall ap-
29 point counsel to represent the petitioner. However, when a circuit court or-
30 ders petitioner’s case transferred to another circuit court as provided in ORS

1 138.560 (4), the matter of petitioner’s proceeding as a financially eligible
2 person shall be determined by the latter court.

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

9 “(4) In the order to proceed as a financially eligible person, the circuit
10 court shall appoint suitable counsel to represent petitioner. Counsel so ap-
11 pointed shall represent petitioner throughout the proceedings in the circuit
12 court. The court may not substitute one appointed counsel for another except
13 pursuant to the policies, procedures, standards and guidelines of the [*Public*
14 *Defense Services Commission*] **Oregon Public Defense Commission.**

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

29 “(6) When a petitioner has been ordered to proceed as a financially eli-
30 gible person, the expenses which are necessary for the proceedings upon the

1 petition in the circuit court and the compensation to appointed counsel for
2 petitioner as provided in this subsection shall be paid by the [*public defense*
3 *services*] executive director **of the Oregon Public Defense Commission**
4 from funds available for the purpose. At the conclusion of proceedings on a
5 petition pursuant to ORS 138.510 to 138.680, the [*public defense services*]
6 executive director shall determine and pay, as provided by the policies, pro-
7 cedures, standards and guidelines of the [*Public Defense Services*
8 *Commission*] **Oregon Public Defense Commission**, the amount of expenses
9 of petitioner and compensation for the services of appointed counsel in the
10 proceedings in the circuit court.

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

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

22 “(b) When a petitioner is allowed to file a petition without payment of
23 the fee required by ORS 138.560 due to inability to pay, the fee is not waived
24 but may be drawn from, or charged against, the petitioner’s trust account if
25 the petitioner is an adult in custody in a correctional facility.

26 “(9) Notwithstanding any other provision of this chapter, a court may not
27 appoint as counsel for a petitioner who has been sentenced to death a
28 counsel who previously represented the petitioner at trial or on automatic
29 and direct review in the case resulting in the death sentence unless the
30 petitioner and the counsel expressly request continued representation.

1 **“SECTION 32.** ORS 144.335 is amended to read:

2 “144.335. (1) A person over whom the State Board of Parole and Post-
3 Prison Supervision exercises its jurisdiction may seek judicial review of a
4 final order of the board as provided in this section if:

5 “(a) The person is adversely affected or aggrieved by a final order of the
6 board; and

7 “(b) The person has exhausted administrative review as provided by board
8 rule.

9 “(2) A person requesting administrative review shall provide the person’s
10 current mailing address in the request. The board shall mail its order dis-
11 posing of the request for administrative review to the person at that address,
12 unless the person has otherwise notified the board in writing of a change
13 of address.

14 “(3) The order of the board need not be in any special form, and the order
15 is sufficient for purposes of judicial review if it appears that the board acted
16 within the scope of the board’s authority. The Court of Appeals may affirm,
17 reverse or remand the order on the same basis as provided in ORS 183.482
18 (8). The filing of the petition shall not stay the board’s order, but the board
19 may do so, or the court may order a stay upon application on such terms as
20 it deems proper.

21 “(4) If a person described in subsection (1) of this section seeks judicial
22 review of a final order of the board, the person shall file a petition for ju-
23 dicial review with the Court of Appeals within 60 days after the date the
24 board mails the order disposing of the person’s request for administrative
25 review. The person shall serve a copy of the petition for judicial review on
26 the board.

27 “(5) Within 30 days after being served with a copy of the petition for ju-
28 dicial review, or such further time as the court may allow, the board shall:

29 “(a) Submit to the court the record of the proceeding or, if the petitioner
30 agrees, a shortened record; and

1 “(b) Deliver a copy of the record to the petitioner or the petitioner’s at-
2 torney, if the petitioner is represented by an attorney.

3 “(6) At any time after submission of the petitioner’s brief, the court, on
4 its own motion or on motion of the board, without submission of the board’s
5 brief and without oral argument, may summarily affirm the board’s order if
6 the court determines that the judicial review does not present a substantial
7 question of law. Notwithstanding ORS 2.570, the Chief Judge, or other judge
8 of the Court of Appeals designated by the Chief Judge, may, on behalf of the
9 Court of Appeals, deny or, if the petitioner does not oppose the motion, grant
10 the board’s motion for summary affirmance. A summary affirmance under
11 this subsection constitutes a decision on the merits of the petitioner’s issues
12 on judicial review.

13 “(7) During the pendency of judicial review of an order, if the board
14 withdraws the order for the purpose of reconsideration and thereafter issues
15 an order on reconsideration, and the petitioner wishes to proceed with the
16 judicial review, the petitioner need not seek administrative review of the
17 order on reconsideration and need not file a new petition for judicial review.
18 The petitioner shall file, within a time established by the court, a notice of
19 intent to proceed with judicial review.

20 “(8) In the case of disputed allegations of irregularities in procedure be-
21 fore the board not shown in the record that, if proved, would warrant re-
22 versal or remand, the Court of Appeals may refer the allegations to a master
23 appointed by the court to take evidence and make findings of fact upon them.

24 “(9) If the court determines that a brief filed by the petitioner, when lib-
25 erally construed, fails to state a colorable claim for review, the court may
26 order the petitioner to pay, in addition to the board’s recoverable costs, at-
27 torney fees incurred by the board not to exceed \$100. If the petitioner moves
28 to dismiss the petition prior to a summary affirmance described in subsection
29 (6) of this section, the court may not award costs or attorney fees to the
30 board.

1 “(10) Upon request by the board, the Department of Corrections may draw
2 from or charge to the petitioner’s trust account and pay to the board the
3 amount of any costs or attorney fees awarded to the board by the court in
4 any judicial review under this section.

5 “(11) If the petitioner prevails on judicial review and is represented by
6 an attorney funded by the [*Public Defense Services Commission*] **Oregon**
7 **Public Defense Commission**, any recoverable costs shall be paid to the
8 commission.

9 **“SECTION 33.** ORS 144.337 is amended to read:

10 “144.337. (1) Pursuant to ORS 151.216 and 151.219, the [*Public Defense*
11 *Services Commission*] **Oregon Public Defense Commission** shall provide for
12 the representation of financially eligible persons petitioning for review under
13 ORS 144.335.

14 “(2) If the commission determines that a person petitioning for review
15 under ORS 144.335 is not financially eligible for appointed counsel at state
16 expense, the commission shall promptly notify the person of the determi-
17 nation and of the person’s right to request review of the determination by
18 the Court of Appeals. The person may request review of the commission’s
19 determination by filing a motion in the Court of Appeals no later than 60
20 days after the date of the commission’s notice.

21 “(3) The determination of the Court of Appeals under subsection (2) of
22 this section as to whether the person is financially eligible is final.

23 **“SECTION 34.** ORS 147.537 is amended to read:

24 “147.537. (1) Appellate review of an order described in ORS 147.535 (4)(a)
25 must be initiated by filing a notice of interlocutory appeal with the Supreme
26 Court substantially in the form prescribed by rule of the Supreme Court.
27 Review of the order is a matter of right.

28 “(2) The person or party filing the notice of interlocutory appeal shall be
29 identified as the appellant and the defendant shall be identified as the re-
30 spondent. Any other person described in subsection (6)(a) to (f) of this section

1 who is a party to the appeal shall be identified as a respondent.

2 “(3) The notice of interlocutory appeal must contain:

3 “(a) A designation of those portions of the trial court record, including
4 oral proceedings, to be included in the record on appeal; and

5 “(b) A statement of why the notice is timely.

6 “(4) The appellant shall include with the notice of interlocutory appeal
7 the following materials:

8 “(a) A copy of the order for which appellate review is sought, which must
9 be attached to the notice.

10 “(b) Excerpts of the record necessary to determine the question presented
11 and the relief sought. An excerpt of record must include a copy of the form
12 described in ORS 147.515 (2)(a), if the form was completed and provided to
13 the trial court.

14 “(c) A memorandum of law containing:

15 “(A) A concise but complete statement of facts material to a determi-
16 nation of the question presented and the relief sought; and

17 “(B) Supporting arguments and citations of authority.

18 “(5) The Supreme Court may:

19 “(a) Direct a party to the appeal to supplement the record with a copy
20 of additional parts of the record or a transcript of the parts of the oral
21 proceedings in the trial court necessary to determine the question presented
22 and the relief sought; or

23 “(b) Direct the trial court administrator to forward all or part of the trial
24 court record.

25 “(6) The appellant shall serve a copy of the notice of interlocutory appeal
26 and the accompanying materials described in subsection (4) of this section
27 on the following other persons:

28 “(a) The victim who asserted the claim that resulted in the order being
29 appealed and any victim who asserted a related claim;

30 “(b) Any person who filed a response under ORS 147.517 (4) to the claim

1 that resulted in the order being appealed or a related claim;

2 “(c) Any person who filed the motion that resulted in the order being
3 appealed or a related motion under ORS 147.522;

4 “(d) Any person against whom relief was sought in the hearing that re-
5 sulted in the order being appealed or a related hearing under ORS 147.530;

6 “(e) The prosecuting attorney;

7 “(f) The Attorney General;

8 “(g) The defendant; and

9 “(h) The [*office of public defense services established under ORS 151.216*]
10 **Oregon Public Defense Commission**, if the defendant is represented by
11 appointed counsel.

12 “(7) The appellant shall serve a copy of the notice of interlocutory appeal
13 on:

14 “(a) The trial court administrator; and

15 “(b) The trial court transcript coordinator, if the notice of interlocutory
16 appeal contains a designation of the oral proceedings before the trial court
17 as part of the record on appeal.

18 “(8)(a) Except as otherwise provided in this subsection, the appellant shall
19 serve and file the notice of interlocutory appeal and, if applicable, the ac-
20 companying materials described in subsection (4) of this section within seven
21 days after the date the trial court entered the order being appealed.

22 “(b) An appellant who seeks to appeal an order issued under ORS 147.530
23 and who was not provided with a copy of the order as required by ORS
24 147.530 (6) may serve and file the notice of interlocutory appeal and, if ap-
25 plicable, the accompanying materials described in subsection (4) of this sec-
26 tion within seven days after the date of receiving a copy of the order.

27 “(c) The appellant shall serve the prosecuting attorney and the Attorney
28 General so that the copy of the notice of interlocutory appeal and accompa-
29 nying materials are received on the same day the notice is filed with the
30 Supreme Court.

1 “(d) Except as provided in paragraph (c) of this subsection, the appellant
2 shall serve all persons described in subsections (6) and (7) of this section so
3 that the copy of the notice of interlocutory appeal and, if applicable, ac-
4 companying materials are received no later than one judicial day after the
5 notice is filed.

6 “(9) Within three days after receipt of a notice of interlocutory appeal
7 that contains a designation of record under subsection (3) of this section, the
8 trial court administrator shall forward to the Supreme Court an audio record
9 of the designated oral proceedings.

10 “(10) If the Supreme Court directs a party to provide a transcript of oral
11 proceedings under subsection (5) of this section, the party shall provide the
12 transcript to the Supreme Court within seven days after the date of the Su-
13 preme Court’s order.

14 “(11)(a) The following requirements are jurisdictional and may not be
15 waived or extended:

16 “(A) The timely filing of the original notice of interlocutory appeal and
17 accompanying materials described in subsection (4) of this section with the
18 Supreme Court; and

19 “(B) The service of the notice of interlocutory appeal within the time
20 limits described in subsection (8) of this section on all persons identified in
21 subsection (6) of this section.

22 “(b) Failure to timely serve a true and complete copy of the accompanying
23 materials described in subsection (4) of this section is not jurisdictional,
24 provided that the appellant made a good faith effort to do so and substan-
25 tially complied with those requirements.

26 “(c) Notwithstanding paragraph (b) of this subsection, the Supreme Court
27 may dismiss the appeal as to any respondent if the appellant, after receipt
28 of a notice of noncompliance, does not promptly cure a deficiency in the
29 materials or if the failure to timely serve a true and complete copy of the
30 accompanying materials substantially prejudices the respondent’s ability to

1 respond to the appeal.

2 “(12) A respondent may file a response, which must be filed within seven
3 days after the date the notice of interlocutory appeal is filed with the Su-
4 preme Court.

5 “(13)(a) Except as provided in paragraph (b) of this subsection, the
6 appellant may not file a reply.

7 “(b) If the Supreme Court determines that the case is unusually complex,
8 due to the number of persons involved or the existence of novel questions
9 of law, and the court would benefit from additional briefing, the court may
10 extend the briefing schedule described in this section and allow the appellant
11 to file a reply.

12 “(14) The appellant or respondent may request oral argument. The Su-
13 preme Court may grant or deny a request for oral argument or order oral
14 argument on its own motion.

15 “(15) At any time after submission of the appellant’s memorandum of law,
16 the Supreme Court, on its own motion or on the motion of the respondent,
17 may summarily affirm the trial court’s order, with or without the submission
18 of a response or oral argument, if the Supreme Court determines that the
19 appeal does not present a substantial question of law. A motion for summary
20 affirmance has no effect on the timelines described in this section.

21 “(16)(a) Except as provided in paragraph (b) of this subsection, the Su-
22 preme Court shall issue its decision on appeal under this section within 21
23 days after the date the notice of interlocutory appeal is filed.

24 “(b) The Supreme Court may issue a final decision beyond the 21-day pe-
25 riod if the court determines that the ends of justice served by issuing a final
26 decision at a later date outweigh the best interests of the victim, the prose-
27 cuting attorney, the defendant, any person against whom relief was ordered
28 and the public.

29 “(c) In making the determination under paragraph (b) of this subsection,
30 the Supreme Court shall consider:

1 “(A) Whether the case is unusually complex, due to the number of persons
2 involved or the existence of novel questions of law, and whether 21 days is
3 an unreasonable amount of time for the court to issue a decision; and

4 “(B) Whether the failure to extend the 21-day period would be likely to
5 result in a miscarriage of justice.

6 “(17) Appellate review under this section is confined to the record. The
7 Supreme Court may not substitute its judgment for that of the trial court
8 as to any issue of fact and shall review challenges to a factual finding for
9 evidence in the record to support the finding. The Supreme Court shall re-
10 view for errors of law and, when the law delegates discretion to the trial
11 court, determine whether the trial court’s exercise of discretion was outside
12 the range of discretion delegated to the trial court.

13 “(18) The Supreme Court may affirm, modify, reverse or remand the trial
14 court’s order. The court may reverse or remand the order only if it finds that
15 the order is unlawful in substance or procedure and that the substantial
16 rights of the appellant were prejudiced as a result.

17 “(19) Notwithstanding any other provision of law, a notice of
18 interlocutory appeal and the response described in subsection (12) of this
19 section are filed under this section when those documents are physically re-
20 ceived by the Supreme Court or, if the documents are filed electronically,
21 as provided by rule of the Chief Justice of the Supreme Court.

22 “(20) In addition to any other method authorized by law, service under
23 this section may be accomplished by electronic mail or facsimile trans-
24 mission, in a manner consistent with any applicable rules of appellate pro-
25 cedure.

26 **“SECTION 35.** ORS 147.560 is amended to read:

27 “147.560. (1) There is created the Task Force on Victims’ Rights Enforce-
28 ment consisting of the Attorney General and at least nine members appointed
29 as follows:

30 “(a) The Attorney General shall appoint:

1 “(A) Two members employed by or associated with a group advocating for
2 the rights of victims of crime;

3 “(B) A member who represents the Department of Justice Crime Victims’
4 Services Division;

5 “(C) A lawyer routinely engaged in the representation of persons charged
6 with a crime, after consulting with professional organizations serving such
7 lawyers;

8 “(D) A lawyer routinely engaged in prosecuting persons charged with
9 person felony crimes, after consulting with professional organizations serv-
10 ing such lawyers;

11 “(E) A lawyer routinely engaged in prosecuting persons charged with a
12 crime, after consulting with professional organizations serving such lawyers;
13 and

14 “(F) Other persons the Attorney General deems appropriate;

15 “(b) The Chief Justice of the Supreme Court shall appoint:

16 “(A) A person employed by the Judicial Department, other than a judge;
17 and

18 “(B) A judge; and

19 “(c) The executive director of the [*office of public defense services estab-*
20 *lished under ORS 151.216*] **Oregon Public Defense Commission** shall ap-
21 point a person employed by the [*office of public defense services*]
22 **commission.**

23 “(2) The task force shall review the implementation of ORS 147.500 to
24 147.550.

25 “(3) The Attorney General shall serve as chair of the task force and may
26 establish a term of office for the members. The task force shall meet at times
27 and places specified by the call of the chairperson or of a majority of the
28 members of the task force.

29 “(4) Members serve at the pleasure of the appointing authority. If there
30 is a vacancy for any cause, the appointing authority shall make an appoint-

1 ment to become immediately effective.

2 “(5) The task force may prepare reports that include recommendations for
3 legislation designed to improve, in a cost-efficient manner, the protection of
4 rights granted to victims of crime by the Oregon Constitution. The task force
5 may submit a report prepared under this subsection to the Legislative As-
6 sembly in the manner provided in ORS 192.245.

7 “(6) Members of the task force are not entitled to compensation or re-
8 imbursement for expenses and serve as volunteers on the task force.

9 “(7) The Department of Justice shall provide staff support to the task
10 force.

11 “(8) All agencies of state government, as defined in ORS 174.111, are di-
12 rected to assist the task force in the performance of its duties and, to the
13 extent permitted by laws relating to confidentiality, to furnish such infor-
14 mation and advice as the members of the task force consider necessary to
15 perform their duties.

16 “**SECTION 36.** ORS 151.485 is amended to read:

17 “151.485. (1) For purposes of determining the financial eligibility for ap-
18 pointed counsel of persons with a constitutional or statutory right to counsel
19 in matters before the state courts and whose counsel is authorized to be paid
20 by the [*public defense services*] executive director [*under ORS 151.219*] **of the**
21 **Oregon Public Defense Commission**, a person is financially eligible for
22 appointed counsel if the person is determined to be financially unable to re-
23 tain adequate counsel without substantial hardship in providing basic eco-
24 nomic necessities to the person or the person’s dependent family under
25 standards established by the [*Public Defense Services Commission*] **Oregon**
26 **Public Defense Commission** under ORS 151.216.

27 “(2) A determination of financial eligibility shall be made upon the basis
28 of information contained in a detailed financial statement submitted by the
29 person for whom counsel is requested or appointed or, in an appropriate case,
30 by the person’s parent, guardian or custodian. The financial statement shall

1 be in the form prescribed by the [*Public Defense Services Commission*]
2 **Oregon Public Defense Commission**. The form shall contain a full disclo-
3 sure of all assets, liabilities, current income, dependents and other informa-
4 tion required by ORS 135.050 (4) and, in addition, any information required
5 by the commission and state courts as necessary to determine eligibility. The
6 commission shall adopt uniform statewide guidelines and procedures that
7 prescribe how to use the form and determine financial eligibility for ap-
8 pointed counsel.

9 “(3) If at any time after the appointment of counsel the court having ju-
10 risdiction of the case finds that the defendant is financially able to obtain
11 counsel, the court may terminate the appointment of counsel. If at any time
12 during criminal proceedings the court having jurisdiction of the case finds
13 that the defendant is financially unable to pay counsel whom the defendant
14 has retained, the court may appoint counsel as provided in this section.

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

23 “(5) The civil proceeding shall be subject to the exemptions from exe-
24 cution as provided for by law.

25 **“SECTION 37.** ORS 151.487 is amended to read:

26 “151.487. (1) If in determining that a person is financially eligible for ap-
27 pointed counsel under ORS 151.485, the court finds that the person has fi-
28 nancial resources that enable the person to pay in full or in part the
29 administrative costs of determining the eligibility of the person and the costs
30 of the legal and other services to be provided at state expense that are re-

1 lated to the provision of appointed counsel, the court shall enter a limited
2 judgment requiring that the person pay to the Public Defense Services Ac-
3 count established by ORS 151.225, through the clerk of the court, the amount
4 that it finds the person is able to pay without creating substantial hardship
5 in providing basic economic necessities to the person or the person's de-
6 pendent family. The amount that a court may require the person to pay is
7 subject to the guidelines and procedures issued by the [*Public Defense Ser-*
8 *vices Commission*] **Oregon Public Defense Commission** as provided in
9 subsection (4) of this section.

10 “(2) Failure to comply with the requirements of a limited judgment en-
11 tered under this section is not grounds for contempt or grounds for with-
12 drawal by the appointed attorney.

13 “(3) Except as authorized in this section, a person, organization or gov-
14 ernmental agency may not request or accept a payment or promise of pay-
15 ment for assisting in the representation of a person by appointment.

16 “(4) The commission shall promulgate and issue guidelines and proce-
17 dures:

18 “(a) For the determination of persons provided with appointed counsel
19 who have some financial resources to pay in full or in part the administra-
20 tive, legal and other costs under subsection (1) of this section; and

21 “(b) Regarding the amounts persons may be required to pay by a court
22 under subsection (1) of this section.

23 “(5) The determination that a person is able to pay or partially able to
24 pay, or that a person no longer has the ability to pay the amount ordered
25 in subsection (1) of this section, is subject to review at any time by the court.

26 “**SECTION 38.** ORS 151.493 is amended to read:

27 “151.493. (1) Notwithstanding any other provision of law, any state agency
28 as defined in ORS 192.311 that receives a request for release of information
29 from the state courts for the purpose of verifying the financial eligibility of
30 a person under ORS 151.485 to 151.497 shall release all requested information

1 to the state court. The court shall forward to the state agency a certification
2 signed by the person about whom the requested information is sought that
3 authorizes the release of the information.

4 “(2) Upon its own motion or motion of the [*public defense services*] execu-
5 tive director **of the Oregon Public Defense Commission**, a court that has
6 appointed counsel for a person by reason of financial eligibility may order
7 the release of any information relating to the person’s financial situation
8 held by any other person.

9 **“SECTION 39.** ORS 151.505 is amended to read:

10 “151.505. (1) At the conclusion of a case or matter in which the first
11 accusatory instrument or petition in the trial court was filed after January
12 1, 1998, and in which the court appointed counsel to represent a person, a
13 trial, appellate or post-conviction court may include in its judgment a money
14 award requiring that the person repay in full or in part the administrative
15 costs of determining the eligibility of the person for appointed counsel, and
16 the costs of the legal and other services that are related to the provision of
17 appointed counsel, that have not previously been required to be paid under
18 a limited judgment entered under ORS 151.487. An award under this section
19 is a monetary obligation payable to the state.

20 “(2) Costs that may be included in a money award under this section in-
21 clude a reasonable attorney fee for counsel appointed to represent the person
22 and a reasonable amount for expenses authorized under ORS 135.055. A rea-
23 sonable attorney fee is presumed to be a reasonable number of hours at the
24 hourly rate authorized by the [*Public Defense Services Commission*] **Oregon**
25 **Public Defense Commission** under ORS 151.216. For purposes of this sub-
26 section, compensation of counsel is determined by reference to a schedule
27 of compensation established by the commission.

28 “(3) The court may not require a person to pay costs under this section
29 unless the person is or may be able to pay the costs. In determining the
30 amount and method of payment of costs, the court shall take account of the

1 financial resources of the person and the nature of the burden that payment
2 of costs will impose.

3 “(4)(a) A person who has been required to pay costs under this section
4 and who is not in contumacious default in the payment of the costs may at
5 any time petition the court for remission of the payment of costs or any
6 unpaid portion of the costs. If it appears to the satisfaction of the court that
7 payment of the amount due will impose manifest hardship on the person or-
8 dered to repay or on the immediate family of the person, or will interfere
9 with the ability of the person to complete an alcohol or drug treatment
10 program, the court may enter a supplemental judgment that remits all or
11 part of the amount due or modifies the method of payment.

12 “(b) In accordance with ORS 144.089, a person may enter into a written
13 agreement to participate in a community service exchange program as an
14 alternative to paying costs imposed under this section.

15 “(5) All moneys collected or paid under a money award made pursuant to
16 this section shall be paid into the Criminal Fine Account. If the money
17 award is part of a criminal judgment of conviction, the award is a Type 2,
18 Level II obligation for the purpose of ORS 137.145 to 137.159.

19 **“SECTION 40.** ORS 161.309 is amended to read:

20 “161.309. (1) The defendant may not introduce evidence on the issue of
21 insanity under ORS 161.295, unless the defendant:

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

24 “(b) Files with the court a report of a psychiatric or psychological eval-
25 uation, conducted by a certified evaluator, in the manner provided in sub-
26 section (4) of this section.

27 “(2) The defendant may not introduce in the case in chief expert testi-
28 mony regarding partial responsibility or diminished capacity under ORS
29 161.300 unless the defendant gives notice of intent to do so in the manner
30 provided in subsection (3) of this section.

1 “(3)(a) A defendant who is required under subsection (1) or (2) of this
2 section to give notice shall file a written notice of purpose at least 45 days
3 before trial.

4 “(b) Notwithstanding paragraph (a) of this subsection, the court may, for
5 good cause, permit the defendant to file the notice within 45 days before
6 trial.

7 “(c) If the defendant fails to file notice under this subsection, the de-
8 fendant may not introduce evidence for the establishment of a defense under
9 ORS 161.295 or 161.300 unless the court, in its discretion, permits the evi-
10 dence to be introduced where just cause for failure to file the notice is
11 shown.

12 “(4) A defendant who is required under subsection (1) of this section to
13 file a report of a psychiatric or psychological evaluation shall file the report
14 before trial. The report must be based on an evaluation conducted after the
15 date of the alleged offense and must address the issue of insanity under ORS
16 161.295 and the dispositional determination described in ORS 161.325. If the
17 defendant fails to file a complete report before trial, the defendant may not
18 introduce evidence for the establishment of a defense under ORS 161.295
19 unless:

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

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

24 “(5)(a) A court may not accept a plea of guilty except for insanity to a
25 felony unless a report described in subsection (4) of this section is filed with
26 the court. If the report has not been filed, the court may order that a psy-
27 chiatric or psychological evaluation of the defendant be conducted by a cer-
28 tified evaluator and a report of the evaluation be filed with the court.

29 “(b) When the court orders an evaluation of a financially eligible person
30 under this subsection, the court shall order the [*public defense services*]

1 executive director **of the Oregon Public Defense Commission** to pay a
2 reasonable fee for the evaluation from funds available for that purpose.

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

8 “(6) Prior to accepting a plea of guilty except for insanity to a felony, the
9 court shall inform the defendant of the possibility that the court may order
10 commitment or conditional discharge after entry of judgment, and of the
11 maximum total period of commitment or conditional discharge under ORS
12 161.327 (7).

13 “(7) As used in this section, ‘certified evaluator’ means a psychiatrist or
14 psychologist who holds a valid certification under the provisions of ORS
15 161.392.

16 **“SECTION 41.** ORS 161.346 is amended to read:

17 “161.346. (1) When the Psychiatric Security Review Board conducts a
18 hearing under ORS 161.315 to 161.351, the board shall enter an order and
19 make findings in support of the order. If the board finds that a person under
20 the jurisdiction of the board:

21 “(a) Is no longer affected by a qualifying mental disorder, or, if so af-
22 fected, no longer presents a substantial danger to others, the board shall
23 order the person discharged from commitment and conditional release.

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

28 “(c) Has not recovered from the qualifying mental disorder, is a substan-
29 tial danger to others and cannot adequately be controlled if conditionally
30 released on supervision, the board shall order the person committed to, or

1 retained in, a state hospital, or if the person is under 18 years of age, a se-
2 cure intensive community inpatient facility, for care, custody and treatment.

3 “(2) To assist the board in making the determination described in sub-
4 section (1) of this section, the board may, at any time, appoint a psychiatrist
5 or licensed psychologist to examine the person and to submit a report to the
6 board. The report must include an opinion as to the mental condition of the
7 person, whether the person presents a substantial danger to others and
8 whether the person could be adequately controlled with treatment as a con-
9 dition of release.

10 “(3) The board may make the determination regarding discharge or con-
11 ditional release based upon the written reports submitted pursuant to this
12 section. If any member of the board desires further information from the
13 examining psychiatrist or licensed psychologist who submitted the report, the
14 board shall summon the person to give testimony. The board shall consider
15 all evidence available to it that is material, relevant and reliable regarding
16 the issues before the board. The evidence may include but is not limited to
17 the record of trial, the information supplied by the attorney representing the
18 state or by any other interested party, including the person, and information
19 concerning the person’s mental condition and the entire psychiatric and
20 criminal history of the person. All evidence of a type commonly relied upon
21 by reasonably prudent persons in the conduct of their serious affairs shall
22 be admissible at hearings. Testimony shall be taken upon oath or affirmation
23 of the witness from whom received. The officer presiding at the hearing shall
24 administer oaths or affirmations to witnesses.

25 “(4) The board shall furnish to the person about whom the hearing is
26 being conducted, the attorney representing the person, the Attorney General
27 and the district attorney of the county from which the person was committed
28 written notice of any hearing pending under this section within a reasonable
29 time prior to the hearing. The notice shall include:

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

1 “(b) The nature of the hearing and the specific action for which a hearing
2 has been requested, the issues to be considered at the hearing and a refer-
3 ence to the particular sections of the statutes and rules involved.

4 “(c) A statement of the legal authority and jurisdiction under which the
5 hearing is to be held.

6 “(d) A statement of all rights under subsection (6) of this section.

7 “(5) Prior to the commencement of the hearing, the board shall serve
8 personally or by mail a written notice to each party as provided in ORS
9 183.413 (2).

10 “(6) At the hearing, the person about whom the hearing is being held
11 shall have the right:

12 “(a) To appear at all proceedings held pursuant to this section, except for
13 deliberations.

14 “(b) To cross-examine all witnesses appearing to testify at the hearing.

15 “(c) To subpoena witnesses and documents as provided in ORS 161.395.

16 “(d) To be represented by suitable legal counsel possessing skills and ex-
17 perience commensurate with the nature and complexity of the case, to con-
18 sult with counsel prior to the hearing and, if financially eligible, to have
19 suitable counsel appointed at state expense.

20 “(e) To examine all information, documents and reports that the board
21 considers. If then available to the board, the information, documents and
22 reports shall be disclosed to the person so as to allow examination prior to
23 the hearing.

24 “(7) A record shall be kept of all hearings conducted under ORS 161.315
25 to 161.351, except for deliberations.

26 “(8) Upon request of any party, or on motion of the board, the hearing
27 may be continued for a reasonable period not to exceed 60 days to obtain
28 additional information or testimony or for other good cause shown.

29 “(9) Within 30 days following the conclusion of the hearing, the board
30 shall provide to the person, the attorney representing the person, the Attor-

1 ney General or other attorney representing the state, if any, written notice
2 of the order entered by the board.

3 “(10) The burden of proof on all issues at hearings under ORS 161.315 to
4 161.351 shall be by a preponderance of the evidence.

5 “(11) If the board determines that the person about whom the hearing is
6 being held is financially eligible, the board shall appoint suitable counsel to
7 represent the person. Counsel so appointed shall be an attorney who satisfies
8 the [*professional qualifications*] **minimum standards** established by the
9 [*Public Defense Services Commission*] **Oregon Public Defense Commission**
10 under ORS 151.216. The [*public defense services*] executive director **of the**
11 **commission** shall determine and allow fair compensation for counsel ap-
12 pointed under this subsection and the reasonable expenses of the person in
13 respect to the hearing. Compensation payable to appointed counsel shall not
14 be less than the applicable compensation level established under ORS
15 151.216. The compensation and expenses so allowed shall be paid by the
16 [*public defense services*] executive director from funds available for the pur-
17 pose.

18 “(12) The Attorney General may represent the state at contested hearings
19 under ORS 161.315 to 161.351 unless the district attorney of the county from
20 which the person was committed elects to represent the state. The district
21 attorney of the county from which the person was committed shall cooperate
22 with the Attorney General in securing the material necessary for presenting
23 a contested hearing. If the district attorney elects to represent the state, the
24 district attorney shall give timely written notice of such election to the At-
25 torney General, the board and the attorney representing the person.

26 “**SECTION 42.** ORS 161.348 is amended to read:

27 “161.348. (1) When a person over whom the Psychiatric Security Review
28 Board exercises jurisdiction under ORS 161.315 to 161.351 or 419C.544 is ad-
29 versely affected or aggrieved by a final order of the board, the person is en-
30 titled to judicial review of the final order. The person is entitled on judicial

1 review to suitable counsel possessing skills and experience commensurate
2 with the nature and complexity of the case. If the person is financially eli-
3 gible, suitable counsel shall be appointed by the reviewing court in the
4 manner provided in ORS 138.500 (1). If the person is financially eligible, the
5 [*public defense services*] executive director **of the Oregon Public Defense**
6 **Commission** shall determine and pay, as provided in ORS 138.500, the cost
7 of briefs, any other expenses of the person necessary to the review and
8 compensation for counsel appointed for the person. The costs, expenses and
9 compensation so allowed shall be paid as provided in ORS 138.500.

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

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

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

22 **“SECTION 43.** ORS 161.365 is amended to read:

23 “161.365. (1)(a) When the court has reason to doubt the defendant’s fitness
24 to proceed by reason of incapacity as described in ORS 161.360, the court
25 may call any witness to assist it in reaching its decision and, except as
26 provided in paragraph (b) of this subsection, shall order that a community
27 mental health program director, or the director’s designee, consult with the
28 defendant and with any local entity that would be responsible for providing
29 community restoration services to the defendant if the defendant were to be
30 released in the community, to determine whether appropriate community

1 restoration services are present and available in the community. After the
2 consultation, the program director or the director's designee shall provide
3 to the court a copy of the findings resulting from the consultation.

4 “(b) If the defendant is charged with one or more of the following offenses
5 the court is not required to, but may in its discretion, order the consultation
6 described in paragraph (a) of this subsection:

7 “(A) Aggravated murder;

8 “(B) Murder in any degree;

9 “(C) Attempted aggravated murder;

10 “(D) Attempted murder in any degree;

11 “(E) Manslaughter in any degree;

12 “(F) Aggravated vehicular homicide;

13 “(G) Arson in the first degree when classified as crime category 10 of the
14 sentencing guidelines grid of the Oregon Criminal Justice Commission;

15 “(H) Assault in the first degree;

16 “(I) Assault in the second degree;

17 “(J) Kidnapping in the first degree;

18 “(K) Kidnapping in the second degree;

19 “(L) Rape in the first degree;

20 “(M) Sodomy in the first degree;

21 “(N) Unlawful sexual penetration in the first degree;

22 “(O) Robbery in the first degree; or

23 “(P) Robbery in the second degree.

24 “(c) If the court determines the assistance of a psychiatrist or psychol-
25 ogist would be helpful, the court may:

26 “(A) Order that a psychiatric or psychological examination of the de-
27 fendant be conducted by a certified evaluator and a report of the examina-
28 tion be prepared; or

29 “(B) Order the defendant to be committed for the purpose of an examina-
30 tion to a state mental hospital or other facility designated by the Oregon

1 Health Authority if the defendant is at least 18 years of age, or to a secure
2 intensive community inpatient facility designated by the authority if the
3 defendant is under 18 years of age. The state mental hospital or other facility
4 may retain custody of a defendant committed under this paragraph for the
5 duration necessary to complete the examination of the defendant, not to ex-
6 ceed 30 days. The examination may include a period of observation.

7 “(d) The court shall provide a copy of any order entered under this sub-
8 section to the community mental health program director or designee and to
9 the state mental hospital or other facility by the end of the next judicial day.

10 “(2)(a) A defendant committed under subsection (1)(c)(B) of this section
11 shall be transported to the state mental hospital or other facility for the
12 examination.

13 “(b) At the conclusion of the examination, the superintendent of the state
14 mental hospital or the superintendent’s designee or the director of the facil-
15 ity may:

16 “(A) Return the defendant to the facility from which the defendant was
17 transported; or

18 “(B) Inform the court and the parties that the defendant requires a hos-
19 pital level of care due to the acuity of symptoms of the defendant’s qualifying
20 mental disorder and request that the defendant remain at the state mental
21 hospital or other facility pending a hearing or order under ORS 161.370.

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

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

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

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

29 “(d) If the defendant is incapacitated within the description set out in
30 ORS 161.360, a recommendation of treatment and services necessary to allow

1 the defendant to gain or regain capacity, including whether a hospital level
2 of care is required due to the acuity of symptoms of the defendant's quali-
3 fying mental disorder.

4 “(4) Except when the defendant and the court both request to the con-
5 trary, the report may not contain any findings or conclusions as to whether
6 the defendant as a result of a qualifying mental disorder was subject to the
7 provisions of ORS 161.295 or 161.300 at the time of the criminal act charged.

8 “(5) If the examination by the certified evaluator cannot be conducted by
9 reason of the unwillingness of the defendant to participate in the examina-
10 tion, the report must so state and must include, if possible, an opinion as to
11 whether the unwillingness of the defendant was the result of a qualifying
12 mental disorder affecting fitness to proceed.

13 “(6) The report resulting from the examination of a defendant under this
14 section may be filed electronically and must be filed with the clerk of the
15 court, who shall cause copies to be delivered to the district attorney and to
16 counsel for defendant.

17 “(7)(a) When upon motion of the court or a financially eligible defendant,
18 the court has ordered a psychiatric or psychological examination of the de-
19 fendant, a county or justice court shall order the county to pay, a municipal
20 court shall order the city to pay, and a circuit court shall order the [*public*
21 *defense services*] executive director **of the Oregon Public Defense Com-**
22 **mission** to pay from funds available for the purpose:

23 “(A) A reasonable fee if the examination of the defendant is conducted
24 by a certified evaluator in private practice; and

25 “(B) All costs including transportation of the defendant if the examina-
26 tion is conducted by a certified evaluator in the employ of the Oregon Health
27 Authority or a community mental health program established under ORS
28 430.610 to 430.670.

29 “(b) When an examination is ordered at the request or with the
30 acquiescence of a defendant who is determined not to be financially eligible,

1 the examination shall be performed at the defendant's expense. When an ex-
2 amination is ordered at the request of the prosecution, the county shall pay
3 for the expense of the examination.

4 “(8) The Oregon Health Authority shall establish by rule standards for
5 the consultation described in subsection (1) of this section.

6 **“SECTION 44.** ORS 161.665 is amended to read:

7 “161.665. (1) Except as provided in ORS 151.505, the court, only in the case
8 of a defendant for whom it enters a judgment of conviction, may include in
9 its sentence thereunder a money award for all costs specially incurred by the
10 state in prosecuting the defendant. Costs include a reasonable attorney fee
11 for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable
12 amount for fees and expenses incurred pursuant to preauthorization under
13 ORS 135.055. A reasonable attorney fee is presumed to be a reasonable
14 number of hours at the hourly rate authorized by the [*Public Defense Ser-*
15 *vices Commission*] **Oregon Public Defense Commission** under ORS 151.216.
16 Costs do not include expenses inherent in providing a constitutionally guar-
17 anteed jury trial or expenditures in connection with the maintenance and
18 operation of government agencies that must be made by the public irrespec-
19 tive of specific violations of law.

20 “(2) Except as provided in ORS 151.505, the court, after the conclusion
21 of an appeal of its initial judgment of conviction, may include in its general
22 judgment, or enter a supplemental judgment that includes, a money award
23 that requires a convicted defendant to pay a reasonable attorney fee for
24 counsel appointed pursuant to ORS 138.500, including counsel who is ap-
25 pointed under ORS 151.216 or counsel who is under contract to provide ser-
26 vices for the proceeding under ORS 151.219, and other costs and expenses
27 allowed by the [*public defense services*] executive director **of the Oregon**
28 **Public Defense Commission** under ORS 138.500 (4). A reasonable attorney
29 fee is presumed to be a reasonable number of hours at the hourly rate au-
30 thorized by the commission under ORS 151.216.

1 “(3) For purposes of subsections (1) and (2) of this section, compensation
2 of counsel is determined by reference to a schedule of compensation estab-
3 lished by the commission under ORS 151.216.

4 “(4) The court may not sentence a defendant to pay costs under this sec-
5 tion unless the defendant is or may be able to pay them. In determining the
6 amount and method of payment of costs, the court shall take account of the
7 financial resources of the defendant and the nature of the burden that pay-
8 ment of costs will impose.

9 “(5) A defendant who has been sentenced to pay costs under this section
10 and who is not in contumacious default in the payment of costs may at any
11 time petition the court that sentenced the defendant for remission of the
12 payment of costs or of any unpaid portion of costs. If it appears to the sat-
13 isfaction of the court that payment of the amount due will impose manifest
14 hardship on the defendant or the immediate family of the defendant, the
15 court may enter a supplemental judgment that remits all or part of the
16 amount due in costs, or modifies the method of payment under ORS 161.675.

17 “(6) Except as provided in subsection (7) of this section, all moneys col-
18 lected or paid under this section shall be paid into the Criminal Fine Ac-
19 count.

20 “(7) The court may, in the judgment of conviction, include a money award
21 requiring the defendant to pay the costs of extraditing the defendant to this
22 state. Any amounts awarded to the state under this subsection must be listed
23 separately in the money award portion of the judgment. All moneys collected
24 or paid under this subsection shall be deposited into the Arrest and Return
25 Account established by ORS 133.865.

26 **“SECTION 45.** ORS 171.133 is amended to read:

27 “171.133. (1) A state agency shall not cause a bill or measure to be in-
28 troduced before the Legislative Assembly if the bill or measure has not been
29 approved by the Governor.

30 “(2) As used in ORS 171.130 and this section, ‘state agency’ means every

1 state agency whose costs are paid wholly or in part from funds held in the
2 State Treasury, except:

3 “(a) The Legislative Assembly, the courts and their officers and commit-
4 tees;

5 “(b) The [*Public Defense Services Commission*] **Oregon Public Defense**
6 **Commission**; and

7 “(c) The Secretary of State, the State Treasurer, the Attorney General and
8 the Commissioner of the Bureau of Labor and Industries.

9 **“SECTION 46.** ORS 181A.010 is amended to read:

10 “181A.010. As used in ORS 181A.010 to 181A.350, unless the context re-
11 quires otherwise:

12 “(1) ‘Criminal justice agency’ means:

13 “(a) The Governor;

14 “(b) Courts of criminal jurisdiction;

15 “(c) The Attorney General;

16 “(d) District attorneys, city attorneys with criminal prosecutorial func-
17 tions, attorney employees of the [*office of public defense services*] **Oregon**
18 **Public Defense Commission** and nonprofit public defender organizations
19 established under contract with the [*Public Defense Services*] commission;

20 “(e) Law enforcement agencies;

21 “(f) The Department of Corrections;

22 “(g) The Oregon Youth Authority;

23 “(h) The State Board of Parole and Post-Prison Supervision;

24 “(i) The Department of Public Safety Standards and Training;

25 “(j) The enforcement division of the Oregon Liquor and Cannabis Com-
26 mission in performing duties related to investigating and enforcing the
27 criminal laws of this state that the commission is charged to enforce;

28 “(k) Civilian or community oversight boards, agencies or review bodies
29 designated by a municipality or a law enforcement agency in performing
30 duties related to investigating allegations of officer misconduct or reviewing

1 police policies and practices;

2 “(L) Regional information systems that share programs to track, identify
3 and remove cross-jurisdictional criminal and terrorist conspiracies; and

4 “(m) Any other state or local agency with law enforcement authority.

5 “(2) ‘Criminal offender information’ includes records and related data as
6 to physical description and vital statistics, fingerprints received and com-
7 piled for purposes of identifying criminal offenders and alleged offenders,
8 records of arrests and the nature and disposition of criminal charges, in-
9 cluding sentencing, confinement, parole and release.

10 “(3) ‘Department’ means the Department of State Police established under
11 ORS 181A.015.

12 “(4) ‘Deputy superintendent’ means the Deputy Superintendent of State
13 Police appointed under ORS 181A.035.

14 “(5) ‘Designated agency’ means any state, county or municipal government
15 agency where Oregon criminal offender information is required to implement
16 a federal or state statute, executive order or administrative rule that ex-
17 pressly refers to criminal conduct and contains requirements or exclusions
18 expressly based on such conduct or for agency employment purposes, licens-
19 ing purposes or other demonstrated and legitimate needs when designated
20 by order of the Governor.

21 “(6) ‘Disposition report’ means a form or process prescribed or furnished
22 by the department, containing a description of the ultimate action taken
23 subsequent to an arrest.

24 “(7) ‘Law enforcement agency’ means:

25 “(a) County sheriffs, municipal police departments, police departments
26 established by a university under ORS 352.121 or 353.125 and state police;

27 “(b) Other police officers of this state or another state, including humane
28 special agents as defined in ORS 181A.345;

29 “(c) A tribal government as defined in ORS 181A.940 that employs au-
30 thorized tribal police officers as defined in ORS 181A.940; and

1 “(d) Law enforcement agencies of the federal government.

2 “(8) ‘State police’ means the sworn members of the state police force ap-
3 pointed under ORS 181A.050.

4 “(9) ‘Superintendent’ means the Superintendent of State Police appointed
5 under ORS 181A.030.

6 “**SECTION 47.** ORS 190.490 is amended to read:

7 “190.490. (1) Every agreement entered into under ORS 190.485 shall be
8 submitted to the Attorney General before taking effect. The Attorney Gen-
9 eral shall determine whether the agreement is in proper form and compatible
10 with the laws of this state. If the Attorney General determines that the
11 agreement is improper in some respect, the Attorney General shall give
12 written notice to the state agency concerning the specific respects in which
13 the agreement fails to comply with law. Failure of the Attorney General to
14 give such notice to the state agency within 30 days of submission of the
15 agreement to the Attorney General’s office shall constitute approval of the
16 agreement. The Attorney General may exempt certain agreements, classes of
17 agreements or form agreements from the requirement that the agreement be
18 approved by the Attorney General before taking effect.

19 “(2) The state agency shall file any agreement made under ORS 190.485
20 with the Oregon Department of Administrative Services within 30 days of the
21 effective date of the agreement. The department may adopt rules necessary
22 for the administration of this subsection.

23 “(3) This section does not apply to the Legislative Assembly, the courts
24 and their officers and committees, the Secretary of State and the State
25 Treasurer in the performance of the duties of their constitutional offices and
26 the [*Public Defense Services Commission*] **Oregon Public Defense Com-**
27 **mission.**

28 “**SECTION 48.** ORS 244.050, as amended by section 1, chapter 66, Oregon
29 Laws 2022, is amended to read:

30 “244.050. (1) On or before April 15 of each year the following persons shall

1 file with the Oregon Government Ethics Commission a verified statement of
2 economic interest as required under this chapter:

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

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

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

11 “(d) The Deputy Attorney General.

12 “(e) The Deputy Secretary of State.

13 “(f) The Legislative Administrator, the Legislative Counsel, the Legisla-
14 tive Fiscal Officer, the Legislative Policy and Research Director, the Secre-
15 tary of the Senate, the Chief Clerk of the House of Representatives and the
16 Legislative Equity Officer.

17 “(g) The president and vice presidents, or their administrative equiv-
18 alents, in each public university listed in ORS 352.002.

19 “(h) The following state officers:

20 “(A) Adjutant General.

21 “(B) Director of Agriculture.

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

23 “(D) Water Resources Director.

24 “(E) Director of the Department of Environmental Quality.

25 “(F) Director of the Oregon Department of Administrative Services.

26 “(G) State Fish and Wildlife Director.

27 “(H) State Forester.

28 “(I) State Geologist.

29 “(J) Director of Human Services.

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

- 1 “(L) Director of the Department of State Lands.
- 2 “(M) State Librarian.
- 3 “(N) Administrator of the Oregon Liquor and Cannabis Commission.
- 4 “(O) Superintendent of State Police.
- 5 “(P) Director of the Public Employees Retirement System.
- 6 “(Q) Director of Department of Revenue.
- 7 “(R) Director of Transportation.
- 8 “(S) Public Utility Commissioner.
- 9 “(T) Director of Veterans’ Affairs.
- 10 “(U) Executive director of Oregon Government Ethics Commission.
- 11 “(V) Director of the State Department of Energy.
- 12 “(W) Director and each assistant director of the Oregon State Lottery.
- 13 “(X) Director of the Department of Corrections.
- 14 “(Y) Director of the Oregon Department of Aviation.
- 15 “(Z) Executive director of the Oregon Criminal Justice Commission.
- 16 “(AA) Director of the Oregon Business Development Department.
- 17 “(BB) Director of the Oregon Department of Emergency Management.
- 18 “(CC) Director of the Employment Department.
- 19 “(DD) State Fire Marshal.
- 20 “(EE) Chief of staff for the Governor.
- 21 “(FF) Director of the Housing and Community Services Department.
- 22 “(GG) State Court Administrator.
- 23 “(HH) Director of the Department of Land Conservation and Develop-
- 24 ment.
- 25 “(II) Board chairperson of the Land Use Board of Appeals.
- 26 “(JJ) State Marine Director.
- 27 “(KK) Executive director of the Oregon Racing Commission.
- 28 “(LL) State Parks and Recreation Director.
- 29 “(MM) [*Public defense services*] Executive director **of the Oregon Public**
- 30 **Defense Commission.**

1 “(NN) Chairperson of the Public Employees’ Benefit Board.
2 “(OO) Director of the Department of Public Safety Standards and Train-
3 ing.
4 “(PP) Executive director of the Higher Education Coordinating Commis-
5 sion.
6 “(QQ) Executive director of the Oregon Watershed Enhancement Board.
7 “(RR) Director of the Oregon Youth Authority.
8 “(SS) Director of the Oregon Health Authority.
9 “(TT) Deputy Superintendent of Public Instruction.
10 “(i) The First Partner, the legal counsel, the deputy legal counsel and all
11 policy advisors within the Governor’s office.
12 “(j) Every elected city or county official.
13 “(k) Every member of a city or county planning, zoning or development
14 commission.
15 “(L) The chief executive officer of a city or county who performs the du-
16 ties of manager or principal administrator of the city or county.
17 “(m) Members of local government boundary commissions formed under
18 ORS 199.410 to 199.519.
19 “(n) Every member of a governing body of a metropolitan service district
20 and the auditor and executive officer thereof.
21 “(o) Each member of the board of directors of the State Accident Insur-
22 ance Fund Corporation.
23 “(p) The chief administrative officer and the financial officer of each
24 common and union high school district, education service district and com-
25 munity college district.
26 “(q) Every member of the following state boards, commissions and coun-
27 cils:
28 “(A) Governing board of the State Department of Geology and Mineral
29 Industries.
30 “(B) Oregon Business Development Commission.

- 1 “(C) State Board of Education.
- 2 “(D) Environmental Quality Commission.
- 3 “(E) Fish and Wildlife Commission of the State of Oregon.
- 4 “(F) State Board of Forestry.
- 5 “(G) Oregon Government Ethics Commission.
- 6 “(H) Oregon Health Policy Board.
- 7 “(I) Oregon Investment Council.
- 8 “(J) Land Conservation and Development Commission.
- 9 “(K) Oregon Liquor and Cannabis Commission.
- 10 “(L) Oregon Short Term Fund Board.
- 11 “(M) State Marine Board.
- 12 “(N) Mass transit district boards.
- 13 “(O) Energy Facility Siting Council.
- 14 “(P) Board of Commissioners of the Port of Portland.
- 15 “(Q) Employment Relations Board.
- 16 “(R) Public Employees Retirement Board.
- 17 “(S) Oregon Racing Commission.
- 18 “(T) Oregon Transportation Commission.
- 19 “(U) Water Resources Commission.
- 20 “(V) Workers’ Compensation Board.
- 21 “(W) Oregon Facilities Authority.
- 22 “(X) Oregon State Lottery Commission.
- 23 “(Y) Pacific Northwest Electric Power and Conservation Planning Coun-
24 cil.
- 25 “(Z) Columbia River Gorge Commission.
- 26 “(AA) Oregon Health and Science University Board of Directors.
- 27 “(BB) Capitol Planning Commission.
- 28 “(CC) Higher Education Coordinating Commission.
- 29 “(DD) Oregon Growth Board.
- 30 “(EE) Early Learning Council.

1 “(FF) The Oversight and Accountability Council.
2 “(r) The following officers of the State Treasurer:
3 “(A) Deputy State Treasurer.
4 “(B) Chief of staff for the office of the State Treasurer.
5 “(C) Director of the Investment Division.
6 “(s) Every member of the board of commissioners of a port governed by
7 ORS 777.005 to 777.725 or 777.915 to 777.953.
8 “(t) Every member of the board of directors of an authority created under
9 ORS 441.525 to 441.595.
10 “(u) Every member of a governing board of a public university listed in
11 ORS 352.002.
12 “(v) Every member of the district school board of a common school dis-
13 trict or union high school district.
14 “(w) Every member of the board of directors of an authority created under
15 ORS 465.600 to 465.621.
16 “(2) By April 15 next after the date an appointment takes effect, every
17 appointed public official on a board or commission listed in subsection (1)
18 of this section shall file with the Oregon Government Ethics Commission a
19 statement of economic interest as required under ORS 244.060, 244.070 and
20 244.090.
21 “(3) By April 15 next after the filing deadline for the primary election,
22 each candidate described in subsection (1) of this section shall file with the
23 commission a statement of economic interest as required under ORS 244.060,
24 244.070 and 244.090.
25 “(4) Not later than the 40th day before the date of the statewide general
26 election, each candidate described in subsection (1) of this section who will
27 appear on the statewide general election ballot and who was not required to
28 file a statement of economic interest under subsections (1) to (3) of this
29 section shall file with the commission a statement of economic interest as
30 required under ORS 244.060, 244.070 and 244.090.

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

4 “(6) If a statement required to be filed under this section has not been
5 received by the commission within five days after the date the statement is
6 due, the commission shall notify the public official or candidate and give the
7 public official or candidate not less than 15 days to comply with the re-
8 quirements of this section. If the public official or candidate fails to comply
9 by the date set by the commission, the commission may impose a civil pen-
10 alty as provided in ORS 244.350.

11 **“SECTION 49.** ORS 283.110 is amended to read:

12 “283.110. (1) Subject to rules prescribed by the Oregon Department of
13 Administrative Services, any state agency shall, as its own facilities permit,
14 furnish to any other state agency such services (including labor), facilities
15 and materials as are requisitioned by the head of another agency. The ex-
16 pense shall be charged to the agency served, which shall pay the expense to
17 the agency furnishing the services, facilities or materials in the manner
18 other claims are paid. Agencies shall, as far as practicable, cooperate with
19 one another in the use of services, quarters and equipment.

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

28 “(3) The constitutional state officers and the Legislative Assembly or any
29 of its statutory, standing, special or interim committees, unless prohibited
30 by law, may elect to furnish services, facilities and materials to one another

1 and to state agencies and officers as defined in ORS 291.002, and the courts,
2 constitutional state officers, the Legislative Assembly or any of its statutory,
3 standing, special or interim committees and the [*Public Defense Services*
4 *Commission*] **Oregon Public Defense Commission** may elect to requisition
5 services, facilities and materials as provided in this section.

6 **“SECTION 50.** ORS 291.002 is amended to read:

7 “291.002. As used in ORS 291.001 to 291.034, 291.201 to 291.222, 291.232 to
8 291.260, 291.261, 291.307 and 291.990, unless the context requires otherwise:

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

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

16 “(3) ‘Department’ means the Oregon Department of Administrative Ser-
17 vices.

18 “(4) ‘Director’ means the Director of the Oregon Department of Adminis-
19 trative Services.

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

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

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

1 “(8) ‘State agency’ or ‘agency’ means every state officer, board, commis-
2 sion, department, institution, branch or agency of the state government,
3 whose costs are paid wholly or in part from funds held in the State Treasury,
4 except:

5 “(a) The Legislative Assembly, the courts and their officers and commit-
6 tees;

7 “(b) The [*Public Defense Services Commission*] **Oregon Public Defense**
8 **Commission**; and

9 “(c) The Secretary of State and the State Treasurer in the performance
10 of the duties of their constitutional offices.

11 “(9) ‘State officer’ means any elected or appointed state officer, including
12 members of boards and commissions, except the members and officers of the
13 Legislative Assembly, the courts, the Secretary of State and the State
14 Treasurer in the performance of the duties of their constitutional offices and
15 the members of the [*Public Defense Services Commission*] **Oregon Public**
16 **Defense Commission**.

17 “(10) ‘Trust fund’ means a fund in the State Treasury in which designated
18 persons or classes of persons have a vested beneficial interest or equitable
19 ownership, or which was created or established by a gift, grant, contribution,
20 devise or bequest that limits the use of the fund to designated objects or
21 purposes.

22 “**SECTION 51.** ORS 291.011 is amended to read:

23 “291.011. (1) The Director of the Oregon Department of Administrative
24 Services may require a fidelity bond of any officer, employee or agent of the
25 department or of any other state officer, employee or agent who has charge
26 of, handles or has access to any money or property belonging to the state
27 or in which the state may have an interest and who is not otherwise required
28 by law to give a fidelity bond. The amounts of the bonds shall be fixed by
29 the director, except as otherwise provided by law, and the sureties shall be
30 approved by the director. The premium on the bond of any officer, employee

1 or agent shall be paid by the state agency that employs the officer, employee
2 or agent.

3 “(2) The Oregon Department of Administrative Services may procure or
4 provide and may administer a blanket bond covering any or all officers and
5 employees of the state. The bond shall contain such coverages and shall be
6 in such amounts as the Oregon Department of Administrative Services deems
7 adequate to protect the interest of the state. Procurement of the bond to
8 cover any officer or employee of the state shall constitute compliance with
9 any statute requiring that officer or employee to be bonded up to the mone-
10 tary limit of the blanket bond which the Oregon Department of Administra-
11 tive Services purchases or provides. The coverage and insuring amount
12 applicable in such bond to any officer or employee of the state shall be at
13 least equal to that required by statute. The cost of the premium on the bond
14 shall be charged to the various state agencies employing the state officers
15 and employees covered by the bond.

16 “(3) The provisions of this section are considered to satisfy any provision
17 of law requiring individual fidelity bonds for elected officers if the level of
18 coverage of the blanket fidelity bond is at least equal to the individual
19 statutory requirements.

20 “(4) As used in this section:

21 “(a) ‘Officers and employees of the state’ includes all elected and ap-
22 pointed officers and employees of the State of Oregon and all persons ap-
23 pointed by a state agency on a temporary or intermittent basis to act for the
24 state in particular matters where such persons have charge of, handle or
25 have access to any money or property belonging to the state or in which the
26 state may have an interest.

27 “(b) ‘State agency’ means every state officer, board, commission, depart-
28 ment, institution, branch or agency of the state government and includes the
29 Legislative Assembly and any of its statutory standing, special or interim
30 committees, the courts and their officers and committees, all constitutional

1 state officers and the [*Public Defense Services Commission*] **Oregon Public**
2 **Defense Commission.**

3 **“SECTION 52.** ORS 291.030 is amended to read:

4 “291.030. As used in ORS 291.032 and 291.034, ‘state agency’ or ‘agency’
5 includes the Legislative Assembly, at its option, or any of its statutory,
6 standing, special or interim committees, at the option of such committee, the
7 courts and their officers and committees and the constitutional state officers,
8 at their option, and the [*Public Defense Services Commission*] **Oregon Public**
9 **Defense Commission,** at the option of the commission.

10 **“SECTION 53.** ORS 291.045 is amended to read:

11 “291.045. As used in this section and ORS 291.047:

12 “(1) ‘Information technology’ includes, but is not limited to, all present
13 and future forms of hardware, software and services for data processing, of-
14 fice automation and telecommunications.

15 “(2) ‘State agency’ includes every state officer, board, commission, de-
16 partment, institution, branch or agency of the state government, whose costs
17 are paid wholly or in part from funds held in the State Treasury, except:

18 “(a) The Legislative Assembly, the courts and their officers and commit-
19 tees; and

20 “(b) The [*Public Defense Services Commission*] **Oregon Public Defense**
21 **Commission.**

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

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

27 **“SECTION 54.** ORS 291.227 is amended to read:

28 “291.227. (1)(a) As part of the development of the legislatively adopted
29 budget, each state agency that employs more than 100 employees shall report
30 to the Joint Committee on Ways and Means the state agency’s maximum

1 supervisory ratio for the biennium.

2 “(b) Before submitting the report to the committee, a state agency shall
3 provide a copy of the report to all labor organizations that represent em-
4 ployees of the state agency.

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

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

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

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

11 “(d) Industry best practices and standards;

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

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

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

18 “(3) The Joint Committee on Ways and Means shall review the maximum
19 supervisory ratios reported by state agencies.

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

23 “(5)(a) The Oregon Department of Administrative Services may exempt a
24 state agency from the limitations of subsection (4) of this section if the de-
25 partment determines that an additional supervisory position is reasonably
26 necessary to the state agency. The department must make the determination
27 with reference to some or all of the factors set forth in subsection (2) of this
28 section.

29 “(b) At least five business days before granting an exemption under this
30 subsection, the department shall notify all labor organizations that represent

1 employees of the state agency of its intent to grant the exemption.

2 “(6)(a) The department shall, once per quarter, produce reports on the
3 actual supervisory ratio of each state agency. The reports must include data
4 on job families within each state agency to the extent such data is reason-
5 ably available.

6 “(b) The department shall make the reports publicly available on the
7 Internet and shall notify all labor organizations that represent state em-
8 ployees when the reports are available.

9 “(7) The department may adopt rules for the administration of this sec-
10 tion, including rules governing how temporary, seasonal or part-time em-
11 ployees are accounted for in the calculation of a supervisory ratio.

12 “(8) As used in this section:

13 “(a) ‘Job families’ means groups of occupations based upon work per-
14 formed, skills, education, training and credentials.

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

17 “(c)(A) ‘State agency’ means all state officers, boards, commissions, de-
18 partments, institutions, branches, agencies, divisions and other entities,
19 without regard to the designation given to those entities, that are within the
20 executive branch of government as described in Article III, section 1, of the
21 Oregon Constitution.

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

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

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

25 “(iii) The [*Public Defense Services Commission*] **Oregon Public Defense**
26 **Commission;**

27 “(iv) The Secretary of State and the State Treasurer;

28 “(v) Semi-independent state agencies listed in ORS 182.454;

29 “(vi) The Oregon Tourism Commission;

30 “(vii) The Oregon Film and Video Office;

1 “(viii) Public universities listed in ORS 352.002;
2 “(ix) The Oregon Health and Science University;
3 “(x) The Travel Information Council;
4 “(xi) Oregon Corrections Enterprises;
5 “(xii) The Oregon State Lottery Commission;
6 “(xiii) The State Accident Insurance Fund Corporation;
7 “(xiv) The Oregon Utility Notification Center;
8 “(xv) Oregon Community Power;
9 “(xvi) The Citizens’ Utility Board;
10 “(xvii) A special government body as defined in ORS 174.117;
11 “(xviii) Any other public corporation created under a statute of this state
12 and specifically designated as a public corporation; and
13 “(xix) Any other semi-independent state agency denominated by statute
14 as a semi-independent state agency.

15 “(d) ‘Supervisory employee’ has the meaning given that term in ORS
16 243.650.

17 “(e) ‘Supervisory ratio’ means the ratio of employees who are supervisory
18 employees to employees who are not supervisory employees.

19 **“SECTION 55.** ORS 293.300 is amended to read:

20 “293.300. Except for claims based on obligations incurred or expenditures
21 made by the Legislative Assembly and its officers and committees, the courts
22 and their officers and committees, the Secretary of State and State Treasurer
23 in the performance of the functions of their constitutional offices and the
24 [*Public Defense Services Commission*] **Oregon Public Defense**
25 **Commission**, a claim for payment from any moneys in the State Treasury
26 may not be paid if the claim is disapproved by the Oregon Department of
27 Administrative Services. The department shall disapprove a claim if pro-
28 vision for payment thereof is not made by law and appropriation, the obli-
29 gation or expenditure on which the claim is based is not authorized as
30 provided by law or the claim does not otherwise satisfy requirements as

1 provided by law.

2 **“SECTION 56.** ORS 293.590 is amended to read:

3 “293.590. (1) The Oregon Department of Administrative Services shall di-
4 rect and control the accounting for all the fiscal affairs of the state gov-
5 ernment and agencies thereof, and shall provide for the maintenance of
6 accounting records, including accounts stated in summary or in detail, for
7 those fiscal affairs. The department is responsible for establishing and
8 maintaining systems of accounting for state government and agencies
9 thereof. The principles, standards and related requirements of those systems
10 of accounting shall be as prescribed by the department and except as other-
11 wise provided in this section shall be used by the state agencies thereof,
12 unless otherwise directed by the department.

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

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

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

29 **“SECTION 57.** ORS 293.875 is amended to read:

30 “293.875. (1) The State Treasurer is designated the sole banking and cash

1 management officer for the state and may review, establish and modify pro-
2 cedures for the efficient handling of moneys under the control of the State
3 Treasury, the Secretary of State, the Judicial Department, the Legislative
4 Assembly, the [*Public Defense Services Commission*] **Oregon Public Defense**
5 **Commission** and state agencies as defined in ORS 291.002. The State
6 Treasurer shall perform all activities necessary or desirable to fulfill the
7 duties of the treasurer as the banking and cash management officer. The
8 activities may include, but are not limited to, entering into contracts for the
9 provision of services related to the management, deposit and transfer of, or
10 payment from, moneys deposited with the State Treasurer through banks and
11 other financial institutions. The deposit, transfer or payment may be through
12 physical presentation or drafting of an instrument or document by electronic
13 or other means.

14 “(2) The State Treasurer shall continuously review the effectiveness of the
15 cash management of state agencies, the Secretary of State, the Judicial De-
16 partment and the Legislative Assembly, and when the State Treasurer con-
17 siders it appropriate shall report in writing to the subject agency the
18 findings of this review, along with any recommendations. A copy of the re-
19 port shall be provided to the Legislative Fiscal Officer and to the Secretary
20 of State.

21 “(3) This section controls over any other law that gives another state
22 agency general responsibility for, or control over, the accounting, fiscal or
23 electronic commerce affairs of the State Treasury, the Secretary of State, the
24 Judicial Department, the Legislative Assembly, the [*Public Defense Services*
25 *Commission*] **Oregon Public Defense Commission** and state agencies as
26 defined in ORS 291.002. State agencies shall employ the principles, standards
27 and related requirements for cash management prescribed by the State
28 Treasurer, including:

29 “(a) Practices related to the use of credit, debit or similar cards or de-
30 vices;

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

3 “(c) The use of secure information resources, information technology and
4 networks that meet the requirements of the State Treasurer for the elec-
5 tronic management, deposit or transfer of, or payment from, moneys depos-
6 ited with the State Treasurer.

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

9 **“SECTION 58.** ORS 419A.200 is amended to read:

10 “419A.200. (1) Except as provided in ORS 419A.190, any person or entity,
11 including, but not limited to, a party to a juvenile court proceeding under
12 ORS 419B.875 (1) or 419C.285 (1), whose rights or duties are adversely af-
13 fected by a judgment of the juvenile court may appeal therefrom. An appeal
14 from a circuit court must be taken to the Court of Appeals, and an appeal
15 from a county court must be taken to the circuit court.

16 “(2) If the proceeding is in the circuit court and no record of the pro-
17 ceedings was kept, the court, on motion made not later than 15 days after
18 the entry of the court’s judgment, shall grant a rehearing and shall direct
19 that a record of the proceedings be kept. However, the court may not grant
20 a rehearing in a case barred by ORS 419A.190 without the consent of the
21 child, ward, youth or adjudicated youth affected by such case. If a rehearing
22 is held, the time for taking an appeal runs from the date of entry of the
23 court’s judgment after the rehearing.

24 “(3)(a) The appeal may be taken by causing a notice of appeal, in the form
25 prescribed by ORS 19.250, to be served:

26 “(A) On all parties who have appeared in the proceeding;

27 “(B) On the trial court administrator or other person serving as clerk of
28 the juvenile court; and

29 “(C) On the juvenile court transcript coordinator, if a transcript is des-
30 ignated in connection with the appeal.

1 “(b) The original of the notice with proof of service must be filed with:

2 “(A) The Court of Appeals if the appeal is from a circuit court; or

3 “(B) The circuit court if the appeal is from a county court.

4 “(c) The notice must be filed not later than 30 days after the entry of the
5 court’s judgment. On appeal from the county court, the circuit court shall
6 hear the matter de novo and its judgment is appealable to the Court of Ap-
7 peals in the same manner as if the proceeding had been commenced in the
8 circuit court.

9 “(4) The counsel in the proceeding from which the appeal is being taken
10 shall file and serve those documents necessary to commence an appeal if the
11 counsel is requested to do so by the party the counsel represents. If the party
12 requesting an appeal is represented by court-appointed counsel, court-
13 appointed counsel may discharge the duty to commence an appeal under this
14 subsection by complying with policies and procedures established by the [*of-*
15 *fice of public defense services*] **Oregon Public Defense Commission** for ap-
16 peals of juvenile court judgments.

17 “(5)(a) Upon motion of a person, other than the state, entitled to appeal
18 under subsection (1) of this section, the appellate court shall grant the per-
19 son leave to file a notice of appeal after the time limits described in sub-
20 section (3) of this section if:

21 “(A) The person shows a colorable claim of error in the proceeding from
22 which the appeal is taken; and

23 “(B) The person shows that the failure to file a timely notice of appeal
24 is not personally attributable to the person.

25 “(b) A person other than the state is not entitled to relief under this
26 subsection for failure to file timely notice of cross-appeal when the state
27 appeals pursuant to ORS 419A.208.

28 “(c) The request for leave to file a notice of appeal after the time limits
29 prescribed in subsection (3) of this section must be filed no later than 90 days
30 after entry of the judgment being appealed and must be accompanied by the

1 notice of appeal sought to be filed. A request for leave under this subsection
2 may be filed by mail and is deemed filed on the date of mailing if the request
3 is mailed as provided in ORS 19.260.

4 “(d) The court may not grant relief under this subsection unless the state
5 has notice and opportunity to respond to the person’s request for relief.

6 “(6) An appeal to the Court of Appeals must be conducted in the same
7 manner as an appeal under ORS chapter 19 except that the court shall ad-
8 vance the appeal on the court’s docket in the same manner as appeals in
9 criminal cases.

10 “(7)(a) Except as provided in ORS 419A.208 (2), or when otherwise ordered
11 by the appellate court, the filing of an appeal does not suspend an order or
12 judgment of the juvenile court nor discharge the ward or adjudicated youth
13 from the custody of the person, institution or agency in whose custody the
14 ward or adjudicated youth may have been placed nor preclude the juvenile
15 court after notice and hearing from entering such further orders relating to
16 the ward or adjudicated youth’s custody pending final disposition of the ap-
17 peal as it finds necessary by reason only of matters transpiring subsequent
18 to the order or judgment appealed from. The trial court administrator shall
19 immediately file certified copies of any such order or judgment with the
20 Court of Appeals.

21 “(b) Notwithstanding the filing of an appeal from a jurisdictional or dis-
22 positional judgment or an order entered pursuant to ORS 419B.449 or
23 419B.476, the juvenile court may proceed with the adjudication of a petition
24 seeking termination of the parental rights of a parent of the ward who is
25 subject to the judgment from which the appeal is taken.

26 “(c) The appeal of any judgment entered in a termination of parental
27 rights proceeding under paragraph (b) of this subsection must be consol-
28 idated, if appropriate, with any pending appeal of an order or judgment en-
29 tered under ORS 419B.325, 419B.449 or 419B.476. The consolidated appeal
30 must be conducted and advanced on the court’s docket in the same manner

1 as termination of parental rights cases.

2 “(8) On appeal of a judgment or final order, the appellate court may re-
3 view any interlocutory order that:

4 “(a) Involves the merits or necessarily affects the judgment or final order
5 appealed from; and

6 “(b) Was made after entry of the last appealable judgment or final order
7 preceding entry of the judgment or final order being appealed.

8 “(9) The district attorney or Attorney General shall represent the state
9 in the appeal.

10 “(10)(a) The court from which an appeal is taken shall prepare and
11 transmit a record on appeal in the manner provided in ORS 19.365, except
12 that, when the appeal is to the circuit court from a county court, the record
13 on appeal shall be prepared and transmitted by the county court to the cir-
14 cuit court.

15 “(b) The court to which an appeal is taken under this section shall keep
16 a record of the case on appeal that includes but is not limited to notices of
17 appeal, briefs, motions, orders of the court and other papers filed with the
18 court on appeal.

19 “(c) The record on appeal prepared and transmitted under paragraph (a)
20 of this subsection, when it is in the custody of the court to which the appeal
21 is taken, and the record of the case on appeal kept under paragraph (b) of
22 this subsection are subject to the same limitations on inspection, copying
23 and disclosure of records, reports and materials as those set forth under ORS
24 419A.255.

25 “(d) The court on appeal may consent to disclosure of:

26 “(A) Records described in paragraph (a) of this subsection, while in the
27 custody of the court to which the appeal is taken, in the same manner and
28 under the same circumstances as the juvenile court consents to disclosure
29 under ORS 419A.255;

30 “(B) Records described in paragraph (b) of this subsection; or

1 “(C) An audio or video recording prepared of an oral proceeding on ap-
2 peal, in the same manner as permitted under ORS 419A.256 (1)(b), (3) and (4).

3 “(e) Notwithstanding any other provision of law, any decision, as that
4 term is defined in ORS 19.450, issued by the Court of Appeals or the Supreme
5 Court, on appeal or review of a juvenile court decision, is not confidential
6 and is not exempt from disclosure.

7 **“SECTION 59.** ORS 419A.211 is amended to read:

8 “419A.211. (1) If the child, ward, youth, adjudicated youth, parent or
9 guardian is determined to be entitled to, and, except as provided in sub-
10 section (4) of this section, financially eligible for, appointment of counsel at
11 state expense in an appeal as provided in ORS 419A.200 and 419A.208, the
12 court, upon request of the person or upon its own motion, shall appoint
13 suitable counsel to represent the person. Counsel appointed by the court
14 shall be paid compensation determined by the [*public defense services*] exec-
15 utive director **of the Oregon Public Defense Commission** as provided in
16 ORS 135.055 if the circuit court is the appellate court or as provided in ORS
17 138.500 if the Court of Appeals or the Supreme Court is the appellate court.
18 The court may not substitute one appointed counsel for another except pur-
19 suant to the policies, procedures, standards and guidelines of the [*Public*
20 *Defense Services Commission*] **commission**.

21 “(2)(a) When the court appoints counsel to represent the child or ward,
22 it may order the parent, if able, or guardian of the estate, if the estate is
23 able, to pay to the Public Defense Services Account established by ORS
24 151.225, through the clerk of the court, in full or in part the administrative
25 costs of determining the ability of the parents or estate to pay for legal
26 services and the costs of the legal and other services that are related to the
27 provision of appointed counsel.

28 “(b) The test of the parent’s or estate’s ability to pay costs under para-
29 graph (a) of this subsection is the same test as applied to appointment of
30 counsel for defendants under ORS 151.216. If counsel is provided at state

1 expense, the court shall apply this test in accordance with the guidelines
2 adopted by the [*Public Defense Services Commission*] **Oregon Public De-**
3 **fense Commission** under ORS 151.485.

4 “(c) If counsel is provided at state expense, the court shall determine the
5 amount the parents or estate is required to pay for the costs of administra-
6 tive, legal and other services related to the provision of appointed counsel
7 in the same manner as this amount is determined under ORS 151.487.

8 “(d) The court’s order of payment is enforceable in the same manner as
9 an order of support under ORS 419B.408.

10 “(3) When the court appoints counsel under this section at state expense,
11 the compensation for counsel and costs and expenses necessary to the appeal
12 shall be determined and paid as provided in ORS 135.055 if the circuit court
13 is the appellate court or as provided in ORS 138.500 if the Court of Appeals
14 or the Supreme Court is the appellate court.

15 “(4) Notwithstanding subsection (1) of this section, a youth or adjudicated
16 youth, or the parent or guardian of the youth or adjudicated youth, is enti-
17 tled to court-appointed counsel at state expense under this section regardless
18 of the financial circumstances of the youth or adjudicated youth or the par-
19 ent or guardian of the youth or adjudicated youth. In addition, the court
20 may not order the youth’s or adjudicated youth’s parent or guardian to pay
21 any part of the administrative costs of determining the entitlement of the
22 youth, adjudicated youth, parent or guardian to court-appointed counsel at
23 state expense nor any of the costs of the legal and other services that are
24 related to the provision of appointed counsel.

25 **“SECTION 60.** ORS 419A.252 is amended to read:

26 “419A.252. As used in this section and ORS 419A.253, 419A.255 and
27 419A.256:

28 “(1) ‘Person’ means an individual, a public body as defined in ORS 174.109
29 or a tribe that is a party to a juvenile court proceeding pursuant to ORS
30 419B.875.

1 “(2) ‘Prospective appellate attorney’ means an attorney designated by the
2 [office of public defense services established under ORS 151.216] **Oregon**
3 **Public Defense Commission** to potentially represent a child, ward, youth,
4 adjudicated youth or a parent or guardian of a child, ward, youth or adju-
5 dicated youth, in a juvenile case when the case has been referred to the
6 [office of public defense services] **commission** for appeal.

7 “(3) ‘Public defense provider’ means an attorney or a law firm designated
8 by the [office of public defense services established under ORS 151.216]
9 **Oregon Public Defense Commission** to potentially represent a child, ward,
10 youth, adjudicated youth or the parent or guardian of a child, ward, youth
11 or adjudicated youth in a juvenile court proceeding.

12 “(4) ‘Record of the case’ or ‘record of each case,’ whether maintained in
13 paper or electronic form, includes but is not limited to the following and
14 includes records filed in juvenile court proceedings commenced before Janu-
15 ary 1, 2014, when the records are substantially similar to the following:

16 “(a) The summons and other process;

17 “(b) Petitions;

18 “(c) Papers in the nature of pleadings, answers, motions, affidavits and
19 other papers that are filed with the court, including supporting documenta-
20 tion;

21 “(d) Local citizen review board findings and recommendations submitted
22 under ORS 419A.118 or 419B.367;

23 “(e) Guardianship report summaries filed with the court under ORS
24 419B.367;

25 “(f) Orders and judgments of the court, including supporting documenta-
26 tion;

27 “(g) Transcripts under ORS 419A.256;

28 “(h) Exhibits and materials offered as exhibits whether or not received in
29 evidence; and

30 “(i) Other documents that become part of the record of the case by oper-

1 ation of law.

2 “(5) ‘Supplemental confidential file,’ whether maintained in paper or
3 electronic form, includes reports and other material relating to the child,
4 ward, youth or adjudicated youth’s history and prognosis, including but not
5 limited to reports filed under ORS 419B.440, and includes similar reports and
6 other materials filed in juvenile court proceedings commenced before Janu-
7 ary 1, 2014, that:

8 “(a) Are not or do not become part of the record of the case; and

9 “(b) Are not offered or received as evidence in the case.

10 **“SECTION 61.** ORS 419A.255 is amended to read:

11 “419A.255. (1)(a) The clerk of the court shall maintain a record of each
12 case and a supplemental confidential file for each case, except as otherwise
13 provided in ORS 7.120.

14 “(b) The record of the case shall be withheld from public inspection but
15 is open to inspection by the following:

16 “(A) The judge of the juvenile court and those acting under the judge’s
17 direction;

18 “(B) The child;

19 “(C) The ward;

20 “(D) The youth;

21 “(E) The adjudicated youth;

22 “(F) The parent or guardian of the child, ward, youth or adjudicated
23 youth;

24 “(G) The guardian ad litem for the parent;

25 “(H) A person allowed to intervene in a proceeding involving the child,
26 ward, youth or adjudicated youth;

27 “(I) The court appointed special advocate, and a representative of a CASA
28 Volunteer Program as defined in ORS 184.489, when reasonably necessary for
29 the appointment or supervision of court appointed special advocates;

30 “(J) The attorneys or prospective appellate attorneys for any of the per-

1 sons listed in subparagraphs (B) to (I) of this paragraph;

2 “(K) The surrogate;

3 “(L) Service providers in the case;

4 “(M) The district attorney or assistant attorney general representing a
5 party in the case;

6 “(N) The juvenile department;

7 “(O) The Department of Human Services;

8 “(P) The Oregon Youth Authority; and

9 “(Q) Any other person or entity allowed by the court pursuant to ORS
10 419A.258.

11 “(c) The following are entitled to copies of the record of the case:

12 “(A) The judge of the juvenile court and those acting under the judge’s
13 direction;

14 “(B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285
15 (2);

16 “(C) A guardian ad litem for a parent to the same extent the parent is
17 permitted to copies under ORS 419B.875 (2) or 419C.285 (2);

18 “(D) Persons listed in paragraph (b)(J) to (P) of this subsection; and

19 “(E) Any other person or entity allowed by the court pursuant to ORS
20 419A.258.

21 “(2)(a) Reports and other material relating to the child, ward, youth or
22 adjudicated youth’s history and prognosis in the record of the case or the
23 supplemental confidential file are privileged and, except at the request of the
24 child, ward, youth or adjudicated youth, shall be withheld from public in-
25 spection except that inspection is permitted as set forth in subsection (1)(b)
26 of this section and paragraph (b) of this subsection. The offer or admission
27 of reports and other material in the record of the case or the supplemental
28 confidential file as exhibits in a hearing or trial does not waive or otherwise
29 change the privileged status of the reports and other material, except for
30 purposes of the hearing or trial in which the reports and other material are

1 offered or admitted. Once offered as an exhibit, reports and other material
2 relating to the child, ward, youth or adjudicated youth's history and
3 prognosis that were maintained in the supplemental confidential file become
4 part of the record of the case but are subject to paragraph (e) of this sub-
5 section.

6 “(b) A supplemental confidential file is open to inspection by the follow-
7 ing:

8 “(A) The judge of the juvenile court and those acting under the judge's
9 direction;

10 “(B) The parent or guardian of the child or ward in a dependency case;

11 “(C) The guardian ad litem for the parent of a child or ward in a de-
12 pendency case;

13 “(D) The parent or guardian of the youth or adjudicated youth in a de-
14 linquency case if the youth or adjudicated youth consents to, or the court
15 authorizes, inspection;

16 “(E) The guardian ad litem for the parent of a youth or adjudicated youth
17 in a delinquency case if the youth or adjudicated youth consents to, or the
18 court authorizes, inspection;

19 “(F) A person allowed to intervene in a proceeding involving the child,
20 ward, youth or adjudicated youth;

21 “(G) The court appointed special advocate, and a representative of a
22 CASA Volunteer Program as defined in ORS 184.489, when reasonably nec-
23 essary for the appointment or supervision of court appointed special advo-
24 cates;

25 “(H) The surrogate;

26 “(I) Service providers in the case;

27 “(J) The attorneys or prospective appellate attorneys for:

28 “(i) The child;

29 “(ii) The ward;

30 “(iii) The youth;

1 “(iv) The adjudicated youth;

2 “(v) The parent or guardian of the child, ward, youth or adjudicated

3 youth;

4 “(vi) The guardian ad litem for the parent;

5 “(vii) A person allowed to intervene in a proceeding involving the child

6 or ward in a dependency case; or

7 “(viii) The court appointed special advocate and a representative of a

8 CASA Volunteer Program as defined in ORS 184.489;

9 “(K) The district attorney or assistant attorney general representing a

10 party in the case;

11 “(L) The juvenile department;

12 “(M) The Department of Human Services;

13 “(N) The Oregon Youth Authority; and

14 “(O) Any other person or entity allowed by the court pursuant to ORS

15 419A.258.

16 “(c) The supplemental confidential file in cases under ORS 419C.005 may

17 be disclosed to the superintendent of the school district in which the adju-

18 dicated youth resides or the superintendent’s designee.

19 “(d) The following are entitled to copies of material maintained in the

20 supplemental confidential file:

21 “(A) The judge of the juvenile court and those acting under the judge’s

22 direction;

23 “(B) Service providers in the case;

24 “(C) School superintendents and their designees in cases under ORS

25 419C.005;

26 “(D) Attorneys designated under subsection (2)(b)(J) of this section;

27 “(E) The district attorney or assistant attorney general representing a

28 party in the case;

29 “(F) The juvenile department;

30 “(G) The Department of Human Services;

1 “(H) The Oregon Youth Authority;

2 “(I) The court appointed special advocate, and a representative of a CASA
3 Volunteer Program as defined in ORS 184.489, when reasonably necessary for
4 the appointment or supervision of court appointed special advocates; and

5 “(J) Any other person or entity allowed by the court pursuant to ORS
6 419A.258.

7 “(e) A person that obtains copies of material in the supplemental confi-
8 dential file pursuant to paragraph (d) of this subsection is responsible for
9 preserving the confidentiality of the material in the supplemental confiden-
10 tial file. A service provider, school superintendent or superintendent’s
11 designee who obtains copies of such material shall destroy the copies upon
12 the conclusion of involvement in the case.

13 “(3) Except as otherwise provided in subsection (5) of this section, no in-
14 formation appearing in the record of the case or in the supplemental confi-
15 dential file may be disclosed to any person not described in subsections (1)(b)
16 and (2)(b) of this section, respectively, without the consent of the court, ex-
17 cept for purposes of evaluating the child, ward, youth or adjudicated youth’s
18 eligibility for special education as provided in ORS chapter 343, and no such
19 information may be used in evidence in any proceeding to establish criminal
20 or civil liability against the child, ward, youth or adjudicated youth, whether
21 such proceeding occurs after the child, ward, youth or adjudicated youth has
22 reached 18 years of age or otherwise, except for the following purposes:

23 “(a) In connection with a presentence investigation after guilt has been
24 admitted or established in a criminal court.

25 “(b) In connection with a proceeding in another juvenile court concerning
26 the child, ward, youth or adjudicated youth or an appeal from the juvenile
27 court.

28 “(4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P)
29 of this section inspects or obtains copies of reports, materials or documents
30 under this subsection or under subsection (1) or (2) of this section, the person

1 may not use or disclose the reports, materials or documents, except:

2 “(A) As provided in this subsection or under subsection (1) or (2) of this
3 section;

4 “(B) In the juvenile court proceeding for which the reports, materials or
5 documents were sought or disclosed;

6 “(C) With the consent of the court; or

7 “(D) As provided in ORS 419A.253.

8 “(b) Nothing in this section prohibits the district attorney or assistant
9 attorney general representing a party in a juvenile court proceeding, the
10 juvenile department, the Department of Human Services, the Oregon Youth
11 Authority or other parties in the proceeding or their attorneys from dis-
12 closing to each other reports, materials or documents described in sub-
13 sections (1) and (2) of this section if the disclosure is reasonably necessary
14 to perform official duties related to the involvement of the child, ward, youth
15 or adjudicated youth with the juvenile court or the juvenile department. A
16 person to whom reports, materials or documents are disclosed under this
17 subsection is subject to subsection (3) of this section.

18 “(5)(a) Information contained in the supplemental confidential file that,
19 in the professional judgment of the juvenile counselor, caseworker, school
20 superintendent or superintendent’s designee, teacher or detention worker to
21 whom the information in the supplemental confidential file has been pro-
22 vided, indicates a clear and immediate danger to another person or to society
23 shall be disclosed to the appropriate authority and the person who is in
24 danger from the child, ward, youth or adjudicated youth.

25 “(b) A person that discloses information under paragraph (a) of this sub-
26 section has immunity from any liability, civil or criminal, that might other-
27 wise be incurred or imposed for making the disclosure.

28 “(c) Nothing in this subsection affects the provisions of ORS 146.750,
29 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under
30 this subsection does not make the information admissible in any court or

1 administrative proceeding if it is not otherwise admissible.

2 “(6) Notwithstanding any other provision of law, and subject to sub-
3 section (8) of this section, the following are not confidential and not exempt
4 from disclosure:

5 “(a) The name and date of birth of the youth or adjudicated youth;

6 “(b) The basis for the juvenile court’s jurisdiction over the youth or ad-
7 judicated youth;

8 “(c) The date, time and place of any juvenile court proceeding in which
9 the youth or adjudicated youth is involved;

10 “(d) The act alleged in the petition that if committed by an adult would
11 constitute a crime if jurisdiction is based on ORS 419C.005;

12 “(e) That portion of the juvenile court order providing for the legal dis-
13 position of the youth or adjudicated youth when jurisdiction is based on ORS
14 419C.005;

15 “(f) The names and addresses of the youth or adjudicated youth’s parents
16 or guardians; and

17 “(g) The register described in ORS 7.020 when jurisdiction is based on
18 ORS 419C.005.

19 “(7) Notwithstanding any other provision of law, and subject to sub-
20 section (8) of this section, when a youth has been taken into custody under
21 ORS 419C.080, the following information shall be disclosed unless, and only
22 for so long as, there is a clear need to delay disclosure in the course of a
23 specific investigation, including the need to protect the complaining party
24 or the victim:

25 “(a) The youth’s name and age and whether the youth is employed or in
26 school;

27 “(b) The youth offense for which the youth was taken into custody;

28 “(c) The name and age of the adult complaining party and the adult vic-
29 tim, unless the disclosure of such information is otherwise prohibited or re-
30 stricted;

1 “(d) The identity of the investigating and arresting agency; and

2 “(e) The time and place that the youth was taken into custody and
3 whether there was resistance, pursuit or a weapon used in taking the youth
4 into custody.

5 “(8) Except as provided in ORS 419A.300 and unless otherwise directed
6 by the court, only the juvenile court, the county juvenile department and the
7 Oregon Youth Authority may disclose the information under subsections (6)
8 and (7) of this section if the information is subject to disclosure. The youth
9 authority may disclose only information relating to adjudicated youths com-
10 mitted to the youth authority by order of the juvenile court if the informa-
11 tion is subject to disclosure under subsection (6) or (7) of this section.

12 “(9) Nothing in this section limits access to any juvenile court records
13 by an appellate court reviewing a juvenile court order or judgment. Appel-
14 late court rules may establish procedures for appellate court access to juve-
15 nile records.

16 “(10) Nothing in this section prohibits the court from providing to the
17 administrator as defined in ORS 25.010 the date of entry of a judgment ter-
18 minating parental rights or the date of entry of a judgment terminating
19 wardship following entry of a judgment of adoption together with the names
20 and dates of birth of the parents and children subject to the judgment.

21 “(11) In addition to any other provision in this section, the Judicial De-
22 partment may permit county or statewide access to juvenile court records
23 or information by county juvenile departments, the Department of Human
24 Services, the Oregon Youth Authority, district attorney offices, the office of
25 the Attorney General, the [*office of public defense services*] **Oregon Public**
26 **Defense Commission**, prospective appellate attorneys or public defense
27 providers subject to the following restrictions:

28 “(a) A prospective appellate attorney or public defense provider granted
29 access under this subsection must agree, pursuant to a written agreement
30 with the Judicial Department, to access:

1 “(A) Party information only for purposes of conflicts screening proce-
2 dures; and

3 “(B) Other records or information about a client only as reasonably nec-
4 essary for the representation of that client in any juvenile case in which the
5 client is a party, subject to applicable state and federal confidentiality laws.

6 “(b) Any other person or entity granted access under this subsection must
7 agree, pursuant to a written agreement with the department, to access re-
8 cords or information only as authorized and allowed by this section, subject
9 to applicable state and federal confidentiality laws.

10 “(c) The State Court Administrator shall prescribe standards and proce-
11 dures to implement the provisions of this subsection.

12 “(d) Any person or entity granted access to juvenile court records or in-
13 formation under this subsection must preserve the confidentiality of that
14 information as required under this section.

15 “(12) A petition filed under ORS 419B.851 alleging that a child who is a
16 foreign national is within the jurisdiction of the court, or a motion request-
17 ing an implementation plan other than return of a ward to the ward’s parent,
18 is subject to disclosure to the consulate for the child or ward’s country as
19 provided under ORS 419B.851 (3).

20 “(13) Nothing in this section prohibits a guardian appointed under ORS
21 419B.365 or 419B.366 from disclosing or providing copies of letters of
22 guardianship when so required to fulfill the duties of a guardian.

23 “(14) The court shall cooperate in the sharing of information with a court
24 in another state to facilitate an interstate placement of a child or ward.

25 “(15) Nothing in this section prohibits the Chief Justice of the Supreme
26 Court, the Chief Judge of the Court of Appeals or a presiding judge from
27 permitting access to juvenile court records, including the record of the case
28 and the supplemental confidential file in a juvenile court proceeding, or au-
29 dio or video recordings of a juvenile court proceeding, by researchers or
30 evaluators for the purposes of developing statistics and performing analyses

1 or audits on the effectiveness, cost and other areas of public interest re-
2 garding juvenile court programs and activities in accordance with child
3 welfare and juvenile justice state plans and programs related to Title IV-B
4 and IV-E of the Social Security Act and to the Child Abuse Prevention and
5 Treatment Act (42 U.S.C. 5101 et seq). The Chief Justice shall, by rule or
6 order, establish standards and guidelines for the release of juvenile court
7 information for research and evaluation purposes to ensure confidentiality
8 consistent with state and federal law and to promote consistent statewide
9 application of this subsection. Statistics and analyses released by research-
10 ers and evaluators under this subsection may not contain any information
11 that identifies any individual person involved in a juvenile court proceeding.

12 “(16) Subject to subsection (11) of this section, the [*office of public defense*
13 *services*] **Oregon Public Defense Commission** shall be permitted access to
14 juvenile court records for the purposes of performing the office’s duties as
15 set forth in ORS 151.219 to audit or investigate attorney appointment or
16 representation of a party in a juvenile court proceeding in order to ensure
17 adequate representation of parties in juvenile court proceedings consistent
18 with the child welfare state plan related to Title IV-E of the Social Security
19 Act.

20 “(17) Subject to subsection (11) of this section, the Oregon State Bar shall
21 be permitted access to juvenile court records maintained in the record of the
22 case for the purpose of performing the bar’s duties as set forth in ORS 9.005
23 to 9.757 to investigate attorney representation of a party in a juvenile court
24 proceeding and in order to ensure adequate representation of parties in ju-
25 venile court proceedings consistent with the child welfare state plan related
26 to Title IV-E of the Social Security Act.

27 “(18)(a) A child, ward, youth or adjudicated youth, or the parent or
28 guardian of a child, ward, youth or adjudicated youth who is a party to the
29 juvenile court proceeding, who is entitled to inspect or copy the record of
30 the case under subsection (1)(b) and (c) of this section maintains the right

1 to inspect or copy the record of the case after jurisdiction of the court over
2 the child, ward, youth or adjudicated youth terminates and after the child,
3 ward, youth or adjudicated youth has reached the age of majority.

4 “(b) Notwithstanding ORS 419B.524, a parent of a child, ward, youth or
5 adjudicated youth whose parental rights have been terminated maintains the
6 right that existed under subsection (1)(b) and (c) of this section to inspect
7 or copy the record of the case as the record of the case existed up until the
8 time of entry of the judgment terminating the parent’s parental rights and
9 may obtain a copy of the judgment terminating the parent’s parental rights.

10 “(19) When inspection or copying of the record of the case or of the sup-
11 plemental confidential file is allowed pursuant to this section, and unless
12 otherwise required by law, the court that maintains the record of the case
13 or the supplemental confidential file is not required to redact the names of,
14 or information about, siblings or other persons contained in the record of the
15 case or the supplemental confidential file.

16 “(20) Nothing in this section prohibits the court, acting as a certifying
17 agency or official as defined in ORS 147.620, from certifying a request under
18 ORS 147.620 and including in the certification document any information
19 obtained from the record of the case or the confidential supplemental file
20 that is necessary to complete the certification.

21 “(21) Nothing in this section prohibits a court from providing to the De-
22 partment of State Police, pursuant to ORS 163A.030 (11), a copy of an order
23 requiring a youth or adjudicated youth to report as a sex offender or a copy
24 of a form that documents the youth’s or adjudicated youth’s obligation to
25 report as a sex offender.

26 “**SECTION 62.** ORS 419B.112 is amended to read:

27 “419B.112. (1) In every case under ORS chapter 419B, the court shall ap-
28 point a court appointed special advocate. The court appointed special advo-
29 cate is deemed a party in these proceedings and may be represented by
30 counsel, file pleadings and request hearings and may subpoena, examine and

1 cross-examine witnesses. If the court appointed special advocate is repres-
2 ented by counsel, counsel shall be paid from funds in the Court Appointed
3 Special Advocate Fund established under ORS 184.498. Counsel representing
4 a court appointed special advocate may not be paid from moneys in the
5 Public Defense Services Account established by ORS 151.225, from moneys
6 appropriated to the [*Public Defense Services Commission*] **Oregon Public**
7 **Defense Commission** or from Judicial Department operating funds.

8 “(2) Subject to the direction of the court, the duties of the court appointed
9 special advocate are to:

10 “(a) Investigate all relevant information about the case;

11 “(b) Advocate for the child or ward, ensuring that all relevant facts are
12 brought before the court;

13 “(c) Facilitate and negotiate to ensure that the court, the Department of
14 Human Services, if applicable, and the child or ward’s attorney, if any, fulfill
15 their obligations to the child or ward in a timely fashion; and

16 “(d) Monitor all court orders to ensure compliance and to bring to the
17 court’s attention any change in circumstances that may require a modifica-
18 tion of an order of the court.

19 “(3) If a juvenile court does not have a sufficient number of qualified
20 court appointed special advocates available to it, the court may, in fulfill-
21 ment of the requirements of this section, appoint a juvenile department em-
22 ployee or other suitable person to represent the child or ward’s interest in
23 court pursuant to ORS 419A.012 or 419B.195.

24 “(4) Any person appointed as a court appointed special advocate in any
25 judicial proceeding on behalf of the child or ward is immune from any li-
26 ability for defamation or statements made in good faith by that person, orally
27 or in writing, in the course of the case review or judicial proceeding.

28 “(5) Any person appointed as a court appointed special advocate, CASA
29 Volunteer Program director, CASA Volunteer Program employee or member
30 of the board of directors or trustees of any CASA Volunteer Program is im-

1 mune from any liability for acts or omissions or errors in judgment made in
2 good faith in the course or scope of that person’s duties or employment as
3 part of a CASA Volunteer Program.

4 “(6) Whenever the court appoints a court appointed special advocate or
5 other person under subsections (1) to (3) of this section to represent the child
6 or ward, the court may require a parent, if able, or guardian of the estate,
7 if the estate is able, to pay, in whole or in part, the reasonable costs of court
8 appointed special advocate services, including reasonable attorney fees. The
9 court’s order of payment is enforceable in the same manner as an order of
10 support under ORS 419B.408.

11 “(7) Upon presentation of the order of appointment by the court appointed
12 special advocate, any agency, hospital, school organization, division, office
13 or department of the state, doctor, nurse or other health care provider, psy-
14 chologist, psychiatrist, police department or mental health clinic shall permit
15 the court appointed special advocate to inspect and copy, and may consult
16 with the court appointed special advocate regarding, any records relating to
17 the child or ward involved in the case, without the consent of the child, ward
18 or parents.

19 “(8) All records and information acquired or reviewed by a court ap-
20 pointed special advocate during the course of official duties are deemed
21 confidential under ORS 419A.255.

22 “(9) For the purposes of a Child Abuse Prevention and Treatment Act (42
23 U.S.C. 5101 et seq.) grant to this state under P.L. 93-247, or any related state
24 or federal legislation, a court appointed special advocate or other person
25 appointed pursuant to subsections (1) to (3) of this section is deemed a
26 guardian ad litem to represent the interests of the child or ward in pro-
27 ceedings before the court.

28 **“SECTION 63.** ORS 419B.195 is amended to read:

29 “419B.195. (1) If the child, ward, parent or guardian requests counsel for
30 the child or ward but is without sufficient financial means to employ suitable

1 counsel possessing skills and experience commensurate with the nature of
2 the petition and the complexity of the case, the court may appoint suitable
3 counsel to represent the child or ward at state expense if the child or ward
4 is determined to be financially eligible under the policies, procedures, stan-
5 dards and guidelines of the [*Public Defense Services Commission*] **Oregon**
6 **Public Defense Commission**. Whenever requested to do so, the court shall
7 appoint counsel to represent the child or ward in a case filed pursuant to
8 ORS 419B.100. The court may not substitute one appointed counsel for an-
9 other except pursuant to the policies, procedures, standards and guidelines
10 of the [*Public Defense Services Commission*] **Oregon Public Defense Com-**
11 **mission**.

12 “(2) Upon presentation of the order of appointment under this section by
13 the attorney for the child or ward, any agency, hospital, school organization,
14 division or department of the state, doctor, nurse or other health care pro-
15 vider, psychologist, psychiatrist, police department or mental health clinic
16 shall permit the attorney to inspect and copy any records of the child or
17 ward involved in the case, without the consent of the child or ward or par-
18 ents. This subsection does not apply to records of a police agency relating
19 to an ongoing investigation prior to charging.

20 **“SECTION 64.** ORS 419B.198 is amended to read:

21 “419B.198. (1) When the court appoints counsel to represent a child or
22 ward, it may order the parent, if able, or guardian of the estate, if the estate
23 is able, to pay to the Public Defense Services Account established by ORS
24 151.225, through the clerk of the court, in full or in part the administrative
25 costs of determining the ability of the parents or estate to pay for legal
26 services and the costs of the legal and other services that are related to the
27 provision of appointed counsel.

28 “(2) The test of the parent’s or estate’s ability to pay costs under sub-
29 section (1) of this section is the same test as applied to appointment of
30 counsel for defendants under ORS 135.050 or under the policies, procedures,

1 standards and guidelines adopted under ORS 151.216. If counsel is provided
2 at state expense, the court shall apply this test in accordance with the
3 guidelines adopted by the [*Public Defense Services Commission*] **Oregon**
4 **Public Defense Commission** under ORS 151.485.

5 “(3) If counsel is provided at state expense, the court shall determine the
6 amount the parents or estate is required to pay for the costs of administra-
7 tive, legal and other services related to the provision of appointed counsel
8 in the same manner as this amount is determined under ORS 151.487.

9 “(4) The court’s order of payment is enforceable in the same manner as
10 an order of support under ORS 419B.408.

11 **“SECTION 65.** ORS 419B.237 is amended to read:

12 “419B.237. (1) The appointment of a guardian ad litem under ORS 419B.231
13 continues until:

14 “(a) The court terminates the appointment;

15 “(b) The juvenile court proceeding is dismissed; or

16 “(c) The parent’s parental rights are terminated, unless the court contin-
17 ues the appointment.

18 “(2) A party to the proceeding or the attorney for the parent for whom
19 a guardian ad litem has been appointed may request removal of the guardian
20 ad litem. The court:

21 “(a) Shall remove the guardian ad litem if the court determines that the
22 parent no longer lacks substantial capacity either to understand the nature
23 and consequences of the proceeding or to give direction and assistance to the
24 parent’s attorney on decisions the parent must make in the proceeding; or

25 “(b) May remove the guardian ad litem on other grounds as the court
26 determines appropriate.

27 “(3) The [*Public Defense Services Commission*] **Oregon Public Defense**
28 **Commission** shall compensate a guardian ad litem for duties the guardian
29 ad litem performs in the proceeding from funds appropriated to the commis-
30 sion.

1 **“SECTION 66.** ORS 419B.532 is amended to read:

2 “419B.532. (1) As used in this section, ‘former parent’ means a person who
3 was previously the legal parent of a ward and whose parental rights to the
4 ward have been terminated.

5 “(2)(a) In a proceeding under ORS 419B.500, the Department of Human
6 Services or a ward may file a motion to reinstate the parental rights of a
7 former parent if:

8 “(A)(i) The ward has not been adopted; or

9 “(ii) The ward was previously adopted but no longer has a legal parent;

10 “(B) No legal action to achieve the adoption of the ward has been initi-
11 ated under ORS 109.276 or 419B.529;

12 “(C) At least 18 months have passed since entry of the judgment termi-
13 nating the former parent’s parental rights to the ward or, in the event of an
14 appeal, at least six months have passed since issuance of an appellate judg-
15 ment affirming the termination judgment, whichever is later; and

16 “(D) Except as provided in paragraph (b) of this subsection, the ward is
17 at least 12 years of age at the time the motion to reinstate parental rights
18 is filed.

19 “(b) If the ward is under 12 years of age at the time the motion to rein-
20 state parental rights is filed, the court may allow the motion upon a showing
21 of good cause.

22 “(3) A motion to reinstate parental rights under this section must be in
23 writing and state with particularity the factual and legal grounds for the
24 motion.

25 “(4) The moving party shall provide a copy of the motion to reinstate
26 parental rights to the former parent and shall notify the court, the parties
27 and, if there is reason to know that the ward is an Indian child, the tribe
28 that a copy of the motion has been provided.

29 “(5) If a motion to reinstate parental rights does not state a prima facie
30 case as to the facts that must be proved under subsection (6) of this section,

1 the court may deny the motion without a hearing.

2 “(6)(a) If a motion to reinstate parental rights states a prima facie case
3 as to the facts that must be proved under this subsection, the court shall
4 hold a hearing on the merits of the motion. The court shall grant the motion
5 if the moving party proves by clear and convincing evidence that:

6 “(A) The former parent’s conduct and conditions that led to the termi-
7 nation of parental rights have been ameliorated and the former parent is
8 presently fit;

9 “(B) The former parent wishes to have parental rights reinstated;

10 “(C) The ward consents to the reinstatement of parental rights; and

11 “(D) Reinstatement of parental rights is in the ward’s best interests.

12 “(b) In determining whether reinstatement of parental rights is in the
13 ward’s best interests under paragraph (a) of this subsection, the court shall
14 consider:

15 “(A) The ward’s health, safety, permanency, age, maturity and ability to
16 express the ward’s preferences;

17 “(B) The reasons that the former parent’s parental rights were terminated;

18 “(C) The former parent’s stated reasons for wishing to have parental
19 rights reinstated; and

20 “(D) The likely impact on the ward of the former parent’s past abuse or
21 neglect.

22 “(c) The moving party shall provide notice to the former parent of a
23 hearing on the merits under paragraph (a) of this subsection.

24 “(d) The department shall establish by rule procedures for investigating
25 the present fitness of the former parent and for providing appropriate reu-
26 nification services.

27 “(7) If the court grants the motion to reinstate parental rights under
28 subsection (6) of this section:

29 “(a) The court shall enter an order reinstating parental rights that shall
30 restore all parental rights and duties of the former parent as to the ward;

1 “(b) The ward shall continue as a ward of the court for at least six
2 months after entry of the order reinstating parental rights; and

3 “(c) The court shall conduct a permanency hearing as provided in ORS
4 419B.470 within 60 days after entering the order under paragraph (a) of this
5 subsection.

6 “(8) An order reinstating parental rights under this section does not va-
7 cate or otherwise affect the validity of the original judgment terminating the
8 parental rights of the former parent except to the extent that the order
9 reinstates parental rights.

10 “(9) In any proceeding under this section, the ward is entitled to have
11 counsel appointed at state expense if the ward is determined to be financially
12 eligible under the policies, procedures, standards and guidelines of the
13 [*Public Defense Services Commission*] **Oregon Public Defense**
14 **Commission.**

15 “**SECTION 67.** ORS 419B.647 is amended to read:

16 “419B.647. (1) If there is reason to know that a child in a proceeding un-
17 der ORS chapter 419B is an Indian child:

18 “(a) The court shall appoint counsel to represent the Indian child.

19 “(b) If the Indian child’s parent or Indian custodian requests counsel to
20 represent the parent or Indian custodian but is without sufficient financial
21 means to employ suitable counsel possessing skills and experience
22 commensurate with the nature of the petition and the complexity of the case,
23 the court shall appoint suitable counsel to represent the Indian child’s par-
24 ent or Indian custodian if the parent or Indian custodian is determined to
25 be financially eligible under the policies, procedures, standards and guide-
26 lines of the [*Public Defense Services Commission*] **Oregon Public Defense**
27 **Commission.**

28 “(2) Upon presentation of the order of appointment under this section by
29 the attorney for the Indian child, any agency, hospital, school organization,
30 division or department of the state, doctor, nurse or other health care pro-

1 vider, psychologist, psychiatrist, police department or mental health clinic
2 shall permit the attorney for the Indian child to inspect and copy any records
3 of the Indian child involved in the case, without the consent of the Indian
4 child or the Indian child's parent or Indian custodian. This subsection does
5 not apply to records of a police agency relating to an ongoing investigation
6 prior to bringing charges.

7 **“SECTION 68.** ORS 419C.200 is amended to read:

8 “419C.200. (1)(a) When a petition is filed under ORS 419C.005, the court:

9 “(A) Shall appoint counsel to represent the youth at all stages of the
10 proceeding if the offense alleged in the petition is classified as a crime.

11 “(B) Shall appoint counsel for the youth at any proceeding concerning an
12 order of probation.

13 “(C) Notwithstanding subparagraph (A) or (B) of this paragraph, shall
14 appoint counsel for the youth in any case in which the youth would be en-
15 titled to appointed counsel if the youth were an adult charged with the same
16 offense.

17 “(D) May appoint counsel for the youth in any other proceeding under
18 ORS 419C.005.

19 “(b) The court may not substitute one appointed counsel for another ex-
20 cept pursuant to the policies, procedures, standards and guidelines of the
21 [*Public Defense Services Commission*] **Oregon Public Defense**
22 **Commission.**

23 “(2)(a) A court may not accept a waiver of counsel by a youth except
24 under the following circumstances:

25 “(A) The youth is at least 16 years of age;

26 “(B) The youth has met with and been advised regarding the right to
27 counsel by counsel who has been appointed by the court or retained on be-
28 half of the youth;

29 “(C) A written waiver, signed by both the youth and the youth's counsel,
30 is filed with the court; and

1 “(D) A hearing is held on the record where the youth’s counsel appears
2 and the court, after consulting with the youth, finds the waiver was know-
3 ingly, intelligently and voluntarily made and not unduly influenced by the
4 interests of others, including the interests of the youth’s parents or guardi-
5 ans.

6 “(b) This subsection does not apply to a youth entering into a formal ac-
7 countability agreement under ORS 419C.230.

8 “(3) Upon presentation of the order of appointment under this section by
9 the counsel for the youth, any agency, hospital, school organization, division
10 or department of the state, doctor, nurse or other health care provider, psy-
11 chologist, psychiatrist, police department or mental health clinic shall permit
12 the counsel to inspect and copy any records of the youth or youths involved
13 in the case, without the consent of the youth or youths or parents. This
14 subsection does not apply to records of a police agency relating to an ongo-
15 ing investigation prior to charging.

16 **“SECTION 69.** ORS 419C.380 is amended to read:

17 “419C.380. (1) An evaluation ordered under ORS 419C.378 must be con-
18 ducted by a psychiatrist, a licensed psychologist or a regulated social
19 worker. If an evaluation is requested, the party at whose request the evalu-
20 ation was ordered shall notify the court and other parties of the date, time
21 and location of the evaluation and the name of the evaluator chosen by the
22 party. A party or the court may submit written information to the evaluator
23 for consideration. When written information that has not been provided to
24 the court or an opposing party is submitted to the evaluator, the party sub-
25 mitting the written information to the evaluator shall provide the written
26 information to the court and the opposing party.

27 “(2)(a) A county court or justice court shall order the county to pay the
28 fees and costs described in subsection (3) of this section from funds available
29 for that purpose.

30 “(b) A circuit court shall order the [*public defense services*] executive di-

1 rector **of the Oregon Public Defense Commission** to pay the fees and
2 costs described in subsection (3) of this section from funds available for that
3 purpose.

4 “(3) Pursuant to subsection (2) of this section, the county or the [*public*
5 *defense services*] executive director **of the Oregon Public Defense Com-**
6 **mission** shall pay:

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

9 “(b) All costs, including transportation of the youth, if the evaluation is
10 conducted by a psychiatrist, licensed psychologist or regulated social worker
11 employed by the Department of Human Services or is conducted by a com-
12 munity mental health program or community developmental disabilities pro-
13 gram established under ORS 430.610 to 430.695.

14 “(4) If an evaluation is ordered under ORS 419C.378, the county shall pay
15 for the expense of the evaluation.

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

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

23 **“SECTION 70.** ORS 419C.535 is amended to read:

24 “419C.535. (1) The juvenile panel of the Psychiatric Security Review
25 Board shall appoint suitable counsel to represent a young person about
26 whom a hearing under ORS 419C.532 is being held. Counsel appointed must
27 be an attorney who satisfies the [*professional qualification*] **minimum** stan-
28 dards established by the [*Public Defense Services Commission*] **Oregon**
29 **Public Defense Commission** under ORS 151.216. The [*public defense*
30 *services*] executive director **of the commission** shall determine and allow

1 fair compensation for counsel appointed under this subsection and the rea-
2 sonable expenses of the young person in respect to the hearing. Compens-
3 ation payable to appointed counsel may not be less than the applicable
4 compensation level established under ORS 151.216. The [*public defense ser-*
5 *vices*] executive director shall pay compensation and expenses allowed from
6 funds available for that purpose.

7 “(2) The juvenile panel may not order the young person, parent or
8 guardian of the estate to pay any part of the administrative costs of ap-
9 pointing counsel for the young person or to pay for the costs of legal and
10 other services that are related to the provision of appointed counsel.

11 “(3) The Attorney General may represent the state at contested hearings
12 before the juvenile panel unless the district attorney of the county in which
13 the young person was adjudicated elects to represent the state. The district
14 attorney of the county in which the young person was adjudicated shall co-
15 operate with the Attorney General in securing the material necessary for
16 presenting a contested hearing before the juvenile panel. If the district at-
17 torney elects to represent the state, the district attorney shall give timely
18 written notice to the Attorney General, the juvenile panel and the attorney
19 representing the young person.

20 “**SECTION 71.** ORS 426.135 is amended to read:

21 “426.135. If a person determined to be a person with mental illness as
22 provided in ORS 426.130, or determined to be an extremely dangerous person
23 with mental illness under ORS 426.701 or 426.702, appeals the determination
24 or the disposition, and is determined to be financially eligible for appointed
25 counsel at state expense, upon request of the person or upon its own motion,
26 the court shall appoint suitable legal counsel to represent the person. The
27 compensation for legal counsel and costs and expenses necessary to the ap-
28 peal shall be determined and paid by the [*public defense services*] executive
29 director **of the Oregon Public Defense Commission** as provided in ORS
30 135.055 if the circuit court is the appellate court or as provided in ORS

1 138.500 if the Court of Appeals or Supreme Court is the appellate court. The
2 compensation, costs and expenses shall be paid as provided in ORS 138.500.

3 **“SECTION 72.** ORS 426.250 is amended to read:

4 “426.250. The following is a nonexclusive list of responsibilities for pay-
5 ment of various costs related to commitment proceedings under this chapter
6 as described:

7 “(1) Any physician or qualified professional recommended by the Oregon
8 Health Authority who is employed under ORS 426.110 to make an examina-
9 tion as to the mental condition of a person alleged to have a mental illness
10 shall be allowed a fee as the court in its discretion determines reasonable
11 for the examination.

12 “(2) Witnesses subpoenaed to give testimony shall receive the same fees
13 as are paid in criminal cases, and are subject to compulsory attendance in
14 the same manner as provided in ORS 136.567 to 136.603. The attendance of
15 out-of-state witnesses may be secured in the same manner as provided in ORS
16 136.623 to 136.637. The party who subpoenas the witness or requests the court
17 to subpoena the witness is responsible for payment of the cost of the
18 subpoena and payment for the attendance of the witness at a hearing. When
19 the witness has been subpoenaed on behalf of a person alleged to have a
20 mental illness who is represented by appointed counsel, the fees and costs
21 allowed for that witness shall be paid pursuant to ORS 135.055. If the costs
22 of witnesses subpoenaed by the person are paid as provided under this sub-
23 section, the procedure for subpoenaing witnesses shall comply with ORS
24 136.570.

25 “(3) If a person with a right to a counsel under ORS 426.100, 426.701 or
26 426.702 is determined to be financially eligible for appointed counsel at state
27 expense, the [*public defense services*] executive director **of the Oregon**
28 **Public Defense Commission** shall determine and pay, as provided in ORS
29 135.055, the reasonable expenses related to the representation of the person
30 and compensation for legal counsel. The expenses and compensation so al-

1 lowed shall be paid by the [*public defense services*] executive director from
2 funds available for the purpose.

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

8 “(5) All costs incurred in connection with a proceeding under ORS
9 426.180, 426.701 or 426.702, including the costs of transportation, commitment
10 and delivery of the person, shall be paid by the community mental health
11 program in the county of which the person is a resident. If the person is not
12 a resident of this state, then the costs incurred in connection with the pro-
13 ceeding shall be paid by the community mental health program in the county
14 from which the emergency admission was made.

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

19 **“SECTION 73.** ORS 427.265 is amended to read:

20 “427.265. (1) At the time that a person who is alleged to have an intel-
21 lectual disability and to be in need of commitment for residential care,
22 treatment and training is brought before the court, the court shall advise the
23 person of the reason for being brought before the court, the nature of the
24 proceedings and the possible results of the proceedings. The court shall also
25 advise the person of the right to subpoena witnesses and to suitable legal
26 counsel possessing skills and experience commensurate with the nature of
27 the allegations and complexity of the case during the proceedings, and that
28 if the person does not have funds with which to retain suitable legal counsel,
29 the court shall appoint such legal counsel to represent the person. If the
30 person does not request legal counsel, the legal guardian, relative or friend

1 may request the assistance of legal counsel on behalf of the person.

2 “(2) If no request for legal counsel is made, the court shall appoint suit-
3 able legal counsel.

4 “(3) If the person is unable to afford legal counsel, the court, if the matter
5 is before a county or justice court, or the [*public defense services*] executive
6 director **of the Oregon Public Defense Commission**, if the matter is before
7 the circuit court, shall determine and allow, as provided in ORS 135.055, the
8 reasonable expenses of the person and compensation for legal counsel. The
9 expenses and compensation so allowed by a county court shall be paid by the
10 county of residence of the person. The expenses and compensation determined
11 by the [*public defense services*] executive director shall be paid by the [*public*
12 *defense services*] executive director from funds available for the purpose. In
13 all cases legal counsel shall be present at the hearing and may examine all
14 witnesses offering testimony, and otherwise represent the person.

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

20 **“SECTION 74.** ORS 427.295 is amended to read:

21 “427.295. If a person appeals a commitment order issued under ORS
22 427.290, the court, upon request of the person or upon its own motion and
23 upon finding that the person is financially eligible for appointed counsel at
24 state expense, shall appoint suitable legal counsel to represent the person.
25 The compensation for legal counsel and costs and expenses necessary to the
26 appeal shall be determined and paid by the [*public defense services*] executive
27 director **of the Oregon Public Defense Commission** as provided in ORS
28 135.055 if the circuit court is the appellate court or as provided in ORS
29 138.500 if the Court of Appeals or Supreme Court is the appellate court. The
30 compensation, costs and expenses so allowed shall be paid as provided in

1 ORS 138.500.

2 **“SECTION 75.** ORS 433.466 is amended to read:

3 “433.466. (1) A person or group of persons subject to isolation or
4 quarantine or other public health measure pursuant to ORS 433.121 or
5 433.123 has the right to be represented by legal counsel if the person or
6 group of persons so elects. If the person or group of persons requests legal
7 counsel and cannot afford counsel, the court shall appoint legal counsel. If
8 no request for legal counsel is made, the court must appoint legal counsel
9 unless counsel is expressly, knowingly and intelligently refused by the person
10 or the group of persons. The person or the group of persons may request le-
11 gal counsel at any time during the period of imposition of the isolation,
12 quarantine or other public health measure.

13 “(2) If a person is unable to afford legal counsel, the [*public defense ser-*
14 *vices*] executive director **of the Oregon Public Defense Commission** shall
15 determine and pay, as provided in ORS 135.055, the reasonable expenses of
16 the person and compensation for legal counsel appointed to represent the
17 person.

18 **“SECTION 76.** The amendments to ORS 1.009, 8.105, 34.355, 40.225,
19 42.125, 45.275, 45.285, 84.064, 125.035, 125.080, 135.050, 136.603, 137.020,
20 138.310, 138.480, 138.500, 138.590, 144.335, 144.337, 147.537, 147.560, 151.485,
21 151.487, 151.493, 151.505, 161.309, 161.346, 161.348, 161.365, 161.665, 171.133,
22 181A.010, 190.490, 244.050, 283.110, 291.002, 291.011, 291.030, 291.045, 291.227,
23 293.300, 293.590, 293.875, 419A.200, 419A.211, 419A.252, 419A.255, 419B.112,
24 419B.195, 419B.198, 419B.237, 419B.532, 419B.647, 419C.200, 419C.380,
25 419C.535, 426.135, 426.250, 427.265, 427.295 and 433.466 by sections 15 to
26 **75 of this 2023 Act become operative on January 1, 2024.**

27

28 **“TRANSFER OF COMMISSION TO EXECUTIVE BRANCH**

29 **“(Appointment and Duties)**

30

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

3 “151.213. (1) The Oregon Public Defense Commission is established in the
4 *[judicial]* **executive** branch of state government. Except for the appointment
5 or removal of commission members, the commission and employees of the
6 commission are not subject to the exercise of administrative authority and
7 supervision by the *[Chief Justice of the Supreme Court as the administrative*
8 *head of the Judicial Department]* **Governor**.

9 “(2)(a) Nine voting members and four nonvoting members shall be ap-
10 pointed to the commission by *[order of the Chief Justice]* **the Governor** as
11 follows:

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

13 **“(i) One voting member who has been represented by a public de-
14 fense provider.**

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

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

20 ~~“(A) (B) The Governor shall appoint, from among persons recom-
21 mended by the Chief Justice *[shall appoint]* of the Supreme Court:~~

22 “(i) One voting member who is a retired judge, or who is serving as a
23 senior judge under ORS 1.300, with criminal law experience.

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

26 ~~“(B) *The Chief Justice shall appoint, from among persons recommended*
27 *by the Governor.*]~~

28 ~~“(i) *One voting member who has been represented by a public defense*
29 *provider.*]~~

30 ~~“(ii) *Two additional voting members, one of whom has experience as a*~~

1 *public defense provider in criminal or juvenile delinquency cases.]*

2 “[*iii*) *Two nonvoting members who are currently employed as public de-*
3 *fense providers in this state, one of whom is from an urban area and one of*
4 *whom is from a rural area.*]

5 “(C) The [*Chief Justice*] **Governor** shall appoint, from among persons re-
6 commended by the President of the Senate:

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

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

11 “(D) The [*Chief Justice*] **Governor** shall appoint, from among persons re-
12 commended by the Speaker of the House of Representatives:

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

15 “(ii) One nonvoting member who is a member of the House of Represen-
16 tatives at the time of appointment.

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

20 “(b) When recommending and appointing members of the commission, the
21 [*Chief Justice*,] Governor, **Chief Justice**, President of the Senate and
22 Speaker of the House of Representatives shall:

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

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

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

29 “(D) Ensure that members appointed to the commission have demon-
30 strated a strong commitment to quality public defense representation.

1 “(c) The following persons may not be appointed to and may not serve as
2 members of the commission:

3 “(A) A prosecuting attorney.

4 “(B) A judge, magistrate or other person who performs judicial functions,
5 other than a senior judge under ORS 1.300.

6 “(C) An employee of a law enforcement agency.

7 “(d) A person who is primarily engaged in providing public defense ser-
8 vices and who has a financial interest in the delivery of public defense ser-
9 vices at the state level may not serve as a voting member of the commission.

10 “(3) The term of a member is four years beginning on the effective date
11 of the [*order of the Chief Justice appointing the member*] **Governor’s ap-
12 pointment**. A member is eligible for reappointment if qualified for member-
13 ship at the time of reappointment, but may serve no more than two
14 consecutive four-year terms. The [*Chief Justice*] **Governor** may remove any
15 member of the commission at any time for cause. If a vacancy occurs for any
16 cause before the expiration of the term of a member, the [*Chief Justice*]
17 **Governor** shall make an appointment to fill the vacancy, in the same man-
18 ner as an appointment to a full term, to become immediately effective for the
19 unexpired term. If the [*Chief Justice*] **Governor** has not filled a vacancy
20 within 45 days after the vacancy occurs, the remaining voting members of
21 the commission shall, by a majority vote, select a member to fill the vacancy
22 for the remainder of the term.

23 “(4) A chairperson and a vice chairperson shall be elected by the voting
24 members of the commission every two years with such functions as the
25 commission may determine. A member is eligible for reelection as chair-
26 person or vice chairperson.

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

29 “(6) The members of the commission shall:

30 “(a) Appoint, by a two-thirds vote of the voting members, an executive

1 director for a term of office of four years. The term may be terminated for
2 cause by a majority vote of the members of the commission after notice and
3 a hearing. When the term of an executive director ends without termination,
4 the members of the commission may reappoint the person currently in the
5 position by a majority vote.

6 “(b) Review and approve the policies, procedures, standards and guidelines
7 required by ORS 151.216 before those policies, procedures, standards and
8 guidelines may take effect.

9 “(c) Review and approve the budget of the commission before submission
10 to the Legislative Assembly.

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

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

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

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

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

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

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

22 “151.216. (1) The Oregon Public Defense Commission shall:

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

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

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

29 “(B) Provide for public defense provider compensation and resources that
30 are comparable to prosecution compensation and resources.

1 “(c) Submit the budget of the commission to the Legislative Assembly af-
2 ter the budget is submitted to the commission by the executive director and
3 approved by the voting members of the commission. The [*Chief Justice of the*
4 *Supreme Court and the*] chairperson of the commission shall present the
5 budget to the Legislative Assembly.

6 “(d) Adopt a compensation plan, classification system and affirmative
7 action plan for the commission that are commensurate with other state
8 agencies.

9 “(e) Adopt policies, procedures, standards and guidelines regarding:

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

12 “(B) The appointment of counsel, including the appointment of counsel
13 at state expense regardless of financial eligibility in juvenile delinquency
14 matters;

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

17 “(D) Appointed counsel compensation disputes;

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

20 “(F) The qualifications required for senior staff of the commission; and

21 “(G) The types of fees and expenses subject to a preauthorization re-
22 quirement.

23 “(f) Reimburse the State Court Administrator from funds deposited in the
24 Public Defense Services Account established by ORS 151.225 for the costs of
25 personnel and other costs associated with location of eligibility verification
26 and screening personnel pursuant to ORS 151.489 by the State Court Ad-
27 ministrator.

28 “(g) Establish minimum standards for the delivery of public defense ser-
29 vices that provide for the effective assistance of counsel to eligible persons
30 throughout this state. The minimum standards must be designed to ensure

1 that public defense services meet all requirements for the effective assistance
2 of counsel under statute and the Oregon and United States Constitutions.

3 “(h) Establish and implement policies, procedures, standards and guide-
4 lines necessary to guarantee the right of eligible persons to the assistance
5 of counsel as required by statute and by the Oregon and United States
6 Constitutions.

7 “(i) Develop and oversee the implementation, enforcement and modifica-
8 tion of minimum policies, procedures, standards and guidelines to ensure that
9 public defense providers are providing effective assistance of counsel con-
10 sistent to all eligible persons in this state as required by statute and the
11 Oregon and United States Constitutions. The policies, procedures, standards
12 and guidelines described in this paragraph apply to employees of the com-
13 mission and to any entity that contracts with the commission to provide
14 public defense services in this state.

15 “(j) Set minimum standards by which appointed counsel are trained and
16 supervised.

17 “(k) Establish procedures for the mandatory collection of data concerning
18 the operation of the commission and all public defense providers.

19 “(L) Enter into contracts to bring the delivery of public defense services
20 into compliance with the minimum policies, procedures, standards and
21 guidelines described in this subsection.

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

27 “(n) Develop standard operating expectations for persons providing public
28 defense services.

29 “(o) In consultation with the Judicial Department, ensure the existence
30 of policies that create a standardized process for determining and verifying

1 financial eligibility for appointed counsel under ORS 151.485.

2 “(p) Centralize services and resources, including training, so that the
3 services and resources can be utilized by both commission employees and
4 public service providers who contract with the commission.

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

8 “(2) When establishing the minimum policies, procedures, standards and
9 guidelines described in this section, the commission shall adhere to the fol-
10 lowing principles:

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

14 “(b) The workload of appointed counsel must be controlled to permit ef-
15 fective representation. Economic disincentives or incentives that impair the
16 ability of appointed counsel to provide effective assistance of counsel must
17 be avoided. The commission may develop workload controls to enhance ap-
18 pointed counsel’s ability to provide effective representation.

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

21 “(d) The same appointed counsel shall continuously represent a client
22 throughout the pendency of the case and shall appear at every court ap-
23 pearance other than ministerial hearings.

24 “(e) The commission shall establish continuing legal education require-
25 ments relevant to the practice of public defense or juvenile representation
26 for public defense providers who are employed by or contract with the com-
27 mission.

28 “(f) The commission and public defense providers shall systematically re-
29 view appointed counsel for efficiency and for effective representation ac-
30 cording to commission standards.

1 “(3) The commission shall be organized in a manner for the effective de-
2 livery of public defense services as prescribed by the policies and procedures
3 created pursuant to statute to financially eligible persons and consistent
4 with the budgetary structure established for the commission by the Legisla-
5 tive Assembly.

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

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

13 “(6) Policies, procedures, standards and guidelines adopted by the com-
14 mission supersede any conflicting rules, policies or procedures of the Public
15 Defender Committee, State Court Administrator, circuit courts, the Court of
16 Appeals, the Supreme Court and the Psychiatric Security Review Board re-
17 lated to the exercise of the commission’s administrative responsibilities un-
18 der this section and transferred duties, functions and powers as they occur.

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

25 **“(8) With the approval of a majority of the voting members of the**
26 **commission, the commission may advocate for or against legislation**
27 **before the Legislative Assembly or policies or budgets being considered**
28 **by the Legislative Assembly.**

29 **“(9) The commission shall request that the Governor include in the**
30 **Governor’s requested budget, for each fiscal period, at a minimum, the**

1 amount of funds identified by the commission as being necessary to
2 carry out the duties and activities of the commission.

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

4 **“SECTION 79. (1) The Oregon Department of Administrative Ser-**
5 **vices shall issue state public defense population forecasts including,**
6 **but not limited to, expected populations of adults and juveniles eligible**
7 **for appointed counsel, to be used by:**

8 **“(a) The Oregon Public Defense Commission in preparing budget**
9 **requests; or**

10 **“(b) Any other state agency concerned with the effect of public de-**
11 **fense populations or policy developments on budgeting.**

12 **“(2) The department shall issue state public defense population**
13 **forecasts on April 1 and October 1 of each year.**

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

16 **“(a) Discretely identify adult and juvenile populations that are eli-**
17 **gible for appointed counsel categorized by either circuit or appellate**
18 **court;**

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

21 **“(c) Attribute growth or decline in the forecast, relative to previ-**
22 **ously issued forecasts, to specific policies or to specific components**
23 **of the baseline underlying the forecast.**

24 **“(4) The Oregon Public Defense Commission and the Oregon Crim-**
25 **inal Justice Commission shall provide the department with any infor-**
26 **mation necessary for the department to prepare the forecasts**
27 **described in this section.**

28 **“(5) As used in this section, ‘baseline underlying the forecast’ in-**
29 **cludes population demographics and crime trends.**

30

1 date specified in subsection (1) of this section, all of the duties, func-
2 tions and powers conferred on those entities by section 79 of this 2023
3 Act and the amendments to ORS 8.105, 151.213 and 151.216 by sections
4 77, 78 and 80 of this 2023 Act.

5 “(3)(a) A person who is a member of the Oregon Public Defense
6 Commission on January 3, 2025, may finish the person’s term as a
7 commission member.

8 “(b) The person serving as executive director of the Oregon Public
9 Defense Commission on January 3, 2025, may finish the person’s term
10 as executive director.

11

12 “CHANGE IN SERVICE DELIVERY MODEL

13 “(Temporary Provisions)

14

15 “SECTION 82. (1)(a) The Oregon Public Defense Commission shall
16 conduct a survey and economic analysis to establish a formula for the
17 commission to use to calculate an hourly pay rate for appointed
18 counsel who are not employees of the commission that takes into ac-
19 count overhead expenses, market rates and regional differences in the
20 cost of living.

21 “(b) The commission may conduct the survey and economic analysis
22 internally or may contract with an outside entity. The survey and
23 economic analysis must be completed and the hourly pay rate calcu-
24 lated no later than April 1, 2024.

25 “(c) After the hourly pay rate described in paragraph (a) of this
26 subsection has been calculated, the hourly pay for appointed counsel
27 who are not employees of the commission may not be lower than that
28 amount, and shall be adjusted to reflect the same percentage amount
29 of any positive cost of living adjustment granted to employees in the
30 management service in other executive branch agencies.

1 action plan for the commission that are commensurate with other state
2 agencies.

3 “(e) Adopt policies, procedures, standards and guidelines regarding:

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

6 “(B) The appointment of counsel, including the appointment of counsel
7 at state expense regardless of financial eligibility in juvenile delinquency
8 matters;

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

11 “(D) Appointed counsel compensation disputes;

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

14 “(F) The qualifications required for senior staff of the commission; and

15 “(G) The types of fees and expenses subject to a preauthorization re-
16 quirement.

17 “(f) Reimburse the State Court Administrator from funds deposited in the
18 Public Defense Services Account established by ORS 151.225 for the costs of
19 personnel and other costs associated with location of eligibility verification
20 and screening personnel pursuant to ORS 151.489 by the State Court Ad-
21 ministrator.

22 “(g) Establish minimum standards for the delivery of public defense ser-
23 vices that provide for the effective assistance of counsel to eligible persons
24 throughout this state. The minimum standards must be designed to ensure
25 that public defense services meet all requirements for the effective assistance
26 of counsel under statute and the Oregon and United States Constitutions.

27 “(h) Establish and implement policies, procedures, standards and guide-
28 lines necessary to guarantee the right of eligible persons to the assistance
29 of counsel as required by statute and by the Oregon and United States
30 Constitutions.

1 “(i) Develop and oversee the implementation, enforcement and modifica-
2 tion of minimum policies, procedures, standards and guidelines to ensure that
3 public defense providers are providing effective assistance of counsel con-
4 sistently to all eligible persons in this state as required by statute and the
5 Oregon and United States Constitutions. The policies, procedures, standards
6 and guidelines described in this paragraph apply to employees of the com-
7 mission and to any entity that contracts with the commission to provide
8 public defense services in this state.

9 “(j) Set minimum standards by which appointed counsel are trained and
10 supervised.

11 “(k) Establish procedures for the mandatory collection of data concerning
12 the operation of the commission and all public defense providers.

13 “(L) Enter into contracts to bring the delivery of public defense services
14 into compliance with the minimum policies, procedures, standards and
15 guidelines described in this subsection.

16 “(m) At least once every two years, report to the interim committees of
17 the Legislative Assembly related to the judiciary, in the manner provided in
18 ORS 192.245, and to the Governor and Chief Justice, concerning compliance
19 metrics for the minimum standards described in this subsection and recom-
20 mendations for legislative changes.

21 “(n) Develop standard operating expectations for persons providing public
22 defense services.

23 “(o) In consultation with the Judicial Department, ensure the existence
24 of policies that create a standardized process for determining and verifying
25 financial eligibility for appointed counsel under ORS 151.485.

26 “(p) Centralize services and resources, including training, so that the
27 services and resources can be utilized by both commission employees and
28 public service providers who contract with the commission.

29 “(q) Establish any other policies, procedures, standards and guidelines for
30 the conduct of the commission’s affairs and promulgate policies necessary to

1 carry out all powers and duties of the commission.

2 “(2) When establishing the minimum policies, procedures, standards and
3 guidelines described in this section, the commission shall adhere to the fol-
4 lowing principles:

5 “(a) Appointed counsel shall be provided sufficient time and a space
6 where attorney-client confidentiality is safeguarded for meetings with cli-
7 ents.

8 “(b) The workload of appointed counsel must be controlled to permit ef-
9 fective representation. Economic disincentives or incentives that impair the
10 ability of appointed counsel to provide effective assistance of counsel must
11 be avoided. The commission may develop workload controls to enhance ap-
12 pointed counsel’s ability to provide effective representation.

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

15 “(d) The same appointed counsel shall continuously represent a client
16 throughout the pendency of the case and shall appear at every court ap-
17 pearance other than ministerial hearings.

18 “(e) The commission shall establish continuing legal education require-
19 ments relevant to the practice of public defense or juvenile representation
20 for public defense providers who are employed by or contract with the com-
21 mission.

22 “(f) The commission and public defense providers shall systematically re-
23 view appointed counsel for efficiency and for effective representation ac-
24 cording to commission standards.

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

30 “(4) The commission shall [*hire attorneys to serve as appointed counsel at*

1 *the trial level in Oregon circuit courts, and may]* establish a trial division
2 within the commission consisting of attorneys employed by the commission
3 who are trial-level public defense providers.

4 **“(5)(a) The commission shall establish, supervise and maintain a**
5 **panel of qualified counsel that may be directly assigned to cases. The**
6 **commission shall develop a process for certification to the panel with**
7 **periodic eligibility and case review.**

8 **“(b) The payment of panel counsel may not provide a financial**
9 **conflict of interest or economic incentives or disincentives that impair**
10 **an attorney’s ability to provide effective representation.**

11 **“(c) The commission may enter into contracts for the provision of**
12 **public defense services with nonprofit organizations that employ public**
13 **defense attorneys.**

14 **“(d) The commission may not enter into a contract or agreement**
15 **that pays appointed counsel a flat fee per case.**

16 “[5] (6) The policies, procedures, standards and guidelines adopted by
17 the commission must be made available in an accessible manner to the public
18 on the commission’s Internet website.

19 “[6] (7) Policies, procedures, standards and guidelines adopted by the
20 commission supersede any conflicting rules, policies or procedures of the
21 Public Defender Committee, State Court Administrator, circuit courts, the
22 Court of Appeals, the Supreme Court and the Psychiatric Security Review
23 Board related to the exercise of the commission’s administrative responsi-
24 bilities under this section and transferred duties, functions and powers as
25 they occur.

26 “[7] (8) The commission may accept gifts, grants or contributions from
27 any source, whether public or private. However, the commission may not
28 accept a gift, grant or contribution if acceptance would create a conflict of
29 interest. Moneys accepted under this subsection shall be deposited in the
30 Public Defense Services Account established by ORS 151.225 and expended

1 for the purposes for which given or granted.

2 “[8] (9) With the approval of a majority of the voting members of the
3 commission, the commission may advocate for or against legislation before
4 the Legislative Assembly or policies or budgets being considered by the
5 Legislative Assembly.

6 “[9] (10) The commission shall request that the Governor include in the
7 Governor’s requested budget, for each fiscal period, at a minimum, the
8 amount of funds identified by the commission as being necessary to carry out
9 the duties and activities of the commission.

10 “[10] (11) The commission may adopt rules pursuant to ORS chapter 183.

11 **“SECTION 85.** ORS 151.219, as amended by section 4 of this 2023 Act, is
12 amended to read:

13 “151.219. (1) The executive director of the Oregon Public Defense Com-
14 mission shall:

15 “(a) Appoint a deputy director of the commission who serves at the
16 pleasure of the executive director.

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

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

23 “(d) Implement and ensure compliance with contracts, policies, proce-
24 dures, standards and guidelines adopted by the commission or required by
25 statute.

26 “(e) Prepare and submit to the commission for its approval the biennial
27 budget of the commission.

28 “(f) Negotiate contracts, as appropriate, for providing legal services to
29 persons eligible for appointed counsel at state expense **in accordance with**
30 **ORS 151.216 (5).**

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

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

4 “(i) Provide services, facilities and materials necessary for the perform-
5 ance of the duties, functions and powers of the commission.

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

7 “(k) Prepare and submit to the members of the commission an annual re-
8 port of the activities of the commission.

9 “(L) Provide for legal representation, advice and consultation for the
10 commission, its members, the executive director and staff of the commission
11 who require such services or who are named as defendants in lawsuits aris-
12 ing from their duties, functions and responsibilities. If requested by the
13 executive director, the Attorney General may also provide for legal repre-
14 sentation, advice and consultation for the commission, its members, the
15 executive director and staff of the commission in litigation.

16 “(m) Assist the commission in developing standard operating expectations
17 for persons providing public defense services. The executive director may
18 establish a standards advisory group to assist in developing the expectations.

19 “(2) The executive director may designate persons as representatives of
20 the executive director for the purposes of determining and paying bills sub-
21 mitted to the commission and determining preauthorization for incurring fees
22 and expenses under ORS 135.055.

23

24 “(Reporting to Legislature)

25

26 “**SECTION 86. (1) No later than May 15, 2024, the Oregon Public**
27 **Defense Commission shall provide a comprehensive report on the**
28 **commission’s plan for providing public defense services in this state**
29 **to the interim committees of the Legislative Assembly related to the**
30 **judiciary, in the manner described in ORS 192.245, that includes at**

1 least the following information:

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

4 “(b) A description of the commission’s proposed method for pro-
5 viding public defense services based on anticipated workload;

6 “(c) The establishment of training and supervision requirements for
7 public defense providers;

8 “(d) Steps taken to determine a reasonable hourly rate for ap-
9 pointed counsel who are not employees of the commission that ac-
10 counts for overhead expenses; and

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

13 “(2) Beginning no later than December 1, 2025, and biennially
14 thereafter until December 1, 2035, the commission shall provide the
15 interim committees of the Legislative Assembly related to the judici-
16 ary with an updated version of the report described in subsection (1)
17 of this section.

18 “SECTION 87. Section 86 of this 2023 Act is repealed on January 2,
19 2036.

20

21 “(Operative Dates)

22

23 “SECTION 88. (1) Sections 82 and 86 of this 2023 Act and the
24 amendments to ORS 151.216 and 151.219 by sections 84 and 85 of this
25 2023 Act become operative on July 1, 2025.

26 “(2) The Oregon Public Defense Commission, the Oregon Depart-
27 ment of Administrative Services and the Governor may take any
28 action before the operative date specified in subsection (1) of this sec-
29 tion that is necessary to enable the commission to exercise, on and
30 after the operative date specified in subsection (1) of this section, all

1 of the duties, functions and powers conferred on those entities by
2 sections 82 and 86 of this 2023 Act and the amendments to ORS 151.216
3 and 151.219 by sections 84 and 85 of this 2023 Act.

4

5

“CAPTIONS

6

7 **“SECTION 89. The unit captions used in this 2023 Act are provided**
8 **only for the convenience of the reader and do not become part of the**
9 **statutory law of this state or express any legislative intent in the**
10 **enactment of this 2023 Act.**

11

12

“EMERGENCY CLAUSE

13

14 **“SECTION 90. This 2023 Act being necessary for the immediate**
15 **preservation of the public peace, health and safety, an emergency is**
16 **declared to exist, and this 2023 Act takes effect on its passage.”.**

17
