

HB 3376 -1 STAFF MEASURE SUMMARY

House Committee On Judiciary

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Meeting Dates: 3/5

WHAT THE MEASURE DOES:

The measure establishes the office of the district defender in each judicial district. It provides that the executive director of the Oregon Public Defense Commission (OPDC) shall appoint a district defender for each district to be approved by the voting members of the commission. The measure sets the compensation of the district defender as equal to that of a circuit court judge. The measure specifies the powers and duties of the district defender and modifies the types of entities the Oregon Public Defense Commission may contract with for the provision of public defense services. Takes effect on the 91st day following adjournment sine die.

ISSUES DISCUSSED:

EFFECT OF AMENDMENT:

-1 The amendment establishes the office of the district defender in each judicial district. Provides that the executive director of the Oregon Public Defense Commission (OPDC) shall appoint a district defender for each district to be approved by the voting members of the commission. Specifies the powers and duties of the district defender but removes language concerning compensation.

BACKGROUND:

In 2018, the Sixth Amendment Center, a nonpartisan, nonprofit organization that provides technical assistance and evaluation services to policymakers focusing on the constitutional requirement to provide effective assistance of counsel, assessed the OPDC and the systems they maintain to provide public defense for indigent defendants in Oregon's criminal Justice system.

That assessment found: [T]he state has created a complex bureaucracy that collects a significant amount of indigent defense data, yet does not provide sufficient oversight or financial accountability. In some instances, the complex bureaucracy is itself a hindrance to effective assistance of counsel. Moreover, the report concludes that this complex bureaucracy obscures an attorney compensation plan that is at root a fixed fee contract system that pits appointed lawyers' financial self-interest against the due process rights of their clients, and is prohibited by national public defense standards.

In light of those findings, the Sixth Amendment Center made recommendations for changes to Oregon's defense system that have been under the consideration of an interim workgroup to address the Sixth Amendment Center's recommendations and ensure that the provision of public defense in Oregon is constitutional.

Senate Bill 337 (2023) was enacted to address some of the concerns and recommendations made as part of the Sixth Amendment Center report. Among the changes made to OPDC by SB 337 were: It modified the makeup of the Oregon Public Defense Commission to include appointments or recommendations from each branch of government; it transferred the commission from the judicial branch to the executive branch and provided that until July 1, 2027, the executive director and commission members serve at the pleasure of the Governor; beginning July 1, 2027, the executive director would serve at the pleasure of the voting members of the commission and commission members may be removed by the Governor only for inefficiency, neglect of duty or malfeasance in office; it disallowed economic incentives or disincentives in the pay structure that could interfere with the ability of appointed counsel to provide effective assistance of counsel and prohibited a flat fee model;

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directed the commission to contract directly with providers and prohibited subcontracting with an exception for nonprofits beginning July 1, 2027; required the commission to promulgate and enforce standards, provide oversight and supervision, collect specific data, and regularly report to the Legislative Assembly on progress and needs.

PRELIMINARY