



March 5, 2025

Jason Kropft
Chair, House Judiciary Committee
Oregon State Legislature

Re: Opposition to HR 2614-2 Amendment

Dear Chair Kropft:

On behalf of the non-legislative members of the thirteen-member volunteer Oregon Public Defense Commission, I write to express the Commission's opposition to the-2 Amendments to HB 2614 regarding the independence of the Commission. The Commission is not taking a position on the main portion of the bill calling for a study on public defense or the -1 or -3 amendments.

Nearly fifty years ago, the American Bar Association adopted its ten principles of a Public Defense Delivery System. Principle #1 is that the public defense delivery systems and public defense lawyers should be independent of political influence. This includes having an oversight Commission that is independent of the Executive and Judicial branches whose members are removed only for cause, and where the *Commission* removes the Executive Director and only upon a showing of good cause.

In 2023, the legislature moved OPDC from the Judicial branch to the Executive branch and temporarily removed some of its independence until July 1, 2027, when it is returned to the Commission. The -2 amendments seek to make those temporary changes permanent and to go even further by prohibiting the Commission from taking a position on legislation, placing the agency under the Governor's administrative authority, allowing the Governor to remove Commission members for any reason, and allowing the Governor to remove the Executive Director without cause.

Non-independent public defense delivery systems in other states have been found to be unconstitutional. In 2023 and again recently, the 6th Amendment Center has advised the legislature that legislative changes that strip the Commission of independence are inconsistent with best practices for the provision of public defense and are constitutionally problematic.

Most importantly, these changes do nothing to resolve the crisis facing public defense in the state: there is a public defender shortage that has left thousands of people without attorneys.

I want to be clear: the Commission's opposition to this amendment is not directed at the Governor who has been a strong supporter of public defense. Instead, we ask you to consider the future consequences for Oregonians who need a public defender if a Governor who is not a strong proponent of public defense is elected, and the public defense delivery system is not independent. We must ensure that public defense in Oregon remains independent, consistent with the state and US constitution.

We ask that you remove the -2 amendments from your further consideration in HB 2614. Thank you for your consideration.

A handwritten signature in black ink, appearing to read 'J. Nash', with a long horizontal flourish extending to the right.

Jennifer I. Nash
Chair, Oregon Public Defense Commission