

**PROPOSED CONFERENCE COMMITTEE AMENDMENTS TO  
B-ENGROSSED HOUSE BILL 2614**

1 On page 1 of the printed B-engrossed bill, delete lines 6 through 20.

2 On page 2, delete lines 1 through 9 and insert:

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

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

8 “(b) The amendments to ORS 151.213 [*and 151.216*] by [*sections 100 and*  
9 *101 of this 2023 Act*] **section 100, chapter 281, Oregon Laws 2023**, become  
10 operative on [*July 1, 2027*] **January 1, 2026**.

11 **“(c) The amendments to ORS 151.216 by section 101, chapter 281,**  
12 **Oregon Laws 2023, become operative on January 1, 2026.**

13 “(2)(a) A person who is a member of the Oregon Public Defense Commis-  
14 sion on [*July 1, 2027*] **January 1, 2026**, may finish the person’s term as a  
15 commission member and is eligible for reappointment, but, beginning [*July*  
16 *1, 2027*] **January 1, 2026**, may be removed by the Governor only for ineffi-  
17 ciency, neglect of duty or malfeasance in office.

18 “(b) The person serving as executive director of the Oregon Public De-  
19 fense Commission on [*July 1, 2027*] **January 1, 2026**, may finish the person’s  
20 term as executive director and is eligible for reappointment, but, beginning  
21 on [*July 1, 2027*] **January 1, 2026**, [*serves at the pleasure of the voting mem-*  
22 *bers of the commission*] **may be removed by the Governor only for just**

1 **cause.**

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

10 On page 4, delete lines 13 through 45 and delete page 5.

11 On page 6, delete lines 1 through 24 insert:

12 **“SECTION 3.** ORS 151.213, as amended by sections 77 and 100, chapter  
13 281, Oregon 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*] **previously served as a**  
2 **judge and who is not currently engaged in judicial functions, including**  
3 **service as a senior judge under ORS 1.300 or in any similar capacity.**

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

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

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

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

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

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

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

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

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

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

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

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

30       “(D) Ensure that members appointed to the commission have demon-

1 strated a strong commitment to quality public defense representation.

2 “(c) **Unless the person is a member of the Legislative Assembly ap-**  
3 **pointed as a nonvoting member of the commission under paragraph**  
4 **(a)(C)(ii) or (a)(D)(ii) of this subsection,** the following persons may not  
5 be appointed to and may not serve as members of the commission:

6 “(A) A prosecuting attorney.

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

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

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

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

17 “(3) The term of a member is four years beginning on the effective date  
18 of the Governor’s appointment. A member is eligible for reappointment if  
19 qualified for membership at the time of reappointment, but may serve no  
20 more than two consecutive four-year terms. The Governor may remove any  
21 member of the commission at any time for inefficiency, neglect of duty or  
22 malfeasance in office. If a vacancy occurs for any cause before the expiration  
23 of the term of a member, the Governor shall make an appointment to fill the  
24 vacancy, in the same manner as an appointment to a full term, to become  
25 immediately effective for the unexpired term.

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

30 “(5) A majority of the voting members constitutes a quorum for the

1 transaction of business.

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

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

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

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

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

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

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

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

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

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

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

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

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

27 “**(9)(a) The Governor shall appoint an executive director of the**  
28 **commission after consultation with the commission. The appointment**  
29 **is subject to confirmation by the Senate in the manner prescribed by**  
30 **ORS 171.562 and 171.565. The person appointed as executive director**

1 must be well qualified by training and experience to perform the  
2 functions of the office.

3 “(b) The term of office of the executive director is four years, but  
4 the Governor may remove the executive director at any time for just  
5 cause.

6 “(c) The executive director is eligible for reappointment. Before the  
7 expiration of the executive director’s term, the Governor shall either  
8 reappoint the executive director or appoint a successor to take office  
9 upon the date of the expiration. If there is a vacancy for any cause,  
10 the Governor shall make an appointment to become immediately ef-  
11 fective for the unexpired term. An appointment or reappointment de-  
12 scribed in this paragraph is subject to paragraph (a) of this subsection.

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

20 On page 12, delete lines 36 through 45 and delete pages 13 and 14.

21 On page 15, delete lines 1 through 35 and insert:

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

24 “151.216. (1) The Oregon Public Defense Commission shall:

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

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

29 “(A) Ensure compensation, resources and caseloads are in accordance  
30 with [*national and regional best practices*] **the requirements of the Oregon**

1 **and United States Constitutions;**

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

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

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

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

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

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

21 “(f) Submit [*the budget of the commission to the Legislative Assembly after*  
22 *the budget is submitted to the commission by the executive director and ap-*  
23 *proved by the voting members of the commission. The chairperson of the com-*  
24 *mission shall present the budget to the Legislative Assembly] **an agency**  
25 **request budget to the Oregon Department of Administrative Services**  
26 **as described in ORS 291.208.***

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

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

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

3       “(B) The appointment of counsel, including the appointment of counsel  
4 at state expense regardless of financial eligibility in juvenile delinquency  
5 matters;

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

8       “(D) Appointed counsel compensation disputes;

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

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

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

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

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

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



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

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

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

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

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

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

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

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

30 “(a) Appointed counsel shall be provided sufficient time and a space

1 where attorney-client confidentiality is safeguarded for meetings with cli-  
2 ents.

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

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

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

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

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

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

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

29 “(5)(a) The commission shall establish, supervise and maintain a panel of  
30 qualified counsel who contract with the commission and are directly assigned

1 to cases. The commission shall develop a process for certification of attor-  
2 neys to the panel with periodic eligibility and case review. Panel attorneys  
3 are not employees of the commission.

4 “(b) The payment of panel counsel:

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

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

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

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

16 **“(b) The commission may enter into contracts with entities that  
17 subcontract with other entities or persons for the provision of public  
18 defense services.**

19 “[*(b)*] (c) The commission may not enter into a contract or agreement that  
20 pays appointed counsel a flat fee per case.

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

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

30 “(9) The commission may accept gifts, grants or contributions from any

source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.

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

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

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

On page 18, delete line 7.

In line 8, delete “13” and insert “12”.