

House Bill 3302

Sponsored by Representative STARK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Directs Public Defense Services Commission to develop and maintain Parent-Child Representation Program statewide to provide legal representation in juvenile dependency proceedings based on workload model of contracting that provides for caseload limits. Requires public defense services executive director to create plan for implementation of program by January 1, 2022.

Requires public defense services executive director to report to Legislative Assembly and interim committees regarding Parent-Child Representation Program on or before September 15 of each year, beginning September 15, 2017, and ending September 15, 2021.

A BILL FOR AN ACT

1
2 Relating to legal representation in juvenile dependency proceedings; creating new provisions; and
3 amending ORS 151.216.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. (1) The Public Defense Services Commission established under ORS 151.213**
6 **shall develop and maintain a Parent-Child Representation Program for the delivery of legal**
7 **services in juvenile dependency proceedings to persons who are entitled to and financially**
8 **eligible for court-appointed counsel at state expense.**

9 **(2) The public defense services executive director appointed under ORS 151.216 shall cre-**
10 **ate a plan for full implementation of the program by January 1, 2022. The plan must take into**
11 **account county-based need, readiness, regional impact and fiscal effect.**

12 **(3) The executive director shall negotiate contracts for legal services in juvenile depend-**
13 **ency proceedings based on a workload model of contracting that provides for caseload limits**
14 **consistent with caseload limits adopted by the commission by rule.**

15 **(4)(a) The commission shall adopt policies, procedures, standards and guidelines for the**
16 **program that include a workload model of contracting with caseload limits. The office of**
17 **public defense services established under ORS 151.216 shall employ managing attorneys to**
18 **coordinate and oversee program management and evaluation, and ensure contract compli-**
19 **ance.**

20 **(b) The policies, procedures, standards and guidelines adopted by the commission must**
21 **ensure that, in complicated cases, attorneys who provide representation in juvenile depend-**
22 **ency proceedings to persons entitled to and financially eligible for court-appointed counsel**
23 **at state expense have access to social service professionals to identify and resolve nonlegal**
24 **barriers to successful case resolution.**

25 **(5) The executive director shall present to the Legislative Assembly, as part of the**
26 **biennial report required by ORS 151.219 (1)(j), recommendations regarding the appropriate**
27 **number of attorneys and case managers needed to provide effective and competent legal**
28 **services in juvenile dependency proceedings based on a workload model of contracting in**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 accordance with this section.

2 **SECTION 2. The public defense services executive director appointed under ORS 151.216**
 3 **shall prepare and submit to the interim committees of the Legislative Assembly that have**
 4 **authority over the subject areas of child welfare, juvenile dependency and the judiciary a**
 5 **report regarding the plan to implement the Parent-Child Representation Program statewide**
 6 **as required under section 1 of this 2017 Act. The report must be made on or before Septem-**
 7 **ber 15 of each year, beginning on September 15, 2017, and ending on September 15, 2021. The**
 8 **report must include updates on implementation of the plan required under section 1 of this**
 9 **2017 Act.**

10 **SECTION 3.** ORS 151.216 is amended to read:

11 151.216. (1) The Public Defense Services Commission shall:

12 (a) Establish and maintain a public defense system that ensures the provision of public defense
 13 services in the most cost-efficient manner consistent with the Oregon Constitution, the United States
 14 Constitution and Oregon and national standards of justice.

15 (b) Establish an office of public defense services and appoint a public defense services executive
 16 director who serves at the pleasure of the commission.

17 (c) Submit the budget of the commission and the office of public defense services to the Legis-
 18 lative Assembly after the budget is submitted to the commission by the director and approved by the
 19 commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall
 20 present the budget to the Legislative Assembly.

21 (d) Review and approve any public defense services contract negotiated by the director before
 22 the contract can become effective.

23 (e) Adopt a compensation plan, classification system and personnel plan for the office of public
 24 defense services that are commensurate with other state agencies.

25 (f) Adopt policies, procedures, standards and guidelines regarding:

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

28 (B) The appointment of counsel;

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

31 (D) Appointed counsel compensation disputes;

32 (E) Any other costs associated with the representation of a person by appointed counsel in the
 33 state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,
 34 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209,
 35 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 or any
 36 other provision of law that expressly provides for payment of such compensation, costs or expenses
 37 by the commission;

38 (F) Professional qualifications for counsel appointed to represent public defense clients;

39 (G) Performance for legal representation;

40 (H) The contracting of public defense services;

41 (I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses
 42 only if in-state expert witnesses are not available or are more expensive than out-of-state expert
 43 witnesses; and

44 (J) Any other matters necessary to carry out the duties of the commission.

45 (g) Establish a peer review system for the approval of nonroutine fees and expenses incurred in

1 cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review
2 shall be conducted by a panel of attorneys who practice in the area of criminal defense.

3 (h) Establish a complaint process that allows district attorneys, criminal defense counsel and the
4 public to file complaints concerning the payment from public funds of nonroutine fees and expenses
5 incurred in cases.

6 (i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services
7 Account established by ORS 151.225 for the costs of personnel and other costs associated with lo-
8 cation of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court
9 Administrator.

10 **(j) Develop and maintain the Parent-Child Representation Program under section 1 of**
11 **this 2017 Act.**

12 (2) Policies, procedures, standards and guidelines adopted by the commission supersede any
13 conflicting rules, policies or procedures of the Public Defender Committee, State Court Administra-
14 tor, circuit courts, the Court of Appeals, the Supreme Court, the Psychiatric Security Review Board
15 and the Oregon Health Authority related to the exercise of the commission's administrative re-
16 sponsibilities under this section and transferred duties, functions and powers as they occur.

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

22 (4) The commission may not:

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

24 (b) Have access to any case file; or

25 (c) Interfere with the director or any member of the staff of the director in carrying out pro-
26 fessional duties involving the legal representation of public defense clients.

27