

HB 2614-2
(LC 2876)
3/3/25 (JLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Representative Jason Kropf)

**PROPOSED AMENDMENTS TO
HOUSE BILL 2614**

1 In line 2 of the printed bill, after “Commission” insert “; amending ORS
2 151.213 and 151.216 and sections 92 and 102, chapter 281, Oregon Laws 2023;
3 and declaring an emergency”.

4 Delete lines 4 through 9 and insert:

5 **“SECTION 1.** Section 102, chapter 281, Oregon Laws 2023, is amended to
6 read:

7 **“Sec. 102.** (1)(a) The amendments to ORS 151.211, 151.216 and 151.219 by
8 sections 93 to 95, [*of this 2023 Act*] **chapter 281, Oregon Laws 2023**, become
9 operative on July 1, 2025.

10 **“(b)** The amendments to ORS 151.213 [*and 151.216*] by [*sections 100 and*
11 *101 of this 2023 Act*] **section 100, chapter 281, Oregon Laws 2023**, become
12 operative on [*July 1, 2027*] **the effective date of this 2025 Act.**

13 **“(c) The amendments to ORS 151.216 by section 101, chapter 281,**
14 **Oregon Laws 2023, become operative on July 1, 2029.**

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

20 *“[(b) The person serving as executive director of the Oregon Public Defense*
21 *Commission on July 1, 2027, may finish the person’s term as executive director*

1 *and is eligible for reappointment, but, beginning on July 1, 2027, serves at the*
2 *pleasure of the voting members of the commission.]*

3 “[~~(3)~~] **(2)** The Oregon Public Defense Commission, the Oregon Department
4 of Administrative Services and the Governor may take any action before the
5 operative dates specified in subsection (1) of this section that is necessary
6 to enable the commission to exercise, on and after the operative dates spec-
7 ified in subsection (1) of this section, all of the duties, functions and powers
8 conferred on those entities by the amendments to ORS 151.211, 151.213,
9 151.216 and 151.219 by sections 93 to 95, 100 and 101, [*of this 2023 Act*]
10 **chapter 281, Oregon Laws 2023.**

11 **“SECTION 2.** ORS 151.213, as amended by sections 77 and 100, chapter
12 281, Oregon Laws 2023, is amended to read:

13 “151.213. (1) The Oregon Public Defense Commission is established in the
14 executive branch of state government. [*Except for the appointment or removal*
15 *of commission members, the commission and employees of the commission are*
16 *not subject to the exercise of administrative authority and supervision by the*
17 *Governor.*]

18 “(2)(a) Nine voting members and four nonvoting members shall be ap-
19 pointed to the commission by the Governor as follows:

20 “(A) The Governor shall appoint:

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

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

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

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

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

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

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

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

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

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

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

13 “(ii) One nonvoting member who is a member of the House of Represen-
14 tatives at the time of appointment.

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

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

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

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

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

27 “(D) Ensure that members appointed to the commission have demon-
28 strated a strong commitment to quality public defense representation.

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

1 “(A) A prosecuting attorney.

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

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

5 “(d) A person who is primarily engaged in providing public defense ser-
6 vices and who has a financial interest in the delivery of public defense ser-
7 vices at the state level may not serve as a voting member of the commission.

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

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

22 “(4) A chairperson and a vice chairperson shall be elected by the voting
23 members of the commission every two years with such functions as the
24 commission may determine. A member is eligible for reelection as chair-
25 person or vice chairperson.

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

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

29 “(A) Review the policies, procedures, standards and guidelines required
30 by ORS 151.216 and provide input before the approval vote described in par-

1 agraph (b) of this subsection.

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

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

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

6 “[*(A) Appoint an executive director of the commission. The term of office*
7 *of the executive director is four years, but the executive director serves at the*
8 *pleasure of the voting members of the commission.*]

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

12 “[*(C)*] **(B)** Approve by majority vote the **agency request** budget of the
13 commission before submission to the [*Legislative Assembly*] **Oregon De-**
14 **partment of Administrative Services.**

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

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

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

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

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

23 “**(9)(a) The Governor shall appoint an executive director of the**
24 **commission, subject to confirmation by the Senate in the manner**
25 **prescribed by ORS 171.562 and 171.565. The person appointed as execu-**
26 **tive director must be well qualified by training and experience to per-**
27 **form the functions of the office.**

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

30 “**(c) Before the expiration of the executive director’s term, the**

1 **Governor shall appoint a successor to take office upon the date of the**
2 **expiration. The executive director is eligible for reappointment. If**
3 **there is a vacancy for any cause, the Governor shall make an ap-**
4 **pointment to become immediately effective for the unexpired term.**

5 **“SECTION 3.** ORS 151.216, as amended by section 78, chapter 281, Oregon
6 Laws 2023, is amended to read:

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

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

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

12 “(A) Ensure compensation, resources and caseloads are in accordance
13 with [*national and regional best practices*] **the requirements of the Oregon**
14 **and United States Constitutions;**

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

17 “[*(C)*] **(B)** Ensure funding and resources to support required data col-
18 lection and training requirements; and

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

24 “(c) Establish operational and contracting systems that allow for over-
25 sight, ensure transparency and stakeholder engagement and promote equity,
26 inclusion and culturally specific representation.

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

30 “(e) Adopt a statewide workload plan, based on the caseload policies de-

1 scribed in paragraph (b)(A) of this subsection, that takes into account the
2 needs of each county or jurisdiction, practice structure and type of practice
3 overseen by the commission.

4 “(f) Submit [*the budget of the commission to the Legislative Assembly after*
5 *the budget is submitted to the commission by the executive director and ap-*
6 *proved by the voting members of the commission. The chairperson of the com-*
7 *mission shall present the budget to the Legislative Assembly] **an agency**
8 **request budget to the Oregon Department of Administrative Services**
9 **as described in ORS 291.208.***

10 “(g) Adopt a compensation plan, classification system and affirmative
11 action plan for the commission that are commensurate with other state
12 agencies.

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

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

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

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

21 “(D) Appointed counsel compensation disputes;

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

24 “(F) The types of fees and expenses subject to a preauthorization re-
25 quirement.

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

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

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

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

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

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

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

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

1 “(q) Ensure access to systematic and comprehensive training programs for
2 attorneys for the purpose of meeting statewide standards set by the commis-
3 sion.

4 “(r) Enter into contracts or interagency agreements with the Oregon De-
5 partment of Administrative Services for the purpose of supporting state
6 public defense population forecasts and other related forecasts.

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

10 “(2) When establishing the minimum policies, procedures, standards and
11 guidelines described in this section, the commission shall adhere to the fol-
12 lowing principles:

13 “(a) Appointed counsel shall be provided sufficient time and a space
14 where attorney-client confidentiality is safeguarded for meetings with cli-
15 ents.

16 “(b) The workload of appointed counsel must be controlled to permit ef-
17 fective representation. Economic disincentives or incentives that impair the
18 ability of appointed counsel to provide effective assistance of counsel must
19 be avoided. The commission may develop workload controls to enhance ap-
20 pointed counsel’s ability to provide effective representation.

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

23 “(d) The same appointed counsel shall continuously represent a client
24 throughout the pendency of the case and shall appear at every court ap-
25 pearance other than ministerial hearings.

26 “(e) The commission shall establish continuing legal education require-
27 ments for public defense providers who are employed by or contract with the
28 commission that are specific to the subject matter area and practice of each
29 type of court-appointed counsel.

30 “(f) The commission and public defense providers shall systematically re-

1 view appointed counsel for efficiency and for effective representation ac-
2 cording to commission standards.

3 “(3) The commission shall be organized in a manner for the effective de-
4 livery of public defense services as prescribed by the policies and procedures
5 created pursuant to statute to financially eligible persons and consistent
6 with the budgetary structure established for the commission by the Legisla-
7 tive Assembly.

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

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

15 “(6) Policies, procedures, standards and guidelines adopted by the com-
16 mission supersede any conflicting rules, policies or procedures of the Public
17 Defender Committee, State Court Administrator, circuit courts, the Court of
18 Appeals, the Supreme Court and the Psychiatric Security Review Board re-
19 lated to the exercise of the commission’s administrative responsibilities un-
20 der this section and transferred duties, functions and powers as they occur.

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

27 “[*(8) With the approval of a majority of the voting members of the com-
28 mission, the commission may advocate for or against legislation before the
29 Legislative Assembly or policies or budgets being considered by the Legislative
30 Assembly.*]

1 “[9] (8) The commission shall request that the Governor include in the
2 Governor’s requested budget, for each fiscal period, at a minimum, the
3 amount of funds identified by the commission as being necessary to carry out
4 the duties and activities of the commission.

5 “[10] (9) The commission may adopt rules pursuant to ORS chapter 183.

6 **“SECTION 4.** ORS 151.216, as amended by sections 78 and 94, chapter
7 281, Oregon Laws 2023, is amended to read:

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

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

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

13 “(A) Ensure compensation, resources and caseloads are in accordance
14 with [*national and regional best practices*] **the requirements of the Oregon
15 and United States Constitutions;**

16 “[*B*] *Ensure all public defense provider contracts provide for compensation
17 that is commensurate with the character of service performed;*]

18 “[*C*] (B) Ensure funding and resources to support required data col-
19 lection and training requirements; and

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

25 “(c) Establish operational and contracting systems that allow for over-
26 sight, ensure transparency and stakeholder engagement and promote equity,
27 inclusion and culturally specific representation.

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

1 “(e) Adopt a statewide workload plan, based on the caseload policies de-
2 scribed in paragraph (b)(A) of this subsection, that takes into account the
3 needs of each county or jurisdiction, practice structure and type of practice
4 overseen by the commission.

5 “(f) Submit [*the budget of the commission to the Legislative Assembly after*
6 *the budget is submitted to the commission by the executive director and ap-*
7 *proved by the voting members of the commission. The chairperson of the com-*
8 *mission shall present the budget to the Legislative Assembly] **an agency**
9 **request budget to the Oregon Department of Administrative Services**
10 **as described in ORS 291.208.***

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

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

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

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

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

22 “(D) Appointed counsel compensation disputes;

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

25 “(F) The types of fees and expenses subject to a preauthorization re-
26 quirement.

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

1 administrator.

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

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

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

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

22 “(n) 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 “(o) Develop standard operating expectations for persons and entities
28 providing public defense services.

29 “(p) 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 “(q) Ensure access to systematic and comprehensive training programs for
3 attorneys for the purpose of meeting statewide standards set by the commis-
4 sion.

5 “(r) Enter into contracts or interagency agreements with the Oregon De-
6 partment of Administrative Services for the purpose of supporting state
7 public defense population forecasts and other related forecasts.

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

11 “(2) When establishing the minimum policies, procedures, standards and
12 guidelines described in this section, the commission shall adhere to the fol-
13 lowing principles:

14 “(a) Appointed counsel shall be provided sufficient time and a space
15 where attorney-client confidentiality is safeguarded for meetings with cli-
16 ents.

17 “(b) The workload of appointed counsel must be controlled to permit ef-
18 fective representation. Economic disincentives or incentives that impair the
19 ability of appointed counsel to provide effective assistance of counsel must
20 be avoided. The commission may develop workload controls to enhance ap-
21 pointed counsel’s ability to provide effective representation.

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

24 “(d) The same appointed counsel shall continuously represent a client
25 throughout the pendency of the case and shall appear at every court ap-
26 pearance other than ministerial hearings.

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

1 “(f) The commission and public defense providers shall systematically re-
2 view appointed counsel for efficiency and for effective representation ac-
3 cording to commission standards.

4 “(3) The commission shall be organized in a manner for the effective de-
5 livery of public defense services as prescribed by the policies and procedures
6 created pursuant to statute to financially eligible persons and consistent
7 with the budgetary structure established for the commission by the Legisla-
8 tive Assembly.

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

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

18 “(b) The payment of panel counsel:

19 “(A) May not be lower than the hourly rate established by the commis-
20 sion.

21 “(B) Shall be adjusted to reflect the same percentage amount of any pos-
22 itive cost of living adjustment granted to employees in the management ser-
23 vice in other executive branch agencies.

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

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

29 “(b) The commission may enter into contracts with entities that subcon-
30 tract with other entities or persons for the provision of public defense ser-

1 vices.

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

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

7 “(8) Policies, procedures, standards and guidelines adopted by the com-
8 mission supersede any conflicting rules, policies or procedures of the Public
9 Defender Committee, State Court Administrator, circuit courts, the Court of
10 Appeals, the Supreme Court and the Psychiatric Security Review Board re-
11 lated to the exercise of the commission’s administrative responsibilities un-
12 der this section and transferred duties, functions and powers as they occur.

13 “(9) The commission may accept gifts, grants or contributions from any
14 source, whether public or private. However, the commission may not accept
15 a gift, grant or contribution if acceptance would create a conflict of interest.
16 Moneys accepted under this subsection shall be deposited in the Public De-
17 fense Services Account established by ORS 151.225 and expended for the
18 purposes for which given or granted.

19 “[~~(10)~~ *With the approval of a majority of the voting members of the com-
20 mission, the commission may advocate for or against legislation before the
21 Legislative Assembly or policies or budgets being considered by the Legislative
22 Assembly.*]

23 “[~~(11)~~ **(10)** The commission shall request that the Governor include in the
24 Governor’s requested budget, for each fiscal period, at a minimum, the
25 amount of funds identified by the commission as being necessary to carry out
26 the duties and activities of the commission.

27 “[~~(12)~~ **(11)** The commission may adopt rules pursuant to ORS chapter 183.

28 “**SECTION 5.** ORS 151.216, as amended by sections 78, 94 and 101, chap-
29 ter 281, Oregon Laws 2023, is amended to read:

30 “151.216. (1) The Oregon Public Defense Commission shall:

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

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

5 “(A) Ensure compensation, resources and caseloads are in accordance
6 with [*national and regional best practices*] **the requirements of the Oregon
7 and United States Constitutions;**

8 “[*B*] *Ensure all public defense provider contracts provide for compensation
9 that is commensurate with the character of service performed;*]

10 “[*C*] **(B)** Ensure funding and resources to support required data col-
11 lection and training requirements; and

12 “[*D*] **(C)** Recognize the need to consider overhead costs that account for
13 the cost of living and business cost differences in each county or jurisdiction,
14 including but not limited to rent, professional membership dues, malpractice
15 insurance and other insurance and other reasonable and usual operating
16 costs.

17 “(c) Establish operational and contracting systems that allow for over-
18 sight, ensure transparency and stakeholder engagement and promote equity,
19 inclusion and culturally specific representation.

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

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

27 “(f) Submit [*the budget of the commission to the Legislative Assembly after
28 the budget is submitted to the commission by the executive director and ap-
29 proved by the voting members of the commission. The chairperson of the com-
30 mission shall present the budget to the Legislative Assembly*] **an agency**

1 **request budget to the Oregon Department of Administrative Services**
2 **as described in ORS 291.208.**

3 “(g) Adopt a compensation plan, classification system and affirmative
4 action plan for the commission that are commensurate with other state
5 agencies.

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

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

9 “(B) The appointment of counsel, including the appointment of counsel
10 at state expense regardless of financial eligibility in juvenile delinquency
11 matters;

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

14 “(D) Appointed counsel compensation disputes;

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

17 “(F) The types of fees and expenses subject to a preauthorization re-
18 quirement.

19 “(i) Reimburse the State Court Administrator from funds deposited in the
20 Public Defense Services Account established by ORS 151.225 for the costs of
21 personnel and other costs associated with location of eligibility verification
22 and screening personnel pursuant to ORS 151.489 by the State Court Ad-
23 ministrator.

24 “(j) Develop, adopt and oversee the implementation, enforcement and
25 modification of policies, procedures, minimum standards and guidelines to
26 ensure that public defense providers are providing effective assistance of
27 counsel consistently to all eligible persons in this state as required by stat-
28 ute and the Oregon and United States Constitutions. The policies, proce-
29 dures, standards and guidelines described in this paragraph apply to
30 employees of the commission and to any person or entity that contracts with

1 the commission to provide public defense services in this state.

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

4 “(L) Establish a system, policies and procedures for the mandatory col-
5 lection of data concerning the operation of the commission and all public
6 defense providers.

7 “(m) Enter into contracts and hire attorneys to bring the delivery of
8 public defense services into and maintain compliance with the minimum
9 policies, procedures, standards and guidelines described in this subsection.
10 All contracts for the provision of public defense services to which the com-
11 mission is a party must include a requirement for collection by the commis-
12 sion of data determined by the commission to be qualitatively necessary for
13 any report required to be submitted to the Legislative Assembly.

14 “(n) At least once every two years, report to the interim committees of
15 the Legislative Assembly related to the judiciary, in the manner provided in
16 ORS 192.245, and to the Governor and Chief Justice, concerning compliance
17 metrics for the minimum standards described in this subsection and recom-
18 mendations for legislative changes.

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

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

24 “(q) Ensure access to systematic and comprehensive training programs for
25 attorneys for the purpose of meeting statewide standards set by the commis-
26 sion.

27 “(r) Enter into contracts or interagency agreements with the Oregon De-
28 partment of Administrative Services for the purpose of supporting state
29 public defense population forecasts and other related forecasts.

30 “(s) Establish any other policies, procedures, standards and guidelines for

1 the conduct of the commission's affairs and promulgate policies necessary to
2 carry out all powers and duties of the commission.

3 “(2) When establishing the minimum policies, procedures, standards and
4 guidelines described in this section, the commission shall adhere to the fol-
5 lowing principles:

6 “(a) Appointed counsel shall be provided sufficient time and a space
7 where attorney-client confidentiality is safeguarded for meetings with cli-
8 ents.

9 “(b) The workload of appointed counsel must be controlled to permit ef-
10 fective representation. Economic disincentives or incentives that impair the
11 ability of appointed counsel to provide effective assistance of counsel must
12 be avoided. The commission may develop workload controls to enhance ap-
13 pointed counsel's ability to provide effective representation.

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

16 “(d) The same appointed counsel shall continuously represent a client
17 throughout the pendency of the case and shall appear at every court ap-
18 pearance other than ministerial hearings.

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

23 “(f) The commission and public defense providers shall systematically re-
24 view appointed counsel for efficiency and for effective representation ac-
25 cording to commission standards.

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

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

5 “(5)(a) The commission shall establish, supervise and maintain a panel of
6 qualified counsel who contract with the commission and are directly assigned
7 to cases. The commission shall develop a process for certification of attor-
8 neys to the panel with periodic eligibility and case review. Panel attorneys
9 are not employees of the commission.

10 “(b) The payment of panel counsel:

11 “(A) May not be lower than the hourly rate established by the commis-
12 sion.

13 “(B) Shall be adjusted to reflect the same percentage amount of any pos-
14 itive cost of living adjustment granted to employees in the management ser-
15 vice in other executive branch agencies.

16 “(C) May not provide a financial conflict of interest or economic incen-
17 tives or disincentives that impair an attorney’s ability to provide effective
18 representation.

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

21 “(b) The commission may not enter into a contract or agreement that pays
22 appointed counsel a flat fee per case.

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

26 “(8) Policies, procedures, standards and guidelines adopted by the com-
27 mission supersede any conflicting rules, policies or procedures of the Public
28 Defender Committee, State Court Administrator, circuit courts, the Court of
29 Appeals, the Supreme Court and the Psychiatric Security Review Board re-
30 lated to the exercise of the commission’s administrative responsibilities un-

1 der this section and transferred duties, functions and powers as they occur.

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

8 “[*10*] *With the approval of a majority of the voting members of the com-*
9 *mission, the commission may advocate for or against legislation before the*
10 *Legislative Assembly or policies or budgets being considered by the Legislative*
11 *Assembly.*]

12 “[*11*] **(10)** The commission shall request that the Governor include in the
13 Governor’s requested budget, for each fiscal period, at a minimum, the
14 amount of funds identified by the commission as being necessary to carry out
15 the duties and activities of the commission.

16 “[*12*] **(11)** The commission may adopt rules pursuant to ORS chapter 183.

17 **“SECTION 6.** Section 92, chapter 281, Oregon Laws 2023, is amended to
18 read:

19 **“Sec. 92.** (1)(a) The Oregon Public Defense Commission is transferred
20 from the judicial branch to the executive branch on January 1, 2025.

21 “(b) The amendments to ORS 8.105, 42.125, 84.064, 151.213, 151.216, 171.133,
22 190.490, 283.110, 291.002, 291.030, 291.045, 291.227, 293.300, 293.590 and 293.875
23 by sections 77 to 91, [*of this 2023 Act*] **chapter 281, Oregon Laws 2023**, be-
24 come operative on January 1, 2025.

25 “(2) The Oregon Public Defense Commission, the Judicial Department, the
26 Oregon Department of Administrative Services and the Governor may take
27 any action before the operative date specified in subsection (1) of this section
28 that is necessary to:

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

30 “(b) Enable those entities to exercise, on and after the operative date

1 specified in subsection (1) of this section, all of the duties, functions and
2 powers conferred on those entities by the amendments to ORS 8.105, 42.125,
3 84.064, 151.213, 151.216, 171.133, 190.490, 283.110, 291.002, 291.030, 291.045,
4 291.227, 293.300, 293.590 and 293.875 by sections 77 to 91, [*of this 2023 Act*]
5 **chapter 281, Oregon Laws 2023.**

6 “(3)(a) A person who is a member of the Oregon Public Defense Commis-
7 sion on January 1, 2025, may finish the person’s term as a commission
8 member and is eligible for reappointment if the person meets the require-
9 ments described in ORS 151.213 (2), but, beginning on January 1, 2025, [*and*
10 *continuing until July 1, 2027,*] serves at the pleasure of the Governor.

11 “(b) The person serving as executive director of the Oregon Public De-
12 fense Commission on January 1, 2025, may finish the person’s term as exec-
13 utive director and is eligible for reappointment, but, beginning on January
14 1, 2025, [*and continuing until July 1, 2027,*] serves at the pleasure of the
15 Governor.

16 **“SECTION 6. This 2025 Act being necessary for the immediate
17 preservation of the public peace, health and safety, an emergency is
18 declared to exist, and this 2025 Act takes effect on its passage.”.**

19
