

House Bill 3417

Sponsored by Representatives HERNANDEZ, WILLIAMSON, GORSEK; Representative SANCHEZ

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**.

Requires Public Defense Services Commission to adopt policies, procedures, standards and guidelines regarding providing immigration consultation to noncitizen public defense clients.

A BILL FOR AN ACT

1
2 Relating to providing an immigration consultation for noncitizen public defense clients; amending
3 ORS 151.216.

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

5 **SECTION 1.** ORS 151.216 is amended to read:

6 151.216. (1) The Public Defense Services Commission shall:

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

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

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

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

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

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

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

23 (B) The appointment of counsel;

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

26 (D) Appointed counsel compensation disputes;

27 (E) Any other costs associated with the representation of a person by appointed counsel in the
28 state courts that are required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,
29 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209,
30 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315 or any
31 other provision of law that expressly provides for payment of such compensation, costs or expenses

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 by the commission;

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

3 (G) Performance for legal representation;

4 (H) The contracting of public defense services;

5 (I) Contracting with expert witnesses to allow contracting with out-of-state expert witnesses
6 only if in-state expert witnesses are not available or are more expensive than out-of-state expert
7 witnesses; *[and]*

8 **(J) Providing a full immigration consultation to noncitizen public defense clients; and**

9 ~~[(J)]~~ **(K)** Any other matters necessary to carry out the duties of the commission.

10 (g) Establish a peer review system for the approval of nonroutine fees and expenses incurred in
11 cases involving aggravated murder and the crimes listed in ORS 137.700 and 137.707. The review
12 shall be conducted by a panel of attorneys who practice in the area of criminal defense.

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

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

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

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

30 (4) The commission may not:

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

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

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

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