



**Testimony of the Oregon State Bar
Regarding HB 2614
before the House Judiciary Committee**

March 5, 2025

Chair Kropf and members of the Committee,

The Oregon State Bar (OSB) is a public corporation and an instrumentality of the court with over 15,000 active members. The OSB serves the public interest by: regulating the legal profession and improving the quality of legal services; supporting the judiciary and improving the administration of justice; and advancing a fair, inclusive and accessible justice system.

We offer this testimony to address how some of the amendments to HB 2614 under consideration today would impact the regulation of the legal profession in Oregon. In particular, the bar has significant concerns about the -3 amendments to the bill, and would have to oppose the bill if that language were adopted in its current form.

Currently, OSB licensees are subject a number of administrative requirements – generally found in court rules – with which they must comply to maintain their licensure in good standing. The -3 amendments appear to add an additional requirement by directing the Oregon State Bar to require all “trial attorneys” in Oregon to provide 120 hours of public defense services by the end of 2028. (“Trial attorneys” is generally defined in the bill as non-public sector attorneys who made at least one appearance in a case during 2025.)

The amendment does not outline an enforcement mechanism for this requirement, or specify how the bar should address noncompliance. Therefore, the Bar would need to create new rules addressing how members would demonstrate compliance with this requirement, and how the bar should respond to noncompliance. As the legal profession in Oregon is overseen by the Judicial Branch, the Bar would need to seek the approval of the Oregon Supreme Court prior to implementation or enforcement of this new rule.

Some of the questions the OSB would need to address in crafting this new rule would include:

- In order to establish to whom the rule applies, does the OSB need to require all OSB members to provide the bar with the name of their employer? Is the Oregon Judicial

Department able to provide an accurate list of attorneys who appeared in court in 2025?

- Does the OSB need to create a working definition of “public defense services”?
- Will attorneys be compensated for these 120 hours of public defense services, or is it to be provided pro bono?
- Is it satisfactory for bar licensees to simply attest to compliance with the rule, or does the bar need an independent mechanism to confirm compliance?
- Who is responsible for assigning clients to specific attorneys who need to comply with this requirement? And what happens if service hours are not needed in a local jurisdiction, but an attorney has not yet met their 120-hour requirement?

On this last point we would note that the Oregon State Bar does not have the authority to direct attorneys to work on behalf of individual clients. And while the amendment requires the Oregon Public Defense Commission to offer training to attorneys to satisfy the requirements of the rule, it does not specify how individual attorneys would provide services in order to comply with the rule. Would they be assigned to work on individual cases by OPDC or by local judges, or would some other type of work constitute “public defense services”?

While the answers to these questions will change the specific impact on the OSB, we expect that the bar would face significant costs both in the rulemaking process, and later in enforcement of the rule.

The OSB has additional concerns relating to the timeframe within which the bar and OPDC would have to create this new system. In order for attorneys to complete the 120 hours of service by the end of 2028, the OPDC and the bar would need to create a new educational program, train thousands of attorneys to be competent in criminal law and criminal procedure, and figure out a process to assign them cases. And this would need to be completed soon enough that Oregon’s public defense system could utilize these services over an extended period of time well in advance of the 2028 deadline. Standing up this new program in time to meet this reporting deadline may prove challenging.

Finally, we would like to stress that part of the OSB’s core mission is to ensure competent representation of all clients in need. The legal profession today is far more specialized than in decades past, and most attorneys to whom the -3 amendments apply do not have any personal experience practicing criminal law. They would also not have the support and mentoring structure that new public defenders would have in a firm dedicated to indigent defense. This could result in indigent clients being assigned attorneys who are not well situated to offer them a robust defense.

To address this problem, any training created by OPDC would need to be far more than a simple CLE to ensure competent representation. Given this reality, we assume that most attorneys would need to dedicate far more than 120 hours of their time in order to complete the requirement. This would be a challenge for most practitioners, but especially those in smaller practices, and even more so if this work is uncompensated.

For many years, the Oregon State Bar has worked with the legislature, the courts, and now the executive branch to support an indigent defense system that meets our state's constitutional obligations to provide adequate representation to those charged with crimes in Oregon.

The proposed amendments to HB 2614 raise complex issues related to Oregon's system for providing indigent defense services. While the Oregon State Bar cannot take a position on all of the important policy questions surrounding how indigent defense services are provided, we continue to believe that individual, professional public defenders need the legislature's support.

Public defense providers do some of the most difficult work of all attorneys in Oregon, and yet in many communities are some of the lowest compensated. This has the predictable effect of discouraging lawyers from a career in criminal defense, making it more difficult for Oregon's public defense providers to recruit new lawyers and to keep them on staff once they are hired.

The Oregon State Bar understands that this is not a problem that will be easily solved, but we appreciate the legislature's continued willingness to work to improve public defense services in Oregon, and are committed to providing support whenever and wherever possible.