



March 30, 2023

Dear Chair Prozanski, Vice-Chair Thatcher and members of Senate Judiciary,

Thank you for the opportunity to provide testimony in support of SB 337, a long overdue and necessary bill to reform Oregon's public defense services.

Oregon AFSCME represents the attorneys and staff at Metropolitan Public Defender Local 3668, Multnomah Defender, Inc Local 2805, the attorneys at the Public Defender of Marion County, and the Appellate Division attorneys and support staff and administrative staff at the Office of Public Defense Services, Local 2435.

For over a decade, Oregon AFSCME has worked to increase investments in public defense services, to give much needed compensation increases to attorneys and staff. Various efforts have fallen short in large part because they have been band-aid approaches to much needed systemic reforms to what the 6th Amendment Center called a complex bureaucracy with a likely unconstitutional contracting system. This complex contracting system causes us the inability to understand how to best determine at legislative and policy levels the needed structures and investments to provide proper support for the workforce and outcomes for their clients.

**The systemic public defense reforms in SB 337 are needed now. The bill provides clear direction and timelines** needed to move Oregon's public defense services into **alignment with national best practices, provide needed oversight and accountability and to move us in the right direction for increasing the number of attorneys and staff** providing public defense in Oregon.

**The oversight and accountability:**

Moving to a state trial public defense system while keeping our nonprofit public defender offices and paying individuals on an hourly basis will provide clear and consistent data to know who is providing services, the costs of services and where and who may need additional training and support to provide adequate representation and improved outcomes for clients. SB 337 also outlines directions for the agency to establish training and certification protocols for initial and ongoing training. This formalizes the training expectations and continuing education requirements, not unlike other professional services, to ensure that providers receive the same training to enter public defense services and continue practicing. The agency, as the centralized coordinator will be able to coordinate with providers and organizations to develop these standards and provide the training and education.



**Moving to State Employee, Nonprofit and Hourly Model** reduces inefficiencies and provides a clear understanding of who is providing services and at what cost to the state. With state employees and nonprofit providers, we know their work is without conflict because 100% of their work is public defense. Moving to the hourly model for other contractors ensures that each person providing public defense services has the time and financial resources needed to support them in that work for those clients. In other words, without this, it is unclear how the financial stability of private pay work does not conflict or encroach on the public defense client's right to adequate defense. This isn't about malicious intent, it is about economics of the system.

**Having State Trial Public Defenders gives us a direct comparator for compensation** of our nonprofit and hourly contractors. To date, it has been difficult to determine how we calculate this. Comparisons with DAs and DDAs are inconsistent throughout the state because of the county funding, and inaccurate in many ways because of the structures and staffing needs. The state trial division would remove that complication and provide an accurate look at what pay should be.

#### **The Timelines-**

The two year timeline gives staff doing the work at the Office of Public Defense Services a clear date to reset how the contracts will be handled. This timeline also aligns with the timeline to bring the agency's data and timekeeping system online to be able easily transition to an hourly based contracting system. This timeline is crucial for these employees to be able to stay on track and reduce the chaos of moving timelines and changing priorities. Without these clear directions and timelines, the administrative employees fear that we will continue to further complicate the existing contracts. This will cause more frustrations with them and the providers due to the multiple amendments and clarity in the contracts.

The two year timeline aligns with the legislative budget process. This is important, because as an independent agency, they have largely been out of sync with the timelines to be able to bring agency budget needs to the legislature in a timely fashion.

This **timeline also allows the agency to bring providers and partners together to figure out the details of how the structural reforms happen at the community level.** In other states, including Massachusetts, whose model was recommended for Oregon to adopt, they were able to bring the providers and contractors that had been working as administrators of their sub-contracting model to fill in the details of how the new model of paying people through direct hourly contracting (for representation or supervision and coordination) or providing that as a state employee would work. For them, and all of the states that have moved to the mix of state employees and hourly contractors, most people working in the old system remained in the new system.



The **systemic reforms in SB 337 are the first step, we also need adequate funding**. There will always be people who leave but the rate we have been seeing for years boils down to the lack of pay and the crushing amount of work that is mentally and emotionally taxing. I understand that not everyone will want to contract directly with the state. SB 337 provides options for practicing public defense through a nonprofit or state employee model. We have the next two years to work on how we support people in this transition.

We can no longer afford to simply say no and let fear of the unknown allow for inaction on our public defense services. The growing number of unrepresented people both in and out of custody can not wait another four years for us to figure it out.

Please pass SB 337 without delays in timelines.

Thank you.

Sincerely,

Eva Rippeteau  
Political Coordinator  
Oregon AFSCME