

HB 2614-5
(LC 2876)
4/4/25 (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 “; creating new
2 provisions; amending ORS 151.213 and 151.216 and section 102, chapter 281,
3 Oregon Laws 2023; 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.

13 **“(c) The amendments to ORS 151.216 by section 101, chapter 281,**
14 **Oregon Laws 2023, become operative on July 1, 2033.**

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 re-
18 moved by the Governor only for [*inefficiency, neglect of duty or malfeasance*
19 *in office*] **cause.**

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

1 director and is eligible for reappointment, but, beginning on July 1, 2027,
2 *[serves at the pleasure of the voting members of the commission]* **may be re-**
3 **moved by the Governor only for cause.**

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

12 **“SECTION 2.** ORS 151.213, as amended by section 77, chapter 281, Oregon
13 Laws 2023, is amended to read:

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

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

21 “(A) The Governor shall appoint:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

30 “(c) The following persons may not be appointed to and may not serve as

1 members of the commission:

2 “(A) A prosecuting attorney.

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

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

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

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

13 “(3) The term of a member is four years beginning on the effective date
14 of the Governor’s appointment, but members serve at the pleasure of the
15 Governor. A member is eligible for reappointment if qualified for membership
16 at the time of reappointment, but may serve no more than two consecutive
17 four-year terms. The Governor may remove any member of the commission
18 at any time. If a vacancy occurs for any cause before the expiration of the
19 term of a member, the Governor shall make an appointment to fill the va-
20 cancy, in the same manner as an appointment to a full term, to become im-
21 mediately 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) Approve by majority vote the policies, procedures, standards and
7 guidelines required by ORS 151.216 before those policies, procedures, stan-
8 dards and guidelines may take effect.

9 “(B) Approve by majority vote the **agency request** budget of the com-
10 mission before submission to the [*Legislative Assembly*] **Oregon Department**
11 **of Administrative Services**.

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 “(9)(a) The Governor shall appoint an executive director of the commis-
21 sion, subject to confirmation by the Senate in the manner prescribed by ORS
22 171.562 and 171.565. The person appointed as executive director must be well
23 qualified by training and experience to perform the functions of the office.

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

26 “(c) Before the expiration of the executive director’s term, the Governor
27 shall appoint a successor to take office upon the date of the expiration. The
28 executive director is eligible for reappointment. If there is a vacancy for any
29 cause, the Governor shall make an appointment to become immediately ef-
30 fective for the unexpired term.

1 **“SECTION 3.** ORS 151.213, as amended by sections 77 and 100, chapter
2 281, Oregon Laws 2023, is amended to read:

3 “151.213. (1) The Oregon Public Defense Commission is established in the
4 executive branch of state government. [*Except for the appointment or removal*
5 *of commission members, the commission and employees of the commission are*
6 *not subject to the exercise of administrative authority and supervision by the*
7 *Governor.*]

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

10 “(A) The Governor shall appoint:

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

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

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

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

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

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

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

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

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

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

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

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

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

8 “(b) When recommending and appointing members of the commission, the
9 Governor, Chief Justice, President of the Senate and Speaker of the House
10 of Representatives shall:

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

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

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

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

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

21 “(A) A prosecuting attorney.

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

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

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

28 “(e) As used in this subsection, ‘law enforcement agency’ means an entity
29 that employs corrections officers, parole and probation officers, police offi-
30 cers, certified reserve officers or reserve officers, as those terms are defined

1 in ORS 181A.355.

2 “(3) The term of a member is four years beginning on the effective date
3 of the Governor’s appointment. A member is eligible for reappointment if
4 qualified for membership at the time of reappointment, but may serve no
5 more than two consecutive four-year terms. The Governor may remove any
6 member of the commission at any time [*for inefficiency, neglect of duty or*
7 *malfasance in office*] **for cause**. If a vacancy occurs for any cause before the
8 expiration of the term of a member, the Governor shall make an appointment
9 to fill the vacancy, in the same manner as an appointment to a full term, to
10 become immediately effective for the unexpired term.

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

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

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

18 “(A) Review the policies, procedures, standards and guidelines required
19 by ORS 151.216 and provide input before the approval vote described in par-
20 agraph (b) of this subsection.

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

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

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

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

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

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

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

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

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

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

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

12 “(9)(a) **The Governor shall appoint an executive director of the**
13 **commission after consultation with the commission. The appointment**
14 **is subject to confirmation by the Senate in the manner prescribed by**
15 **ORS 171.562 and 171.565. The person appointed as executive director**
16 **must be well qualified by training and experience to perform the**
17 **functions of the office.**

18 “(b) **As used in this subsection, ‘consultation with the commission’**
19 **must include, but is not limited to, consulting with the chairperson**
20 **of the commission prior to the recruitment of a new executive direc-**
21 **tor, allowing the chairperson or another commission member desig-**
22 **nated by the chairperson to participate in the interview process, and**
23 **allowing commission members to review and provide comment on the**
24 **top three candidates prior to the final appointment.**

25 “(c) **The term of office of the executive director is four years, but**
26 **the Governor may remove the executive director at any time for**
27 **cause.**

28 “(d) **Before the expiration of the executive director’s term, the**
29 **Governor shall appoint a successor to take office upon the date of the**
30 **expiration. The executive director is eligible for reappointment. If**

1 **there is a vacancy for any cause, the Governor shall make an ap-**
2 **pointment to become immediately effective for the unexpired term.**

3 **“SECTION 4.** ORS 151.216, as amended by section 78, chapter 281, Oregon
4 Laws 2023, is amended to read:

5 “151.216. (1) The Oregon Public Defense Commission shall:

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

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

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

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

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

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

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

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

28 “(e) Adopt a statewide workload plan, based on the caseload policies de-
29 scribed in paragraph (b)(A) of this subsection, that takes into account the
30 needs of each county or jurisdiction, practice structure and type of practice

1 overseen by the commission.

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

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

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

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

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

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

19 “(D) Appointed counsel compensation disputes;

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

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

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

29 “(j) Develop, adopt and oversee the implementation, enforcement and
30 modification of policies, procedures, minimum standards and guidelines to

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

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

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

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

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

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

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

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

1 sion.

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

5 “(s) 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 for public defense providers who are employed by or contract with the
26 commission that are specific to the subject matter area and practice of each
27 type of court-appointed counsel.

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 including at the trial level in Oregon circuit courts, and may establish a
8 trial division within the commission consisting of attorneys employed by the
9 commission 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 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 com-
26 mission, the commission may advocate for or against legislation before the
27 Legislative Assembly or policies or budgets being considered by the Legislative
28 Assembly.*]

29 “**(8) The commission shall maintain an accurate and current list of
30 all attorneys providing public defense services in this state and the**

1 **qualifications for each attorney.**

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

6 “(10) The commission may adopt rules pursuant to ORS chapter 183.

7 **“SECTION 5.** ORS 151.216, as amended by sections 78 and 94, chapter
8 281, Oregon Laws 2023, is amended to read:

9 “151.216. (1) The Oregon Public Defense Commission shall:

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

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

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

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

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

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

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

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

1 four years.

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

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

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

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

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

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

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

23 “(D) Appointed counsel compensation disputes;

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

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

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

1 and screening personnel pursuant to ORS 151.489 by the State Court Ad-
2 ministrator.

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

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

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

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

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

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

30 “(p) In consultation with the Judicial Department, ensure the existence

1 of policies that create a standardized process for determining and verifying
2 financial eligibility for appointed counsel under ORS 151.485.

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

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

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

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

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

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

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

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

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

1 type of court-appointed counsel.

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

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

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

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

19 “(b) The payment of panel counsel:

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

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

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

28 “(6)(a) The commission may enter into contracts for the provision of
29 public defense services with nonprofit public defense organizations **and pri-
30 vate law firms.**

1 “(b) The commission may enter into contracts with entities that subcon-
2 tract with other entities or persons for the provision of public defense ser-
3 vices.

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

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

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

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

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

25 “(10) **The commission shall maintain an accurate and current list
26 of all attorneys providing public defense services in this state and the
27 qualifications for each attorney.**

28 “(11) The commission shall request that the Governor include in the
29 Governor’s requested budget, for each fiscal period, at a minimum, the
30 amount of funds identified by the commission as being necessary to carry out

1 the duties and activities of the commission.

2 “(12) The commission may adopt rules pursuant to ORS chapter 183.

3 “**SECTION 6.** ORS 151.216, as amended by sections 78, 94 and 101, chap-
4 ter 281, Oregon Laws 2023, is amended to read:

5 “151.216. (1) The Oregon Public Defense Commission shall:

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

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

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

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

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

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

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

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

28 “(e) Adopt a statewide workload plan, based on the caseload policies de-
29 scribed in paragraph (b)(A) of this subsection, that takes into account the
30 needs of each county or jurisdiction, practice structure and type of practice

1 overseen by the commission.

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

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

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

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

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

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

19 “(D) Appointed counsel compensation disputes;

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

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

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

29 “(j) Develop, adopt and oversee the implementation, enforcement and
30 modification of policies, procedures, minimum standards and guidelines to

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

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

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

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

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

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

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

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

1 sion.

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

5 “(s) 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-
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17 be avoided. The commission may develop workload controls to enhance ap-
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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
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23 pearance other than ministerial hearings.

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26 commission that are specific to the subject matter area and practice of each
27 type of court-appointed counsel.

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5 tive Assembly.

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8 trial division within the commission consisting of attorneys employed by the
9 commission who are trial-level public defense providers.

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11 qualified counsel who contract with the commission and are directly assigned
12 to cases. The commission shall develop a process for certification of attor-
13 neys to the panel with periodic eligibility and case review. Panel attorneys
14 are not employees of the commission.

15 “(b) The payment of panel counsel:

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

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

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

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26 vate law firms.**

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28 appointed counsel a flat fee per case.

29 “(7) The policies, procedures, standards and guidelines adopted by the
30 commission must be made available in an accessible manner to the public

1 on the commission's website.

2 “(8) Policies, procedures, standards and guidelines adopted by the com-
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4 Defender Committee, State Court Administrator, circuit courts, the Court of
5 Appeals, the Supreme Court and the Psychiatric Security Review Board re-
6 lated to the exercise of the commission's administrative responsibilities un-
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13 purposes for which given or granted.

14 “[*(10) With the approval of a majority of the voting members of the com-
15 mission, the commission may advocate for or against legislation before the
16 Legislative Assembly or policies or budgets being considered by the Legislative
17 Assembly.*]

18 “**(10) The commission shall maintain an accurate and current list
19 of all attorneys providing public defense services in this state and the
20 qualifications for each attorney.**

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

25 “(12) The commission may adopt rules pursuant to ORS chapter 183.

26 “**SECTION 7. Section 8 of this 2025 Act is added to and made a part
27 of ORS 151.211 to 151.221.**

28 “**SECTION 8. (1) The Oregon Public Defense Commission may enter
29 into a contract with an entity that subcontracts with other entities
30 or persons for the provision of public defense services only if the entity**

1 operates in accordance with this section.

2 “(2) An entity described in subsection (1) of this section shall:

3 “(a) Designate an administrator who:

4 “(A) Actively manages the distribution of cases within the entity;

5 “(B) Has the authority and the responsibility to address concerns
6 and complaints about representation by attorney members of the en-
7 tity raised by the court, public defense clients and the commission;
8 and

9 “(C) Serves as the point contact for external and administrative
10 matters.

11 “(b) Have a defined policy concerning membership structure, in-
12 cluding eligibility and admission criteria concerning attorneys who
13 may join the entity and how entity members are admitted, and the
14 voting rights, participation expectations and financial contributions
15 required of members.

16 “(c) Have a policy concerning conflict resolution that:

17 “(A) Establishes professional and ethical expectations for attorney
18 members in accordance with the requirements of the Oregon State Bar
19 and the commission;

20 “(B) Contains a dispute resolution mechanism that is a structured
21 process for handling internal conflicts; and

22 “(C) Sets clear criteria and conditions for voluntary withdrawal
23 from the entity and grounds for removal of an attorney member due
24 to misconduct or nonparticipation.

25 “(d) Ensure compliance with commission oversight, data reporting
26 requirements and all other policies and procedures of the commission.

27 “(e) Hold regular meetings of the governing structure of the entity,
28 if the entity has five or more attorney members, or with all attorney
29 members of the entity, if the entity has fewer than five attorney
30 members.

1 **“(3) An entity described in subsection (1) of this section with five**
2 **or more attorney members shall additionally have a board of directors**
3 **or a steering committee with responsibilities that include but are not**
4 **limited to the following:**

5 **“(a) The approval of entity policies, budgets and initiatives;**

6 **“(b) Ensuring attorney performance and compliance with legal and**
7 **financial obligations;**

8 **“(c) Oversight of the administrator; and**

9 **“(d) Resolving disputes among members of the entity.**

10 **“SECTION 9. Section 8 of this 2025 Act becomes operative on Jan-**
11 **uary 1, 2026.**

12 **“SECTION 10. Sections 7 and 8 of this 2025 Act are repealed on July**
13 **1, 2033.**

14 **“SECTION 11. This 2025 Act being necessary for the immediate**
15 **preservation of the public peace, health and safety, an emergency is**
16 **declared to exist, and this 2025 Act takes effect on its passage.”.**

17
