

Tahra Sinks PC

ATTORNEY AT LAW

TO: Oregon Senate Judiciary Committee
FROM: Tahra Sinks, Juvenile Consortium Member in Marion County
DATE: March 30, 2023
RE: Testimony on SB 337-1 Public Defense

Chair Prozanski, Vice Chair Thatcher, and Members of the Senate Committee on Judiciary:

Chair Prozanski, Vice Chair Thatcher, Members of the Committee:

My name is Tahra Sinks, and I am a senior attorney with the Marion County Juvenile Advocacy Consortium. You met me yesterday! I had previously submitted written testimony but there were specific points I wanted to make clear during in-person testimony that I wasn't able to do. So thank you for allowing me to supplement my points in writing.

As stated yesterday I, and others in my consortium represent the most vulnerable people in this state. The children who have suffered abuse and neglect, and their parents who need services to be able to safely parent their children. Both groups are constitutionally entitled to counsel under the 6th Amendment.

I am asking that you please eliminate "Dash-1", of SB 337, the part that eliminates consortia.

I have no objection to restructuring the make-up of the Commission and moving the agency to the Executive Branch.

Eliminating consortia, however, will not fix any problem, and will in fact create more.

Here's why:

Best practice requires that each parent and each child have their own attorney because of inherent legal conflicts. Thus, when there are nine (9) children and three (3) dads and a mom, there is a need for 13 lawyers to ensure that the Constitutional rights of each person are protected.

A public defender's office can only take one of the 13 clients. Then, under the proposed SB 337, the State would need to find 12 additional lawyers (the independent contract lawyers) to be present at the preliminary hearing to represent the parent whose constitutional rights are being infringed upon, *within 24 hours of removal*, as is statutorily required.

Yesterday I gave an example of three kids by three fathers, something that I thought everyone could easily picture. The example above, however, the real need for 13 lawyers is currently before the Marion County Juvenile Court – and consortium is able to provide all 13 persons with

excellent lawyers, within the statutorily prescribed timelines. Note: this is not the first case that has needed these numbers and it won't be the last.

OPDS would not be able to meet that need.

Persons charged with actual crimes are being released from jail because of the inability to find **one** lawyer.

OPDS cannot support the delivery system of services clients need now.

As defense practitioners we do not have easily accessible resources for our clients, to provide them with adequate representation. The State does. For example, our cases may need one or all the following:

- a. Investigator.
- b. Psychologist.
- c. A person to conduct psycho-sexual evaluations. These evaluations are significantly different than a psychological evaluation. These evaluations provide the Court with information as to whether someone presents a current safety risk to their children and the community.
- d. Expert witnesses. In most all cases the State has experts and professionals.
- e. Process Servers. Most cases require witnesses to be subpoenaed.

This list is neither exhaustive nor just for “special cases”. We need these services to be able to provide our clients with the advocacy that they deserve and have a right to under the Constitution. In fact, failure to provide a complete defense may result in a claim of “inadequate assistance of counsel”, which can result in re-trials, delay, more money etc.

How long does it take to receive the services needed to adequately represent our clients?

Lawyers make requests to OPDS for the services listed above indicating the reason for the request. I understand this may appear reasonable, but the practicality is it takes an inordinate amount of time. If OPDS isn't satisfied with the reasoning, your request will be denied, and you will be asked to resubmit.

Ever since the 6th Amendment study, approval for funds takes weeks, whereas it used to take hours.

Why is the process important to know?

Dash 1 of SSB assumes contracting with the State is quick and simple. It is not.

As noted above it's difficult enough to contract for services.

Negotiating a contract with the State for your livelihood is worse. It takes months for Executive Directors and the State to negotiate reasonable contracts, which years later we are still in the process of negotiating.

Historically we would receive 2-year contracts. Now are barely receiving 6-month contracts, and by the time the contract is implemented it is time to re-negotiate. This is a full-time job in it of itself.

We are perpetually in fear of losing our job. This makes recruiting difficult.

Will practitioners leave if consortia are eliminated?

Yes, most likely.

Are consortia members in consortiums “for the money”.

The incredibly insulting notion that consortia are “in it for the money”, is just plain wrong. It is almost as if the State when contracting forgets:

- Defense attorneys, especially in juvenile courts, have emotionally taxing jobs and are flooded near daily with vicarious trauma.
- Defense attorneys, especially the consortia in Marion County, have lawyers available to the Courts Monday – Friday, 8:00 a.m. – 5:00 p.m. We’ve even been asked to work through lunch and come in as early as 7:30 a.m.
- Defense attorneys pay for their own parking when they go to court.
- Defense attorneys work weekends and late nights to be able to see their school aged clients and inmates.
- Defense attorneys pay their own bar dues.
- Defense attorneys pay their own health insurance.
- Defense attorneys pay for their own Professional Liability insurance.
- Defense attorneys are contractually required to have independent offices and staff – they pay for that. Defense attorneys pay for everything in the office, from utilities, to computers, to printers, and yes even the toilet paper.
- Defense attorneys pay for their own required continuing legal education.
- Defense attorneys are responsible for their own retirement with no match, which is probably why you see defense attorney’s working far longer than State attorneys.
- Defense do not receive sick days, or mental health days, or holidays and still get paid.
- Defense attorneys attend legislative gatherings, on their own dime, to ensure that the people they represent are heard.
- Defense attorneys pay their own school loans. Even though we work with the most vulnerable population, we are not afforded the loan forgiveness programs available to the State.

We are not in it for the money.

Who are the people doing this underfunded, traumatizing, thankless job?

I am one of those people.

I do this work because, as the child of an immigrant, I believe in our constitution.

I do this work because I believe people who have no money still have rights.

I do this because I believe parents have the fundamental right to parent their own children.

I do this because I believe children have the right to be free from abuse and neglect.

Chair Prozanski, Vice-Chair Thatcher, Members of the Committee, I respectfully ask of you three things:

1. Do not pend the issue of whether to maintain consortiums for further studies – just maintain them. We need them – especially for juvenile courts, so please eliminate Dash - 1 of SB 337.
2. Appoint a juvenile court trial practitioner to all task forces, work groups, committees, etc. I do not see that Juvenile Defense is represented in any of the current groups, which may be the reason behind thinking juvenile dependency services could be delivered by one provider. They cannot. Juvenile Law is not the same as Criminal Law, and we, Juvenile practitioners should have a seat at every table when discussing any matter related to the delivery of justice.
3. Please do whatever you can to achieve parity pay. Even if it is not in actual dollars there are still many line-items that the State of Oregon could pay for or waive. The State of Oregon is already paying many of the above listed expenses for the Department of Justice. But don't get me wrong – we also take cash.

I truly appreciate the opportunity to put in writing what I was not able to say in a few minutes.

Respectfully,

Tahra Sinks

Tahra Sinks
Juvenile Defense Attorney

