

HB 3145-2
(LC 908)
4/8/19 (JLM/ps)

Requested by HOUSE COMMITTEE ON JUDICIARY (at the request of Representative Jennifer Williamson)

**PROPOSED AMENDMENTS TO
HOUSE BILL 3145**

1 In line 2 of the printed bill, after “Commission” insert “; creating new
2 provisions; amending ORS 1.009, 34.255, 135.055, 136.603, 138.310, 138.500,
3 138.590, 151.211, 151.213, 151.216, 151.219, 151.225, 151.485, 151.493, 161.309,
4 161.346, 161.348, 161.365, 161.665, 244.050, 419A.211, 419C.380, 419C.535, 426.135,
5 426.250, 427.265, 427.295 and 433.466; and declaring an emergency”.

6 Delete lines 4 through 9 and insert:
7

8 **“CHANGES TO PUBLIC DEFENSE SERVICES**
9

10 **“SECTION 1.** ORS 151.211 is amended to read:

11 “151.211. For purposes of ORS 151.211 to 151.221:

12 “(1) ‘Bar member’ means an individual who is an active member of the
13 Oregon State Bar.

14 “[*(2) ‘Chief Justice’ means the Chief Justice of the Supreme Court.*]

15 **“(2) ‘Caseload standard’ means a limitation on the number of cases**
16 **for which an individual public defense attorney can provide legal rep-**
17 **resentation over a period of time based upon the amount of work that**
18 **is generally required to provide effective assistance on a particular**
19 **type of case.**

20 “(3) ‘Commission’ means the Public Defense Services Commission.

21 “(4) ‘Director’ means the [*public defense services*] executive director **of the**

1 **Office of Public Defense Services** appointed under ORS 151.216.

2 “(5) ‘Office [*of public defense services*]’ means the Office of **Public De-**
3 **fense Services** established by the commission under the **executive** director
4 to handle the cases assigned and to carry out the administrative policies and
5 procedures for the public defense system.

6 “(6) ‘**Public defense attorney**’ means **counsel appointed to perform**
7 **legal services for financially eligible individuals as required by ORS**
8 **34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365, 419A.211,**
9 **419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408,**
10 **419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or**
11 **436.315, the Oregon Constitution or the United States Constitution.**

12 “(7) ‘**Public defense staff member**’ means a worker who supports
13 and complements the work of a public defense attorney or who is
14 employed by or under contract with a public defense attorney to per-
15 form work, including but not limited to investigators, paralegals, legal
16 assistants and case managers.

17 “(8) ‘**Workload plan**’ means the office’s plan to provide legal repre-
18 sentation to qualifying individuals statewide based upon the office’s
19 caseload standards.

20 “**SECTION 2.** ORS 151.213 is amended to read:

21 “151.213. (1)(a) The Public Defense Services Commission is established in
22 the [*judicial*] **executive** branch of state government. Except for the ap-
23 pointment [*or removal*] of commission members, the commission and employ-
24 ees of the commission are not subject to the exercise of administrative
25 authority and supervision by the [*Chief Justice of the Supreme Court as the*
26 *administrative head of the Judicial Department*] **Governor.**

27 “(b) **Except as otherwise provided by law, the commission shall ex-**
28 **ercise as an independent entity all statutory authority, powers, duties**
29 **and functions.**

30 “(2)(a) The commission consists of [*seven*] **11** members appointed [*by order*

1 of the Chief Justice. In addition to the seven appointed members, the Chief
2 Justice serves as a nonvoting, ex officio member. The Chief Justice shall ap-
3 point at least two persons who are not bar members, at least one person who
4 is a bar member and who is engaged in criminal defense representation and
5 at least one person who is a former Oregon state prosecutor. Except for the
6 Chief Justice or a senior judge under ORS 1.300, a member may not serve
7 concurrently as a judge, a prosecuting attorney or an employee of a law
8 enforcement agency. A person who is primarily engaged in providing public
9 defense services may not serve as a member of the commission.] **as follows:**

10 **“(A) The Governor shall appoint:**

11 **“(i) Two members of the public who are not attorneys and who have**
12 **demonstrated an interest in the criminal or juvenile justice systems**
13 **and a commitment to diversity and inclusion;**

14 **“(ii) A bar member with experience in practicing civil rights law;**
15 **and**

16 **“(iii) A bar member who teaches or has taught criminal law;**

17 **“(B) The Chief Justice of the Supreme Court shall appoint:**

18 **“(i) A bar member, from a list of three bar members submitted to**
19 **the Chief Justice by the chief executive officer of the Oregon State**
20 **Bar, with experience in representing historically or currently under-**
21 **served communities and who is not employed by or under contract**
22 **with the Office of Public Defense Services;**

23 **“(ii) A bar member, from a list of three bar members submitted to**
24 **the Chief Justice by the chief executive officer of the Oregon State**
25 **Bar after consultation with statewide organizations that support the**
26 **criminal and juvenile delinquency defense legal community, with ex-**
27 **perience representing criminal defendants or juveniles in delinquency**
28 **cases and who is not employed by or under contract with the Office**
29 **of Public Defense Services; and**

30 **“(iii) A former judge;**

1 “(C) The President of the Senate shall appoint:

2 “(i) A former member of the Legislative Assembly; and

3 “(ii) A bar member, from a list of three bar members submitted to
4 the President by the chief executive officer of the Oregon State Bar
5 after consultation with statewide organizations that support the
6 criminal and juvenile delinquency defense legal community, with ex-
7 perience representing criminal defendants or juveniles in delinquency
8 cases and who is not employed by or under contract with the Office
9 of Public Defense Services; and

10 “(D) The Speaker of the House of Representatives shall appoint:

11 “(i) A former member of the Legislative Assembly; and

12 “(ii) A bar member, from a list of three bar members submitted to
13 the Speaker by the chief executive officer of the Oregon State Bar af-
14 ter consultation with statewide organizations that support the crimi-
15 nal and juvenile delinquency defense legal community, with experience
16 representing criminal defendants or juveniles in delinquency cases and
17 who is not employed by or under contract with the Office of Public
18 Defense Services.

19 “(b) The appointing authorities shall coordinate appointments to
20 ensure that at least one member of the commission has extensive ex-
21 perience in the practice of juvenile law.

22 “(c) All members of the commission must have a demonstrated
23 commitment to criminal defense, juvenile delinquency defense or re-
24 presenting parents or children in dependency proceedings.

25 “(3)(a) The term of a member is four years beginning on the effective date
26 of the [*order of the Chief Justice appointing the member*] **appointment. The**
27 **appointing authorities shall assign the initial terms of office of mem-**
28 **bers so that the terms expire at staggered intervals.** A member is eligi-
29 ble for reappointment if qualified for membership at the time of
30 reappointment.

1 “(b) **A term ends upon the expiration of the term, the resignation**
2 **of the member or removal of the member.** A member may be removed
3 from the commission by [*order of the Chief Justice*] **a two-thirds vote of the**
4 **members of the commission.**

5 “(c) If a vacancy occurs for any cause before the expiration of the term
6 of a member, the [*Chief Justice*] **appointing authority** shall make an ap-
7 pointment to become immediately effective for the unexpired term.

8 “(4) **The commission shall elect** a chairperson **who is a bar member**
9 and a vice chairperson [*shall be appointed by order of the Chief Justice*] every
10 two years with such functions as the commission may determine. A member
11 is eligible for reappointment as chairperson or vice chairperson.

12 “(5) A majority of the [*voting*] members constitutes a quorum for the
13 transaction of business.

14 “(6) A member of the commission is not entitled to compensation for ser-
15 vices as a member, but is entitled to expenses as provided in ORS 292.495 (2).

16 “**SECTION 3.** ORS 151.216 is amended to read:

17 “151.216. (1) The Public Defense Services Commission shall:

18 “(a) Establish and maintain a public defense system that ensures the
19 provision of public defense services in the most cost-efficient manner con-
20 sistent with the Oregon Constitution, the United States Constitution and
21 Oregon and national standards of justice.

22 “(b) Establish an Office of Public Defense Services **with a trial and an**
23 **appellate division** and appoint [*a public defense services*] **an** executive di-
24 rector **of the office** who serves at the pleasure of the commission.

25 “(c) **Adopt policies for contracting with public defense attorneys**
26 **and public defense staff members who are not employed by the office**
27 **that:**

28 “(A) **Ensure reasonable attorney fees commensurate with public**
29 **defense attorneys and public defense staff members who work for the**
30 **office and other state agencies;**

1 “(B) Support data collection and training requirements; and

2 “(C) Provide for reasonable overhead costs.

3 “(d) Establish within the office operational and contracting systems
4 that allow for oversight, ensure transparency, promote equity and
5 inclusion and ensure that public defense services are provided in a
6 manner consistent with the Oregon Constitution, the United States
7 Constitution and Oregon and national standards of justice.

8 “(e) Adopt reasonable and appropriate caseload standards for public
9 defense attorneys that provide for effective assistance of counsel under
10 the Oregon Constitution, the United States Constitution and Oregon
11 and national standards of justice.

12 “(f) Reexamine the appropriateness of the caseload standards de-
13 scribed in paragraph (e) of this subsection, and adopt new standards
14 if necessary, every four years.

15 “(g) Adopt a statewide workload plan based on the caseload stan-
16 dards described in paragraph (e) of this subsection.

17 “[(c)] (h) Submit the budget of the commission and the office [*of public*
18 *defense services*] to the Legislative Assembly after the budget is submitted
19 to the commission by the **executive** director and approved by the commis-
20 sion. The [*Chief Justice of the Supreme Court*] **executive director** and the
21 chairperson of the commission shall present the budget to the Legislative
22 Assembly.

23 “[(d)] (i) Review and approve any public defense services contract nego-
24 tiated by the **executive** director before the contract can become effective.

25 “[(e)] (j) Adopt a compensation plan, classification system, **organiza-**
26 **tional structure** and personnel plan for the office [*of Public Defense Ser-*
27 *vices*] that are commensurate with other state agencies.

28 “[(f)] (k) Adopt policies, procedures, standards and guidelines regarding:

29 “(A) The determination of financial eligibility of persons entitled to be
30 represented by [*appointed counsel*] **public defense attorneys** at state ex-

1 pense;

2 “(B) The appointment of [*counsel*] **public defense attorneys**;

3 “(C) The fair compensation of [*counsel appointed to represent a person fi-*
4 *nancially eligible for appointed counsel at state expense*] **public defense at-**
5 **torneys**;

6 “(D) [*Appointed counsel*] **Public defense attorney** compensation disputes;

7 “(E) Any other costs associated with the representation of a person by
8 [*appointed counsel*] **public defense attorneys** in the state courts that are
9 required to be paid by the state under ORS 34.355, 135.055, 138.500, 138.590,
10 161.346, 161.348, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908,
11 419C.206, 419C.209, 419C.408, 419C.535, 426.100, 426.135, 426.250, 426.307,
12 427.265, 427.295, 436.265 or 436.315 or any other provision of law that ex-
13 pressly provides for payment of such compensation, costs or expenses by the
14 commission;

15 “(F) Professional qualifications, **training and continuing legal educa-**
16 **tion requirements** for [*counsel appointed to represent public defense clients*]
17 **public defense attorneys and public defense staff members**;

18 “(G) Performance for legal representation;

19 “(H) The contracting of public defense services;

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

23 “(J) **Oversight of public defense attorneys employed by the office**
24 **or under contract with the office for the provision of public defense**
25 **services; and**

26 “[*J*] (K) Any other matters necessary to carry out the duties of the
27 commission.

28 “[*g*] (L) Establish a peer review system for the approval of nonroutine
29 fees and expenses incurred in cases involving aggravated murder and the
30 crimes listed in ORS 137.700 and 137.707. The review shall be conducted by

1 a panel of attorneys who practice in the area of criminal defense.

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

5 “[*i*] (n) Reimburse the State Court Administrator from funds deposited
6 in the Public Defense Services Account established by ORS 151.225 for the
7 costs of personnel and other costs associated with location of eligibility
8 verification and screening personnel pursuant to ORS 151.489 by the State
9 Court Administrator.

10 “[*2*] *Policies, procedures, standards and guidelines adopted by the com-*
11 *mission supersede any conflicting rules, policies or procedures of the Public*
12 *Defender Committee, State Court Administrator, circuit courts, the Court of*
13 *Appeals, the Supreme Court and the Psychiatric Security Review Board re-*
14 *lated to the exercise of the commission’s administrative responsibilities under*
15 *this section and transferred duties, functions and powers as they occur.]*

16 “[*3*] (2) The commission may accept gifts, grants or contributions from
17 any source, whether public or private. However, the commission may not
18 accept a gift, grant or contribution if acceptance would create a conflict of
19 interest. Moneys accepted under this subsection shall be deposited in the
20 Public Defense Services Account established by ORS 151.225 and expended
21 for the purposes for which given or granted.

22 “[*4*] (3) 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 **executive** director or any member of the staff of
26 the **executive** director in carrying out professional duties involving the legal
27 representation of public defense clients; **or**

28 “(d) **Approve a contract authorizing any flat fee compensation**
29 **structure, including but not limited to a contract authorizing a flat fee**
30 **to be paid over a set period of time on a per case basis.**

1 “(4) **Nothing in subsection (3) of this section prohibits the commis-**
2 **sion from approving a contract that provides compensation to public**
3 **defense attorneys based on a full-time equivalent model or a workload**
4 **model, or that pays public defense attorneys hourly at a reasonable**
5 **market rate.**

6 “**SECTION 4.** ORS 151.219 is amended to read:

7 “151.219. (1) The [*public defense services*] executive director **of the Office**
8 **of Public Defense Services** shall:

9 “(a) Recommend to the Public Defense Services Commission how to es-
10 tablish and maintain, in a cost-effective manner, the delivery of legal ser-
11 vices to persons entitled to, and financially eligible for, [*appointed counsel*]
12 **a public defense attorney appointed** at state expense under Oregon stat-
13 utes, the Oregon Constitution[,] **and** the United States Constitution and
14 consistent with Oregon and national standards of justice.

15 “(b) Implement and ensure compliance with contracts, policies, proce-
16 dures, standards and guidelines adopted by the commission or required by
17 statute.

18 “(c) Prepare and submit to the commission for its approval the biennial
19 budget of the commission and the Office of Public Defense Services.

20 “(d) **Subject to subsection (2) of this section,** negotiate contracts, as
21 appropriate, for providing legal services to persons financially eligible for
22 [*appointed counsel*] **a public defense attorney appointed** at state expense.
23 [*No contract so negotiated is binding or enforceable until the contract has been*
24 *reviewed and approved by the commission as provided in ORS 151.216.*]

25 “(e) Employ personnel or contract for services as necessary to carry out
26 the responsibilities of the **executive** director and the Office of Public De-
27 fense Services.

28 “(f) Supervise the personnel, operation and activities of the Office of
29 Public Defense Services.

30 “(g) Provide services, facilities and materials necessary for the perform-

1 ance of the duties, functions and powers of the Public Defense Services
2 Commission.

3 “(h) Pay the expenses of the commission and the Office of Public Defense
4 Services.

5 “(i) Prepare and submit to the commission an annual report of the activ-
6 ities of the Office of Public Defense Services **containing the information**
7 **described in subsection (3) of this section.**

8 “(j) Prepare and submit to the Legislative Assembly a biennial report on
9 the activities of the Office of Public Defense Services **containing the in-**
10 **formation described in subsection (3) of this section.**

11 “(k) Provide for legal representation, advice and consultation for the
12 commission, its members, the **executive** director and staff of the Office of
13 Public Defense Services who require such services **in relation to the per-**
14 **formance of official duties, functions and responsibilities,** or who are
15 named as defendants in lawsuits arising from their **performance of official**
16 **duties, functions and responsibilities.** If requested by the **executive** director,
17 the Attorney General may also provide for legal representation, advice and
18 consultation for the commission, its members, the **executive** director and
19 staff of the Office of Public Defense Services in litigation **arising from**
20 **their performance of official duties, functions and responsibilities.**

21 “(L) **Develop policies for the collection of data from public defense**
22 **attorneys and public defense staff members.**

23 “(m) **Develop performance metrics for public defense attorneys and**
24 **public defense staff members for the provision of public defense ser-**
25 **vices.**

26 “(n) **Establish policies and standards for quality assurance and**
27 **oversight in the provision of public defense services, including allow-**
28 **ing for the investigation, auditing and review of public defense attor-**
29 **neys and public defense staff members to determine compliance with**
30 **the office’s metrics, policies and standards.**

1 “(o) Establish training requirements for public defense attorneys
2 and public defense staff members and, as appropriate, develop
3 trainings that include but are not limited to the provision of culturally
4 specific services.

5 “(p) Implement a case management system that allows for trans-
6 parency and oversight.

7 “(q) Ensure that all office policies and procedures allow public de-
8 fense attorneys to provide zealous advocacy on behalf of their clients.

9 “(2)(a) A contract negotiated by the executive director under sub-
10 section (1) of this section is not binding or enforceable until the con-
11 tract has been reviewed and approved by the commission as provided
12 in ORS 151.216.

13 “(b) The executive director may not negotiate or enter into a con-
14 tract authorizing any flat fee compensation structure, including but
15 not limited to a contract authorizing a flat fee to be paid over a set
16 period of time on a per case basis.

17 “(c) Nothing in this subsection prohibits the executive director from
18 negotiating or entering into a contract that provides compensation to
19 public defense attorneys based on a full-time equivalent model or a
20 workload model, or that pays public defense attorneys hourly at a
21 reasonable market rate.

22 “(d) Contracts negotiated and entered into by the executive director
23 must include terms requiring:

24 “(A) Access to attorney case files by the executive director, ex-
25 cluding legally protected material; and

26 “(B) The sharing of data and information between the public de-
27 fense attorneys and public defense staff members and the office suffi-
28 cient for the office to:

29 “(i) Monitor the caseloads and compensation of each public defense
30 attorney and public defense staff member; and

1 “(ii) Determine whether the terms of each contract are sufficient
2 for public defense attorneys and public defense staff members to meet
3 office standards and provide representation in a manner consistent
4 with the Oregon Constitution, the United States Constitution and
5 Oregon and national standards of justice.

6 “(e) As used in this subsection, ‘legally protected material’ means:

7 “(A) Information and records of a client of the office that are pro-
8 tected by attorney-client privilege held by the client; and

9 “(B) Attorney work product prepared in the course of providing le-
10 gal services to the client.

11 “(3) The annual report to the commission and the biennial report
12 to the Legislative Assembly required by subsection (1) of this section
13 must include but are not limited to the following information:

14 “(a) Public defense attorney caseloads and conformance with the
15 caseload standards and workload plan adopted by the commission;

16 “(b) Public defense attorney and public defense staff member com-
17 pensation;

18 “(c) Retention and turnover of public defense attorneys and public
19 defense staff members;

20 “(d) Training and continuing legal education provided to or com-
21 pleted by public defense attorneys;

22 “(e) The frequency of work performed on cases by public defense
23 staff members; and

24 “(f) Whether performance metrics and quality assurance standards
25 are being met by public defense attorneys and public defense staff
26 members.

27 “[(2)] (4) The **executive** director may designate persons as representatives
28 of the **executive** director for the purposes of determining and paying bills
29 submitted to the Office of Public Defense Services and determining preau-
30 thorization for incurring fees and expenses under ORS 135.055.

1 **“SECTION 5. Section 6 of this 2019 Act is added to and made a part**
2 **of ORS 151.211 to 151.221.**

3 **“SECTION 6. (1) Except as provided in subsection (2) of this section**
4 **or as otherwise provided by law, the provisions of ORS 180.220, 276.004,**
5 **276.410, 276.426, 276.428, 276.440, 276A.206, 279.835 to 279.855, 283.085 to**
6 **283.092, 292.210 to 292.250, 293.075 and 293.205 to 293.225 and ORS chap-**
7 **ters 279A, 279B, 279C, 282 and 283 do not apply to the Public Defense**
8 **Services Commission or the Office of Public Defense Services.**

9 **“(2) ORS 279A.100 and ORS chapter 236 apply to the commission and**
10 **the office.**

11
12 **“TASK FORCE ON MUNICIPAL COURT PUBLIC DEFENSE**
13

14 **“SECTION 7. (1) The Task Force on Municipal Court Public Defense**
15 **is established. The purpose of the task force is to recommend to the**
16 **Legislative Assembly public defense models for municipal and justice**
17 **court proceedings that:**

18 **“(a) Protect the right of counsel under the Oregon and United**
19 **States Constitutions;**

20 **“(b) Take into consideration the complex needs of criminal defend-**
21 **ants;**

22 **“(c) Ensure that parties to a municipal or justice court proceeding**
23 **are prepared to proceed; and**

24 **“(d) Enable courts to resolve cases as quickly and efficiently as**
25 **possible.**

26 **“(2) The task force consists of 17 members appointed as follows:**

27 **“(a) The President of the Senate shall appoint two members from**
28 **among members of the Senate.**

29 **“(b) The Speaker of the House of Representatives shall appoint two**
30 **members from among members of the House of Representatives.**

1 **“(c) The Governor shall appoint eight members as follows:**
2 **“(A) Two members with experience providing public defense ser-**
3 **vices in municipal or justice courts.**
4 **“(B) Two members representing municipal prosecutors.**
5 **“(C) One member representing the Public Defense Services Com-**
6 **mission.**
7 **“(D) One member representing the Association of Oregon Counties.**
8 **“(E) One member representing city managers.**
9 **“(F) One member representing chiefs of police.**
10 **“(d) The Chief Justice of the Supreme Court shall appoint four**
11 **members as follows:**
12 **“(A) Two members who are judges presiding over municipal or jus-**
13 **tice court proceedings.**
14 **“(B) One judge with experience on the circuit or appellate courts.**
15 **“(C) One member representing a civil legal services provider for**
16 **low-income Oregonians.**
17 **“(e) The Attorney General shall appoint one member representing**
18 **the Department of Justice.**
19 **“(3) The task force shall:**
20 **“(a) Examine the role of municipal courts in the state justice sys-**
21 **tem, the unique needs and resources within each municipal court ju-**
22 **risdiction and statewide needs and resources;**
23 **“(b) Examine and make recommendations regarding:**
24 **“(A) The number of attorneys and staff members and the resources**
25 **necessary to provide sufficient public defense services in municipal**
26 **and justice court criminal proceedings;**
27 **“(B) Appropriate caseloads for attorneys providing public defense**
28 **services in municipal and justice court criminal proceedings;**
29 **“(C) The administration and oversight of attorneys providing public**
30 **defense services and municipal and justice court criminal proceedings;**

1 **and**

2 **“(D) Funding models for attorneys providing public defense services**
3 **in municipal and justice court criminal proceedings;**

4 **“(c) Examine the effects of municipal and justice court convictions**
5 **on future sentences of criminal defendants;**

6 **“(d) Examine whether models of holistic public defense would be**
7 **appropriate and promote better outcomes in municipal and justice**
8 **courts;**

9 **“(e) Examine ways to create and ensure statewide consistency in**
10 **the provision of public defense services in municipal and justice**
11 **courts;**

12 **“(f) Conduct surveys of:**

13 **“(A) Each county in the state to identify models of public defense**
14 **representations and effective practices in municipal and justice court**
15 **criminal proceedings; and**

16 **“(B) Other states to identify models of effective representation and**
17 **funding of public defense services in municipal and justice courts;**

18 **“(g) Review statutory and case law related to the provision of public**
19 **defense as required by the Oregon and United States Constitutions;**
20 **and**

21 **“(h) Identify obstacles in all counties to providing effective public**
22 **defense services in municipal and justice court criminal proceedings.**

23 **“(4) The recommendations and proposed legislative changes of the**
24 **task force must ensure that:**

25 **“(a) Public defense providers in municipal and justice court pro-**
26 **ceedings have workloads that allow the attorneys to provide client-**
27 **centered, competent and effective legal representation throughout the**
28 **entire proceeding;**

29 **“(b) Judicial and attorney resources are sufficient to protect the**
30 **legal rights of defendants in municipal and justice court criminal**

1 **proceedings; and**

2 **“(c) Oregon statutes are consistent with the models for legal rep-**
3 **resentation proposed by the task force.**

4 **“(5) A majority of the voting members of the task force constitutes**
5 **a quorum for the transaction of business.**

6 **“(6) Official action by the task force requires the approval of a**
7 **majority of the voting members of the task force.**

8 **“(7) The task force shall elect one of its members to serve as**
9 **chairperson.**

10 **“(8) If there is a vacancy for any cause, the appointing authority**
11 **shall make an appointment to become immediately effective.**

12 **“(9) The task force shall meet at times and places specified by the**
13 **call of the chairperson or of a majority of the voting members of the**
14 **task force.**

15 **“(10) The task force may adopt rules necessary for the operation**
16 **of the task force.**

17 **“(11) The task force shall submit a report, with the recommen-**
18 **dations of the task force and proposed legislative changes, in the**
19 **manner provided by ORS 192.245 to the interim committees of the**
20 **Legislative Assembly related to the judiciary no later than September**
21 **15, 2021.**

22 **“(12) The Office of Public Defense Services shall provide staff sup-**
23 **port to the task force.**

24 **“(13) Members of the Legislative Assembly appointed to the task**
25 **force are nonvoting members of the task force and may act in an ad-**
26 **visory capacity only.**

27 **“(14) Members of the task force who are not members of the Leg-**
28 **islative Assembly are not entitled to compensation, but may be reim-**
29 **bursed for actual and necessary travel and other expenses incurred by**
30 **them in the performance of their actual duties and in the manner and**

1 amounts provided for in ORS 292.495. Claims for expenses incurred in
2 performing functions of the task force shall be paid out of funds ap-
3 propriated to the Governor for purposes of the task force.

4 “(15) All agencies of state government, as defined in ORS 174.111,
5 are directed to assist the task force in the performance of the duties
6 of the task force and, to the extent permitted by laws relating to
7 confidentiality, to furnish information and advice the members of the
8 task force consider necessary to perform their duties.

9
10 “CONFORMING AMENDMENTS

11
12 “SECTION 8. ORS 1.009 is amended to read:

13 “1.009. (1) The Judicial Department Operating Account is established in
14 the State Treasury, separate and distinct from the General Fund. Interest
15 earned by the account shall be credited to the account. All moneys in the
16 account are continuously appropriated to the Judicial Department and may
17 be used only to pay the operating expenses of the department.

18 “(2) All moneys received by the department pursuant to ORS 151.216
19 [(1)(i)] (1)(n) shall be deposited in the Judicial Department Operating Ac-
20 count.

21 “(3) The department may accept gifts, grants or contributions from any
22 source, whether public or private, for deposit in the Judicial Department
23 Operating Account.

24 “SECTION 9. ORS 34.355 is amended to read:

25 “34.355. If counsel is appointed by a court to represent, in an initial pro-
26 ceeding by habeas corpus or on appeal as provided in ORS 34.710, a person
27 who is imprisoned or otherwise restrained of liberty by virtue of a charge
28 or conviction of crime and who is determined to be financially eligible for
29 appointed counsel at state expense, the [public defense services] executive
30 director of the Office of Public Defense Services shall determine com-

1 pensation for counsel and costs and expenses of the person in the proceeding
2 or on appeal. Compensation for counsel and expenses of the person in an
3 initial proceeding or in a circuit court on appeal shall be determined and
4 paid as provided in ORS 135.055. Compensation for counsel and costs and
5 expenses of the person on appeal to the Court of Appeals or on review by
6 the Supreme Court shall be determined and paid as provided in ORS 138.500.
7 The compensation and expenses so allowed in an initial proceeding in a
8 county court shall be paid by the county in which the person was charged
9 or convicted of crime.

10 “**SECTION 10.** ORS 135.055 is amended to read:

11 “135.055. (1) Counsel appointed pursuant to ORS 135.045 or 135.050 shall
12 be paid fair compensation for representation in the case:

13 “(a) By the county, subject to the approval of the governing body of the
14 county, in a proceeding in a county or justice court.

15 “(b) By the [*public defense services*] executive director **of the Office of**
16 **Public Defense Services** from funds available for the purpose, in a pro-
17 ceeding in a circuit court.

18 “(2) Except for counsel appointed pursuant to contracts or counsel em-
19 ployed by the [*public defense services*] executive director **of the Office of**
20 **Public Defense Services**, compensation payable to appointed counsel under
21 subsection (1) of this section:

22 “(a) In a proceeding in a county or justice court may not be less than \$30
23 per hour.

24 “(b) In a proceeding in a circuit court is subject to the applicable com-
25 pensation established under ORS 151.216.

26 “(3)(a) A person determined to be eligible for appointed counsel is entitled
27 to necessary and reasonable fees and expenses for investigation, preparation
28 and presentation of the case for trial, negotiation and sentencing. The person
29 or the counsel for the person shall upon written request secure preauthori-
30 zation to incur fees and expenses that are not routine to representation but

1 are necessary and reasonable in the investigation, preparation and presen-
2 tation of the case, including but not limited to nonroutine travel, photoco-
3 pying or other reproduction of nonroutine documents, necessary costs
4 associated with obtaining the attendance of witnesses for the defense, in-
5 vestigator fees and expenses, expert witness fees and expenses and fees for
6 interpreters and assistive communication devices necessary for the purpose
7 of communication between counsel and a client or witness in the case. Pre-
8 authorization to incur a fee or expense does not guarantee that a fee or ex-
9 pense incurred pursuant to the preauthorization will be determined to be
10 necessary or reasonable when the fee or expense is submitted for payment.

11 “(b) In a county or justice court, the request must be in the form of a
12 motion to the court. The motion must be accompanied by a supporting affi-
13 davit that sets out in detail the purpose of the requested expenditure, the
14 name of the service provider or other recipient of the funds, the dollar
15 amount of the requested expenditure that may not be exceeded without ad-
16 ditional authorization and the date or dates during which the service will
17 be rendered or events will occur for which the expenditure is requested.

18 “(c) In a circuit court, the request must be in the form and contain the
19 information that is required by the policies, procedures, standards and
20 guidelines of the Public Defense Services Commission. If the [*public defense*
21 *services*] executive director **of the Office of Public Defense Services** denies
22 a request for preauthorization to incur nonroutine fees and expenses, the
23 person making the request may appeal the decision to the presiding judge
24 of the circuit court. The presiding judge has final authority to preauthorize
25 incurring nonroutine fees and expenses under this paragraph.

26 “(d) Entitlement under subsection (7) of this section to payment for fees
27 and expenses in circuit court is subject to the policies, procedures, standards
28 and guidelines adopted under ORS 151.216. Entitlement to payment of non-
29 routine fees and expenses is dependent upon obtaining preauthorization from
30 the court, if the case is in county or justice court, or from the [*public defense*

1 *services*] executive director **of the Office of Public Defense Services**, if the
2 case is in circuit court, except as otherwise provided in paragraph (c) of this
3 subsection and in the policies, procedures, standards and guidelines adopted
4 under ORS 151.216. Fees and expenses shall be paid:

5 “(A) By the county, in respect to a proceeding in a county or justice
6 court.

7 “(B) By the [*public defense services*] executive director **of the Office of**
8 **Public Defense Services** from funds available for the purpose, in respect
9 to a proceeding in a circuit court.

10 “(C) By the city, in respect to a proceeding in municipal court.

11 “(4) Upon completion of all services by the counsel of a person determined
12 to be eligible for appointed counsel, the counsel shall submit a statement of
13 all necessary and reasonable fees and expenses of investigation, preparation
14 and presentation and, if counsel was appointed by the court, a statement of
15 all necessary and reasonable fees and expenses for legal representation,
16 supported by appropriate receipts or vouchers and certified by the counsel
17 to be true and accurate.

18 “(5) In a county or justice court, the total fees and expenses payable un-
19 der this section must be submitted to the court by counsel or other providers
20 and are subject to the review of the court. The court shall certify that such
21 amount is fair reimbursement for fees and expenses for representation in the
22 case as provided in subsection (6) of this section. Upon certification and any
23 verification as provided under subsection (6) of this section, the amount of
24 the fees and expenses approved by the court and not already paid shall be
25 paid by the county.

26 “(6) In a county or justice court, the court shall certify to the adminis-
27 trative authority responsible for paying fees and expenses under this section
28 that the amount for payment is reasonable and that the amount is properly
29 payable out of public funds.

30 “(7) In a circuit court, the total fees and expenses payable under this

1 section must be submitted to and are subject to review by the [*public defense*
2 *services*] executive director **of the Office of Public Defense Services**. The
3 [*public defense services*] executive director shall determine whether the
4 amount is necessary, reasonable and properly payable from public funds for
5 fees and expenses for representation in the case as provided by the policies,
6 procedures, standards and guidelines of the Public Defense Services Com-
7 mission. The [*public defense services*] executive director shall pay the amount
8 of the fees and expenses determined necessary, reasonable and properly pay-
9 able out of public funds. The court shall provide any information identified
10 and requested by the [*public defense services*] executive director as needed for
11 audit, statistical or any other purpose pertinent to ensure the proper dis-
12 bursement of state funds or pertinent to the provision of appointed counsel
13 compensated at state expense.

14 “(8) If the [*public defense services*] executive director **of the Office of**
15 **Public Defense Services** denies, in whole or in part, fees and expenses
16 submitted for review and payment, the person who submitted the payment
17 request may appeal the decision to the presiding judge of the circuit court.
18 The presiding judge or the designee of the presiding judge shall review the
19 [*public defense services*] executive director’s decision for abuse of discretion.
20 The decision of the presiding judge or the designee of the presiding judge is
21 final.

22 “(9) The following may not be disclosed to the district attorney prior to
23 the conclusion of a case:

24 “(a) Requests and administrative or court orders for preauthorization to
25 incur nonroutine fees and expenses in the investigation, preparation and
26 presentation of the case; and

27 “(b) Billings for such fees and expenses submitted by counsel or other
28 providers.

29 “(10) Notwithstanding subsection (9) of this section, the total amount of
30 moneys determined to be necessary and reasonable for nonroutine fees and

1 expenses may be disclosed to the district attorney at the conclusion of the
2 trial in the circuit court.

3 “(11) As used in this section unless the context requires otherwise,
4 ‘counsel’ includes a legal advisor appointed under ORS 135.045.

5 **“SECTION 11.** ORS 136.603 is amended to read:

6 “136.603. (1)(a) Whenever any person attends any court, grand jury or
7 committing magistrate as a witness on behalf of the prosecution or of any
8 person accused of a crime upon request of the district attorney or city at-
9 torney or pursuant to subpoena, or by virtue of a recognizance for that
10 purpose, and it appears that the witness has come from outside the state or
11 that the witness is indigent, the court may, by an order entered in its re-
12 cords, direct payment to the witness of such sum of money as the court
13 considers reasonable for the expenses of the witness. The order of the court,
14 so entered, is sufficient authority for the payment.

15 “(b) Except as otherwise specifically provided by law, if a witness who is
16 to be paid expenses pursuant to this subsection:

17 “(A) Attends a grand jury, a circuit court or judge thereof, a judge of a
18 county court or a justice of the peace, on behalf of the prosecution, payment
19 shall be made by the county.

20 “(B) Attends a municipal court or judge thereof on behalf of the prose-
21 cution, payment shall be made by the city.

22 “(C) Attends a circuit court or judge thereof on behalf of a financially
23 eligible defendant, payment shall be made by the [*public defense services*]
24 executive director **of the Office of Public Defense Services.**

25 “(D) Attends a judge of the county court or a justice of the peace on be-
26 half of a financially eligible defendant, payment shall be made by the county.

27 “(E) Attends a municipal court or judge thereof on behalf of a financially
28 eligible defendant, payment shall be made by the city.

29 “(F) Attends any court on behalf of a defendant who is not financially
30 eligible, payment shall be made by the defendant, and the court shall so or-

1 der.

2 “(2) In the case of a prisoner of a jurisdiction outside of this state who
3 is required to attend as a witness in this state, whether for the prosecution
4 or the defense, the sheriff shall be responsible for transporting the witness
5 to the proper court of this state, and the sheriff shall assume any costs in-
6 curred in connection with the witness while the witness is in the custody
7 of the sheriff. However, the sheriff and not the witness shall be entitled to
8 the witness fees, mileage and expenses to which the witness would otherwise
9 be entitled under this section and ORS 136.627 or other applicable law.

10 **“SECTION 12.** ORS 138.310 is amended to read:

11 “138.310. When the [*public defense services*] executive director **of the Of-**
12 **ice of Public Defense Services** pays costs, expenses or compensation under
13 ORS 138.500 (5) on appeal in a criminal action, the [*public defense services*]
14 executive director shall notify the court below of the costs, expenses and
15 compensation paid in order that the court below may exercise its discretion
16 under ORS 151.505 or 161.665 (2).

17 **“SECTION 13.** ORS 138.500 is amended to read:

18 “138.500. (1) If a defendant in a criminal action or a petitioner in a pro-
19 ceeding pursuant to ORS 138.510 to 138.680 wishes to appeal from an
20 appealable adverse final order or judgment of a circuit court and if the per-
21 son is without funds to employ suitable counsel possessing skills and expe-
22 rience commensurate with the nature and complexity of the case for the
23 appeal, the person may request the circuit court from which the appeal is
24 or would be taken to appoint counsel to represent the person on appeal. The
25 following apply to a request under this subsection:

26 “(a) The request shall be in writing and shall be made within the time
27 during which an appeal may be taken or, if the notice of appeal has been
28 filed, at any time thereafter. The request shall include a brief statement of
29 the assets, liabilities and income in the previous year of the person unless
30 the court already determined the person to be financially eligible for ap-

1 pointed counsel at state expense for purposes of the specific case, in which
2 instance, the written request need only so indicate. However, if a request
3 relies on a court's previous determination that the person is financially eli-
4 gible, the court, in its discretion, may require the person to submit a new
5 statement of assets, liabilities and income.

6 “(b) If, based upon a request under paragraph (a) of this subsection, the
7 court finds that petitioner or defendant previously received the services of
8 appointed counsel or currently is without funds to employ suitable counsel
9 for an appeal, the court shall appoint counsel to represent petitioner or de-
10 fendant on the appeal.

11 “(2)(a) Notwithstanding subsection (1) of this section, when a defendant
12 has been sentenced to death, the request for appointed counsel shall be made
13 to the Supreme Court. The Supreme Court shall appoint suitable counsel to
14 represent the defendant on the appeal.

15 “(b) After the notice of appeal has been filed, the Court of Appeals has
16 concurrent authority to appoint or substitute counsel or appoint or substi-
17 tute a legal advisor for the defendant under ORS 138.504.

18 “(c) The Supreme Court has concurrent authority to appoint or substitute
19 counsel or appoint or substitute a legal advisor for the defendant under ORS
20 138.504 in connection with review of a Court of Appeals decision under ORS
21 2.520.

22 “(d) Neither the Court of Appeals nor the Supreme Court may substitute
23 one appointed counsel for another under paragraph (b) or (c) of this sub-
24 section except pursuant to the policies, procedures, standards and guidelines
25 of the Public Defense Services Commission.

26 “(3) Whenever a defendant in a criminal action or a petitioner in a pro-
27 ceeding pursuant to ORS 138.510 to 138.680 has filed a notice of appeal from
28 an appealable adverse final order or judgment of a circuit court and the
29 person is without funds to pay for a transcript, or portion thereof, necessary
30 to present adequately the case upon appeal, the person may request the

1 [public defense services] executive director **of the Office of Public Defense**
2 **Services** to have the transcript, or portion thereof, prepared for purposes
3 of appeal. The following apply to a request under this subsection:

4 “(a) The [public defense services] executive director **of the Office of**
5 **Public Defense Services** shall authorize the preparation of a transcript af-
6 ter a court has determined that the person is eligible for court-appointed
7 counsel or, if the person has not applied for court-appointed counsel, the
8 person submits a statement of the person’s assets, liabilities and income in
9 the previous year and the director determines that the person is eligible for
10 preparation of a transcript at state expense.

11 “(b) The cost of the transcript preparation under paragraph (a) of this
12 subsection shall be in the amount prescribed in ORS 21.345 and paid for as
13 provided by the policies, procedures, standards and guidelines of the Public
14 Defense Services Commission.

15 “(4) After submission of the original brief by counsel, the [public defense
16 services] executive director **of the Office of Public Defense Services** shall
17 determine the cost of briefs and any other expenses of appellant, except
18 transcripts, necessary to appellate review and a reasonable amount of com-
19 pensation for counsel appointed under this section. Compensation payable to
20 appointed counsel shall be as established under ORS 151.216. On any review
21 by the Supreme Court of the judgment of the Court of Appeals the [public
22 defense services] executive director shall similarly determine the costs of
23 briefs and any other expenses necessary for review and a reasonable amount
24 of compensation for counsel appointed under this section.

25 “(5) Costs, expenses and compensation determined by the [public defense
26 services] executive director **of the Office of Public Defense Services** under
27 subsection (4) of this section shall be paid by the [public defense services]
28 executive director from funds available for that purpose.

29 “(6) If the [public defense services] executive director **of the Office of**
30 **Public Defense Services** denies, in whole or in part, costs, expenses and

1 compensation submitted for review and payment, the person who submitted
2 the payment request may appeal the decision to the Chief Judge of the Court
3 of Appeals, if the appeal is in the Court of Appeals, or to the Chief Justice
4 of the Supreme Court, if the appeal is in the Supreme Court. The Chief
5 Judge, Chief Justice or the designee of the Chief Judge or Chief Justice, as
6 appropriate, shall review the [*public defense services*] executive director's
7 decision for abuse of discretion. The decision of the Chief Judge, the Chief
8 Justice or the designee of the Chief Judge or Chief Justice is final.

9 “(7) The provisions of this section shall apply in favor of the defendant
10 in a criminal action or the petitioner in a proceeding pursuant to ORS
11 138.510 to 138.680 when the person is respondent in an appeal taken by the
12 state in a criminal action or by the defendant in a proceeding pursuant to
13 ORS 138.510 to 138.680.

14 “(8) As used in this section, ‘criminal action’ does not include an action
15 that involves only violations.

16 “(9) As used in subsection (4) of this section, ‘counsel’ includes a legal
17 advisor appointed under ORS 138.504.

18 **“SECTION 14.** ORS 138.590 is amended to read:

19 “138.590. (1) Any petitioner who is unable to pay the expenses of a pro-
20 ceeding pursuant to ORS 138.510 to 138.680 or to employ suitable counsel
21 possessing skills and experience commensurate with the nature of the con-
22 viction and complexity of the case for the proceeding may proceed as a fi-
23 nancially eligible person pursuant to this section upon order of the circuit
24 court in which the petition is filed.

25 “(2) If the petitioner wishes to proceed as a financially eligible person,
26 the person shall file with the petition an affidavit stating inability to pay
27 the expenses of a proceeding pursuant to ORS 138.510 to 138.680, including,
28 but not limited to, the filing fee required by ORS 138.560, or to employ
29 suitable counsel for such a proceeding. The affidavit shall contain a brief
30 statement of the petitioner's assets and liabilities and income during the

1 previous year. If the circuit court is satisfied that the petitioner is unable
2 to pay such expenses or to employ suitable counsel, it shall order that the
3 petitioner proceed as a financially eligible person. If the court finds that a
4 petitioner who has been sentenced to death is not competent to decide
5 whether to accept or reject the appointment of counsel, the court shall ap-
6 point counsel to represent the petitioner. However, when a circuit court or-
7 ders petitioner's case transferred to another circuit court as provided in ORS
8 138.560 (4), the matter of petitioner's proceeding as a financially eligible
9 person shall be determined by the latter court.

10 “(3) If a petitioner who has been sentenced to death qualifies for the ap-
11 pointment of counsel under this section but rejects the appointment, the
12 court shall determine, after a hearing if necessary, whether the petitioner
13 rejected the offer of counsel and made the decision with an understanding
14 of its legal consequences. The court shall make appropriate findings on the
15 record.

16 “(4) In the order to proceed as a financially eligible person, the circuit
17 court shall appoint suitable counsel to represent petitioner. Counsel so ap-
18 pointed shall represent petitioner throughout the proceedings in the circuit
19 court. The court may not substitute one appointed counsel for another except
20 pursuant to the policies, procedures, standards and guidelines of the Public
21 Defense Services Commission.

22 “(5) If counsel appointed by the circuit court determines that the petition
23 as filed by petitioner is defective, either in form or in substance, or both,
24 counsel may move to amend the petition within 15 days following counsel's
25 appointment, or within a further period as the court may allow. The
26 amendment shall be permitted as of right at any time during this period. If
27 appointed counsel believes that the original petition cannot be construed to
28 state a ground for relief under ORS 138.510 to 138.680, and cannot be
29 amended to state a ground for relief, counsel shall, in lieu of moving to
30 amend the petition, inform the petitioner and notify the circuit court of

1 counsel's belief by filing an affidavit stating the belief and the reasons
2 therefor with the clerk of the circuit court. This affidavit does not constitute
3 a ground for denying the petition prior to a hearing upon its sufficiency, but
4 the circuit court may consider the affidavit in deciding upon the sufficiency
5 of the petition at the hearing.

6 “(6) When a petitioner has been ordered to proceed as a financially eli-
7 gible person, the expenses which are necessary for the proceedings upon the
8 petition in the circuit court and the compensation to appointed counsel for
9 petitioner as provided in this subsection shall be paid by the [*public defense*
10 *services*] executive director **of the Office of Public Defense Services** from
11 funds available for the purpose. At the conclusion of proceedings on a peti-
12 tion pursuant to ORS 138.510 to 138.680, the [*public defense services*] execu-
13 tive director shall determine and pay, as provided by the policies, procedures,
14 standards and guidelines of the Public Defense Services Commission, the
15 amount of expenses of petitioner and compensation for the services of ap-
16 pointed counsel in the proceedings in the circuit court.

17 “(7) If the [*public defense services*] executive director **of the Office of**
18 **Public Defense Services** denies, in whole or in part, expenses and compen-
19 sation submitted for review and payment, the person who submitted the
20 payment request may appeal the decision to the presiding judge of the circuit
21 court. The presiding judge or the designee of the presiding judge shall review
22 the [*public defense services*] executive director's decision for abuse of dis-
23 cretion. The decision of the presiding judge or the designee of the presiding
24 judge is final.

25 “(8)(a) When a petitioner has been authorized to proceed as a financially
26 eligible person, all court fees in the circuit court, except for the filing fee
27 required by ORS 138.560, are waived.

28 “(b) When a petitioner is allowed to file a petition without payment of
29 the fee required by ORS 138.560 due to inability to pay, the fee is not waived
30 but may be drawn from, or charged against, the petitioner's trust account if

1 the petitioner is an inmate in a correctional facility.

2 “(9) Notwithstanding any other provision of this chapter, a court may not
3 appoint as counsel for a petitioner who has been sentenced to death a
4 counsel who previously represented the petitioner at trial or on automatic
5 and direct review in the case resulting in the death sentence unless the
6 petitioner and the counsel expressly request continued representation.

7 **“SECTION 15.** ORS 151.225 is amended to read:

8 “151.225. (1) The Public Defense Services Account is established in the
9 State Treasury, separate and distinct from the General Fund. The Public
10 Defense Services Account is continuously appropriated to the Public Defense
11 Services Commission to:

12 “(a) Reimburse the actual costs and expenses, including personnel ex-
13 penses, incurred in administration and support of the public defense system;

14 “(b) Reimburse the State Court Administrator under ORS 151.216 [(1)(i)]
15 **(1)(n)**; and

16 “(c) Pay other expenses in connection with the legal representation of
17 persons for which the commission is responsible by law, including expenses
18 incurred in the administration of the public defense system.

19 “(2) All moneys received by the Judicial Department under ORS 135.050
20 (8), 151.487 (1), 419A.211, 419B.198 (1), 419C.203 (1) or 419C.535 (2) shall be
21 deposited in the Public Defense Services Account.

22 “(3) All gifts, grants or contributions accepted by the commission under
23 ORS 151.216 shall be deposited in a separate subaccount created in the Public
24 Defense Services Account to be used by the commission for the purpose for
25 which the gift, grant or contribution was given or granted.

26 **“SECTION 16.** ORS 151.485 is amended to read:

27 “151.485. (1) For purposes of determining the financial eligibility for ap-
28 pointed counsel of persons with a constitutional or statutory right to counsel
29 in matters before the state courts and whose counsel is authorized to be paid
30 by the [*public defense services*] executive director **of the Office of Public**

1 **Defense Services** under ORS 151.219, a person is financially eligible for
2 appointed counsel if the person is determined to be financially unable to re-
3 tain adequate counsel without substantial hardship in providing basic eco-
4 nomic necessities to the person or the person's dependent family under
5 standards established by the Public Defense Services Commission under ORS
6 151.216.

7 “(2) A determination of financial eligibility shall be made upon the basis
8 of information contained in a detailed financial statement submitted by the
9 person for whom counsel is requested or appointed or, in an appropriate case,
10 by the person's parent, guardian or custodian. The financial statement shall
11 be in the form prescribed by the Public Defense Services Commission. The
12 form shall contain a full disclosure of all assets, liabilities, current income,
13 dependents and other information required by ORS 135.050 (4) and, in addi-
14 tion, any information required by the commission and state courts as neces-
15 sary to determine eligibility. The commission shall adopt uniform statewide
16 guidelines and procedures that prescribe how to use the form and determine
17 financial eligibility for appointed counsel.

18 “(3) If at any time after the appointment of counsel the court having ju-
19 risdiction of the case finds that the defendant is financially able to obtain
20 counsel, the court may terminate the appointment of counsel. If at any time
21 during criminal proceedings the court having jurisdiction of the case finds
22 that the defendant is financially unable to pay counsel whom the defendant
23 has retained, the court may appoint counsel as provided in this section.

24 “(4) In addition to any criminal prosecution, a civil proceeding may be
25 initiated by any public body that has expended moneys for the defendant's
26 legal assistance within two years of judgment if the defendant was not
27 qualified for legal assistance in accordance with subsections (1) and (2) of
28 this section. As used in this subsection, 'legal assistance' includes legal
29 counsel, transcripts, witness fees and expenses and any other goods or ser-
30 vices required by law to be provided to a financially eligible person at state

1 expense under ORS 151.216 and 151.219.

2 “(5) The civil proceeding shall be subject to the exemptions from exe-
3 cution as provided for by law.

4 “**SECTION 17.** ORS 151.493 is amended to read:

5 “151.493. (1) Notwithstanding any other provision of law, any state agency
6 as defined in ORS 192.311 that receives a request for release of information
7 from the state courts for the purpose of verifying the financial eligibility of
8 a person under ORS 151.485 to 151.497 shall release all requested information
9 to the state court. The court shall forward to the state agency a certification
10 signed by the person about whom the requested information is sought that
11 authorizes the release of the information.

12 “(2) Upon its own motion or motion of the [*public defense services*] exec-
13 utive director **of the Office of Public Defense Services**, a court that has
14 appointed counsel for a person by reason of financial eligibility may order
15 the release of any information relating to the person’s financial situation
16 held by any other person.

17 “**SECTION 18.** ORS 161.309 is amended to read:

18 “161.309. (1) The defendant may not introduce evidence on the issue of
19 insanity under ORS 161.295, unless the defendant:

20 “(a) Gives notice of intent to do so in the manner provided in subsection
21 (3) of this section; and

22 “(b) Files with the court a report of a psychiatric or psychological eval-
23 uation, conducted by a certified evaluator, in the manner provided in sub-
24 section (4) of this section.

25 “(2) The defendant may not introduce in the case in chief expert testi-
26 mony regarding partial responsibility or diminished capacity under ORS
27 161.300 unless the defendant gives notice of intent to do so in the manner
28 provided in subsection (3) of this section.

29 “(3) A defendant who is required under subsection (1) or (2) of this section
30 to give notice shall file a written notice of purpose at the time the defendant

1 pleads not guilty. The defendant may file the notice at any time after the
2 plea but before trial when just cause for failure to file the notice at the time
3 of making the plea is shown. If the defendant fails to file notice, the de-
4 fendant may not introduce evidence for the establishment of a defense under
5 ORS 161.295 or 161.300 unless the court, in its discretion, permits the evi-
6 dence to be introduced where just cause for failure to file the notice is
7 shown.

8 “(4) A defendant who is required under subsection (1) of this section to
9 file a report of a psychiatric or psychological evaluation shall file the report
10 before trial. The report must be based on an evaluation conducted after the
11 date of the alleged offense and must address the issue of insanity under ORS
12 161.295 and the dispositional determination described in ORS 161.325. If the
13 defendant fails to file a complete report before trial, the defendant may not
14 introduce evidence for the establishment of a defense under ORS 161.295
15 unless:

16 “(a) The court, in its discretion, permits the evidence to be introduced
17 when just cause for failure to file the report is shown; and

18 “(b) If the defendant is charged with a felony, the defendant is tried by
19 a jury.

20 “(5)(a) A court may not accept a plea of guilty except for insanity to a
21 felony unless a report described in subsection (4) of this section is filed with
22 the court. If the report has not been filed, the court may order that a psy-
23 chiatric or psychological evaluation of the defendant be conducted by a cer-
24 tified evaluator and a report of the evaluation be filed with the court.

25 “(b) When the court orders an evaluation of a financially eligible person
26 under this subsection, the court shall order the [*public defense services*]
27 executive director **of the Office of Public Defense Services** to pay a rea-
28 sonable fee for the evaluation from funds available for that purpose.

29 “(c) A certified evaluator performing an evaluation of a defendant on the
30 issue of insanity under this subsection is not obligated to evaluate the de-

1 fendant for fitness to proceed unless, during the evaluation, the certified
2 evaluator determines that the defendant's fitness to proceed is drawn in
3 question.

4 “(6) As used in this section, ‘certified evaluator’ means a psychiatrist or
5 psychologist who holds a valid certification under the provisions of ORS
6 161.392.

7 **“SECTION 19.** ORS 161.346 is amended to read:

8 “161.346. (1) When the Psychiatric Security Review Board conducts a
9 hearing under ORS 161.315 to 161.351, the board shall enter an order and
10 make findings in support of the order. If the board finds that a person under
11 the jurisdiction of the board:

12 “(a) Is no longer affected by a qualifying mental disorder, or, if so af-
13 fected, no longer presents a substantial danger to others, the board shall
14 order the person discharged from commitment and conditional release.

15 “(b) Is still affected by a qualifying mental disorder and is a substantial
16 danger to others, but can be controlled adequately if conditionally released
17 with treatment as a condition of release, the board shall order the person
18 conditionally released as provided in ORS 161.336.

19 “(c) Has not recovered from the qualifying mental disorder, is a substan-
20 tial danger to others and cannot adequately be controlled if conditionally
21 released on supervision, the board shall order the person committed to, or
22 retained in, a state hospital, or if the person is under 18 years of age, a se-
23 cure intensive community inpatient facility, for care, custody and treatment.

24 “(2) To assist the board in making the determination described in sub-
25 section (1) of this section, the board may, at any time, appoint a psychiatrist
26 or licensed psychologist to examine the person and to submit a report to the
27 board. The report must include an opinion as to the mental condition of the
28 person, whether the person presents a substantial danger to others and
29 whether the person could be adequately controlled with treatment as a con-
30 dition of release.

1 “(3) The board may make the determination regarding discharge or con-
2 ditional release based upon the written reports submitted pursuant to this
3 section. If any member of the board desires further information from the
4 examining psychiatrist or licensed psychologist who submitted the report, the
5 board shall summon the person to give testimony. The board shall consider
6 all evidence available to it that is material, relevant and reliable regarding
7 the issues before the board. The evidence may include but is not limited to
8 the record of trial, the information supplied by the attorney representing the
9 state or by any other interested party, including the person, and information
10 concerning the person’s mental condition and the entire psychiatric and
11 criminal history of the person. All evidence of a type commonly relied upon
12 by reasonably prudent persons in the conduct of their serious affairs shall
13 be admissible at hearings. Testimony shall be taken upon oath or affirmation
14 of the witness from whom received. The officer presiding at the hearing shall
15 administer oaths or affirmations to witnesses.

16 “(4) The board shall furnish to the person about whom the hearing is
17 being conducted, the attorney representing the person, the Attorney General
18 and the district attorney of the county from which the person was committed
19 written notice of any hearing pending under this section within a reasonable
20 time prior to the hearing. The notice shall include:

21 “(a) The time, place and location of the hearing.

22 “(b) The nature of the hearing and the specific action for which a hearing
23 has been requested, the issues to be considered at the hearing and a refer-
24 ence to the particular sections of the statutes and rules involved.

25 “(c) A statement of the legal authority and jurisdiction under which the
26 hearing is to be held.

27 “(d) A statement of all rights under subsection (6) of this section.

28 “(5) Prior to the commencement of the hearing, the board shall serve
29 personally or by mail a written notice to each party as provided in ORS
30 183.413 (2).

1 “(6) At the hearing, the person about whom the hearing is being held
2 shall have the right:

3 “(a) To appear at all proceedings held pursuant to this section, except for
4 deliberations.

5 “(b) To cross-examine all witnesses appearing to testify at the hearing.

6 “(c) To subpoena witnesses and documents as provided in ORS 161.395.

7 “(d) To be represented by suitable legal counsel possessing skills and ex-
8 perience commensurate with the nature and complexity of the case, to con-
9 sult with counsel prior to the hearing and, if financially eligible, to have
10 suitable counsel appointed at state expense.

11 “(e) To examine all information, documents and reports that the board
12 considers. If then available to the board, the information, documents and
13 reports shall be disclosed to the person so as to allow examination prior to
14 the hearing.

15 “(7) A record shall be kept of all hearings conducted under ORS 161.315
16 to 161.351, except for deliberations.

17 “(8) Upon request of any party, or on motion of the board, the hearing
18 may be continued for a reasonable period not to exceed 60 days to obtain
19 additional information or testimony or for other good cause shown.

20 “(9) Within 30 days following the conclusion of the hearing, the board
21 shall provide to the person, the attorney representing the person, the Attor-
22 ney General or other attorney representing the state, if any, written notice
23 of the order entered by the board.

24 “(10) The burden of proof on all issues at hearings under ORS 161.315 to
25 161.351 shall be by a preponderance of the evidence.

26 “(11) If the board determines that the person about whom the hearing is
27 being held is financially eligible, the board shall appoint suitable counsel to
28 represent the person. Counsel so appointed shall be an attorney who satisfies
29 the professional qualifications established by the Public Defense Services
30 Commission under ORS 151.216. The [*public defense services*] executive di-

1 rector **of the Office of Public Defense Services** shall determine and allow
2 fair compensation for counsel appointed under this subsection and the rea-
3 sonable expenses of the person in respect to the hearing. Compensation
4 payable to appointed counsel shall not be less than the applicable compen-
5 sation level established under ORS 151.216. The compensation and expenses
6 so allowed shall be paid by the [*public defense services*] executive director
7 from funds available for the purpose.

8 “(12) The Attorney General may represent the state at contested hearings
9 under ORS 161.315 to 161.351 unless the district attorney of the county from
10 which the person was committed elects to represent the state. The district
11 attorney of the county from which the person was committed shall cooperate
12 with the Attorney General in securing the material necessary for presenting
13 a contested hearing. If the district attorney elects to represent the state, the
14 district attorney shall give timely written notice of such election to the At-
15 torney General, the board and the attorney representing the person.

16 **“SECTION 20.** ORS 161.348 is amended to read:

17 “161.348. (1) When a person over whom the Psychiatric Security Review
18 Board exercises jurisdiction under ORS 161.315 to 161.351 or 419C.544 is ad-
19 versely affected or aggrieved by a final order of the board, the person is en-
20 titled to judicial review of the final order. The person is entitled on judicial
21 review to suitable counsel possessing skills and experience commensurate
22 with the nature and complexity of the case. If the person is financially eli-
23 gible, suitable counsel shall be appointed by the reviewing court in the
24 manner provided in ORS 138.500 (1). If the person is financially eligible, the
25 [*public defense services*] executive director **of the Office of Public Defense**
26 **Services** shall determine and pay, as provided in ORS 138.500, the cost of
27 briefs, any other expenses of the person necessary to the review and com-
28 pensation for counsel appointed for the person. The costs, expenses and
29 compensation so allowed shall be paid as provided in ORS 138.500.

30 “(2) The order and the proceedings underlying the order are subject to

1 review by the Court of Appeals upon petition to that court filed within 60
2 days of the order for which review is sought. The board shall submit to the
3 court the record of the proceeding or, if the person agrees, a shortened re-
4 cord. The record may include a certified true copy of a tape recording of the
5 proceedings at a hearing in accordance with ORS 161.346. A copy of the re-
6 cord transmitted shall be delivered to the person by the board.

7 “(3) The court may affirm, reverse or remand the order on the same basis
8 as provided in ORS 183.482 (8).

9 “(4) The filing of the petition does not stay the order of the board, but
10 the board or the Court of Appeals may order a stay upon application on such
11 terms as are deemed proper.

12 **“SECTION 21.** ORS 161.365 is amended to read:

13 “161.365. (1) When the court has reason to doubt the defendant’s fitness
14 to proceed by reason of incapacity as described in ORS 161.360, the court
15 may call any witness to its assistance in reaching its decision and shall order
16 that a community mental health program director or the director’s designee
17 consult with the defendant to determine whether services and supervision
18 necessary to safely restore the defendant’s fitness to proceed are available
19 in the community. After the consultation, the program director or the
20 director’s designee shall provide to the court a copy of the findings resulting
21 from the consultation. If the court determines the assistance of a psychiatrist
22 or psychologist would be helpful, the court may:

23 “(a) Order that a psychiatric or psychological examination of the defend-
24 ant be conducted by a certified evaluator as defined in ORS 161.309 and a
25 report of the examination be prepared; or

26 “(b) Order the defendant to be committed for the purpose of an examina-
27 tion for a period not exceeding 30 days to a state mental hospital or other
28 facility designated by the Oregon Health Authority if the defendant is at
29 least 18 years of age, or to a secure intensive community inpatient facility
30 designated by the authority if the defendant is under 18 years of age.

1 “(2) The report of an examination described in this section must include,
2 but is not necessarily limited to, the following:

3 “(a) A description of the nature of the examination;

4 “(b) A statement of the mental condition of the defendant;

5 “(c) If the defendant suffers from a qualifying mental disorder, an opinion
6 as to whether the defendant is incapacitated within the description set out
7 in ORS 161.360; and

8 “(d) If the defendant is incapacitated within the description set out in
9 ORS 161.360, a recommendation of treatment and services necessary to re-
10 store capacity.

11 “(3) Except when the defendant and the court both request to the con-
12 trary, the report may not contain any findings or conclusions as to whether
13 the defendant as a result of a qualifying mental disorder was subject to the
14 provisions of ORS 161.295 or 161.300 at the time of the criminal act charged.

15 “(4) If the examination by the psychiatrist or psychologist cannot be
16 conducted by reason of the unwillingness of the defendant to participate in
17 the examination, the report must so state and must include, if possible, an
18 opinion as to whether the unwillingness of the defendant was the result of
19 a qualifying mental disorder affecting capacity to proceed.

20 “(5) The report must be filed with the clerk of the court, who shall cause
21 copies to be delivered to the district attorney and to counsel for defendant.

22 “(6)(a) When upon motion of the court or a financially eligible defendant,
23 the court has ordered a psychiatric or psychological examination of the de-
24 fendant, a county or justice court shall order the county to pay, and a circuit
25 court shall order the [*public defense services*] executive director **of the Of-**
26 **ice of Public Defense Services** to pay from funds available for the pur-
27 pose:

28 “(A) A reasonable fee if the examination of the defendant is conducted
29 by a psychiatrist or psychologist in private practice; and

30 “(B) All costs including transportation of the defendant if the examina-

1 tion is conducted by a psychiatrist or psychologist in the employ of the
2 Oregon Health Authority or a community mental health program established
3 under ORS 430.610 to 430.670.

4 “(b) When an examination is ordered at the request or with the
5 acquiescence of a defendant who is determined not to be financially eligible,
6 the examination shall be performed at the defendant’s expense. When an ex-
7 amination is ordered at the request of the prosecution, the county shall pay
8 for the expense of the examination.

9 “(7) The Oregon Health Authority shall establish by rule standards for
10 the consultation described in subsection (1) of this section.

11 **“SECTION 22.** ORS 161.665 is amended to read:

12 “161.665. (1) Except as provided in ORS 151.505, the court, only in the case
13 of a defendant for whom it enters a judgment of conviction, may include in
14 its sentence thereunder a money award for all costs specially incurred by the
15 state in prosecuting the defendant. Costs include a reasonable attorney fee
16 for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable
17 amount for fees and expenses incurred pursuant to preauthorization under
18 ORS 135.055. A reasonable attorney fee is presumed to be a reasonable
19 number of hours at the hourly rate authorized by the Public Defense Services
20 Commission under ORS 151.216. Costs do not include expenses inherent in
21 providing a constitutionally guaranteed jury trial or expenditures in con-
22 nection with the maintenance and operation of government agencies that
23 must be made by the public irrespective of specific violations of law.

24 “(2) Except as provided in ORS 151.505, the court, after the conclusion
25 of an appeal of its initial judgment of conviction, may include in its general
26 judgment, or enter a supplemental judgment that includes, a money award
27 that requires a convicted defendant to pay a reasonable attorney fee for
28 counsel appointed pursuant to ORS 138.500, including counsel who is ap-
29 pointed under ORS 151.216 or counsel who is under contract to provide ser-
30 vices for the proceeding under ORS 151.219, and other costs and expenses

1 allowed by the [*public defense services*] executive director **of the Office of**
2 **Public Defense Services** under ORS 138.500 (4). A reasonable attorney fee
3 is presumed to be a reasonable number of hours at the hourly rate authorized
4 by the commission under ORS 151.216.

5 “(3) For purposes of subsections (1) and (2) of this section, compensation
6 of counsel is determined by reference to a schedule of compensation estab-
7 lished by the commission under ORS 151.216.

8 “(4) The court may not sentence a defendant to pay costs under this sec-
9 tion unless the defendant is or may be able to pay them. In determining the
10 amount and method of payment of costs, the court shall take account of the
11 financial resources of the defendant and the nature of the burden that pay-
12 ment of costs will impose.

13 “(5) A defendant who has been sentenced to pay costs under this section
14 and who is not in contumacious default in the payment of costs may at any
15 time petition the court that sentenced the defendant for remission of the
16 payment of costs or of any unpaid portion of costs. If it appears to the sat-
17 isfaction of the court that payment of the amount due will impose manifest
18 hardship on the defendant or the immediate family of the defendant, the
19 court may enter a supplemental judgment that remits all or part of the
20 amount due in costs, or modifies the method of payment under ORS 161.675.

21 “(6) Except as provided in subsection (7) of this section, all moneys col-
22 lected or paid under this section shall be paid into the Criminal Fine Ac-
23 count.

24 “(7) The court may, in the judgment of conviction, include a money award
25 requiring the defendant to pay the costs of extraditing the defendant to this
26 state. Any amounts awarded to the state under this subsection must be listed
27 separately in the money award portion of the judgment. All moneys collected
28 or paid under this subsection shall be deposited into the Arrest and Return
29 Account established by ORS 133.865.

30 **SECTION 23.** ORS 244.050 is amended to read:

1 “244.050. (1) On or before April 15 of each year the following persons shall
2 file with the Oregon Government Ethics Commission a verified statement of
3 economic interest as required under this chapter:

4 “(a) The Governor, Secretary of State, State Treasurer, Attorney General,
5 Commissioner of the Bureau of Labor and Industries, district attorneys and
6 members of the Legislative Assembly.

7 “(b) Any judicial officer, including justices of the peace and municipal
8 judges, except any pro tem judicial officer who does not otherwise serve as
9 a judicial officer.

10 “(c) Any candidate for a public office designated in paragraph (a) or (b)
11 of this subsection.

12 “(d) The Deputy Attorney General.

13 “(e) The Deputy Secretary of State.

14 “(f) The Legislative Administrator, the Legislative Counsel, the Legisla-
15 tive Fiscal Officer, the Legislative Policy and Research Director, the Secre-
16 tary of the Senate and the Chief Clerk of the House of Representatives.

17 “(g) The president and vice presidents, or their administrative equiv-
18 alents, in each public university listed in ORS 352.002.

19 “(h) The following state officers:

20 “(A) Adjutant General.

21 “(B) Director of Agriculture.

22 “(C) Manager of State Accident Insurance Fund Corporation.

23 “(D) Water Resources Director.

24 “(E) Director of Department of Environmental Quality.

25 “(F) Director of Oregon Department of Administrative Services.

26 “(G) State Fish and Wildlife Director.

27 “(H) State Forester.

28 “(I) State Geologist.

29 “(J) Director of Human Services.

30 “(K) Director of the Department of Consumer and Business Services.

- 1 “(L) Director of the Department of State Lands.
- 2 “(M) State Librarian.
- 3 “(N) Administrator of Oregon Liquor Control Commission.
- 4 “(O) Superintendent of State Police.
- 5 “(P) Director of the Public Employees Retirement System.
- 6 “(Q) Director of Department of Revenue.
- 7 “(R) Director of Transportation.
- 8 “(S) Public Utility Commissioner.
- 9 “(T) Director of Veterans’ Affairs.
- 10 “(U) Executive director of Oregon Government Ethics Commission.
- 11 “(V) Director of the State Department of Energy.
- 12 “(W) Director and each assistant director of the Oregon State Lottery.
- 13 “(X) Director of the Department of Corrections.
- 14 “(Y) Director of the Oregon Department of Aviation.
- 15 “(Z) Executive director of the Oregon Criminal Justice Commission.
- 16 “(AA) Director of the Oregon Business Development Department.
- 17 “(BB) Director of the Office of Emergency Management.
- 18 “(CC) Director of the Employment Department.
- 19 “(DD) Chief of staff for the Governor.
- 20 “(EE) Director of the Housing and Community Services Department.
- 21 “(FF) State Court Administrator.
- 22 “(GG) Director of the Department of Land Conservation and Development.
- 23 “(HH) Board chairperson of the Land Use Board of Appeals.
- 24 “(II) State Marine Director.
- 25 “(JJ) Executive director of the Oregon Racing Commission.
- 26 “(KK) State Parks and Recreation Director.
- 27 “(LL) [*Public defense services*] executive director **of the Office of Public**
- 28 **Defense Services.**
- 29 “(MM) Chairperson of the Public Employees’ Benefit Board.
- 30 “(NN) Director of the Department of Public Safety Standards and Train-

1 ing.

2 “(OO) Executive director of the Higher Education Coordinating Commis-
3 sion.

4 “(PP) Executive director of the Oregon Watershed Enhancement Board.

5 “(QQ) Director of the Oregon Youth Authority.

6 “(RR) Director of the Oregon Health Authority.

7 “(SS) Deputy Superintendent of Public Instruction.

8 “(i) The First Partner, the legal counsel, the deputy legal counsel and all
9 policy advisors within the Governor’s office.

10 “(j) Every elected city or county official.

11 “(k) Every member of a city or county planning, zoning or development
12 commission.

13 “(L) The chief executive officer of a city or county who performs the du-
14 ties of manager or principal administrator of the city or county.

15 “(m) Members of local government boundary commissions formed under
16 ORS 199.410 to 199.519.

17 “(n) Every member of a governing body of a metropolitan service district
18 and the auditor and executive officer thereof.

19 “(o) Each member of the board of directors of the State Accident Insur-
20 ance Fund Corporation.

21 “(p) The chief administrative officer and the financial officer of each
22 common and union high school district, education service district and com-
23 munity college district.

24 “(q) Every member of the following state boards and commissions:

25 “(A) Governing board of the State Department of Geology and Mineral
26 Industries.

27 “(B) Oregon Business Development Commission.

28 “(C) State Board of Education.

29 “(D) Environmental Quality Commission.

30 “(E) Fish and Wildlife Commission of the State of Oregon.

- 1 “(F) State Board of Forestry.
- 2 “(G) Oregon Government Ethics Commission.
- 3 “(H) Oregon Health Policy Board.
- 4 “(I) Oregon Investment Council.
- 5 “(J) Land Conservation and Development Commission.
- 6 “(K) Oregon Liquor Control Commission.
- 7 “(L) Oregon Short Term Fund Board.
- 8 “(M) State Marine Board.
- 9 “(N) Mass transit district boards.
- 10 “(O) Energy Facility Siting Council.
- 11 “(P) Board of Commissioners of the Port of Portland.
- 12 “(Q) Employment Relations Board.
- 13 “(R) Public Employees Retirement Board.
- 14 “(S) Oregon Racing Commission.
- 15 “(T) Oregon Transportation Commission.
- 16 “(U) Water Resources Commission.
- 17 “(V) Workers’ Compensation Board.
- 18 “(W) Oregon Facilities Authority.
- 19 “(X) Oregon State Lottery Commission.
- 20 “(Y) Pacific Northwest Electric Power and Conservation Planning Coun-
21 cil.
- 22 “(Z) Columbia River Gorge Commission.
- 23 “(AA) Oregon Health and Science University Board of Directors.
- 24 “(BB) Capitol Planning Commission.
- 25 “(CC) Higher Education Coordinating Commission.
- 26 “(DD) Oregon Growth Board.
- 27 “(EE) Early Learning Council.
- 28 “(r) The following officers of the State Treasurer:
- 29 “(A) Deputy State Treasurer.
- 30 “(B) Chief of staff for the office of the State Treasurer.

1 “(C) Director of the Investment Division.

2 “(s) Every member of the board of commissioners of a port governed by
3 ORS 777.005 to 777.725 or 777.915 to 777.953.

4 “(t) Every member of the board of directors of an authority created under
5 ORS 441.525 to 441.595.

6 “(u) Every member of a governing board of a public university listed in
7 ORS 352.002.

8 “(v) Every member of the board of directors of an authority created under
9 ORS 465.600 to 465.621.

10 “(2) By April 15 next after the date an appointment takes effect, every
11 appointed public official on a board or commission listed in subsection (1)
12 of this section shall file with the Oregon Government Ethics Commission a
13 statement of economic interest as required under ORS 244.060, 244.070 and
14 244.090.

15 “(3) By April 15 next after the filing deadline for the primary election,
16 each candidate described in subsection (1) of this section shall file with the
17 commission a statement of economic interest as required under ORS 244.060,
18 244.070 and 244.090.

19 “(4) Not later than the 40th day before the date of the statewide general
20 election, each candidate described in subsection (1) of this section who will
21 appear on the statewide general election ballot and who was not required to
22 file a statement of economic interest under subsections (1) to (3) of this
23 section shall file with the commission a statement of economic interest as
24 required under ORS 244.060, 244.070 and 244.090.

25 “(5) Subsections (1) to (3) of this section apply only to persons who are
26 incumbent, elected or appointed public officials as of April 15 and to persons
27 who are candidates on April 15.

28 “(6) If a statement required to be filed under this section has not been
29 received by the commission within five days after the date the statement is
30 due, the commission shall notify the public official or candidate and give the

1 public official or candidate not less than 15 days to comply with the re-
2 quirements of this section. If the public official or candidate fails to comply
3 by the date set by the commission, the commission may impose a civil pen-
4 alty as provided in ORS 244.350.

5 **“SECTION 24.** ORS 419A.211 is amended to read:

6 “419A.211. (1) If the child, ward, youth, youth offender, parent or guardian
7 is determined to be entitled to, and financially eligible for, appointment of
8 counsel at state expense in an appeal as provided in ORS 419A.200 and
9 419A.208, the court, upon request of the person or upon its own motion, shall
10 appoint suitable counsel to represent the person. Counsel appointed by the
11 court shall be paid compensation determined by the [*public defense services*]
12 executive director **of the Office of Public Defense Services** as provided in
13 ORS 135.055 if the circuit court is the appellate court or as provided in ORS
14 138.500 if the Court of Appeals or the Supreme Court is the appellate court.
15 The court may not substitute one appointed counsel for another except pur-
16 suant to the policies, procedures, standards and guidelines of the Public De-
17 fense Services Commission.

18 “(2)(a) When the court appoints counsel to represent the child, ward,
19 youth or youth offender, it may order the parent, if able, or guardian of the
20 estate, if the estate is able, to pay to the Public Defense Services Account
21 established by ORS 151.225, through the clerk of the court, in full or in part
22 the administrative costs of determining the ability of the parents or estate
23 to pay for legal services and the costs of the legal and other services that
24 are related to the provision of appointed counsel.

25 “(b) The test of the parent’s or estate’s ability to pay costs under para-
26 graph (a) of this subsection is the same test as applied to appointment of
27 counsel for defendants under ORS 151.216. If counsel is provided at state
28 expense, the court shall apply this test in accordance with the guidelines
29 adopted by the Public Defense Services Commission under ORS 151.485.

30 “(c) If counsel is provided at state expense, the court shall determine the

1 amount the parents or estate is required to pay for the costs of administra-
2 tive, legal and other services related to the provision of appointed counsel
3 in the same manner as this amount is determined under ORS 151.487.

4 “(d) The court’s order of payment is enforceable in the same manner as
5 an order of support under ORS 419B.408 and 419C.600.

6 “(3) When the court appoints counsel and the child, ward, youth, youth
7 offender, parent or guardian has been determined to be entitled to, and fi-
8 nancially eligible for, appointed counsel at state expense, the compensation
9 for counsel and costs and expenses necessary to the appeal shall be deter-
10 mined and paid as provided in ORS 135.055 if the circuit court is the appel-
11 late court or as provided in ORS 138.500 if the Court of Appeals or the
12 Supreme Court is the appellate court.

13 **“SECTION 25.** ORS 419C.380 is amended to read:

14 “419C.380. (1) An evaluation ordered under ORS 419C.378 must be con-
15 ducted by a psychiatrist, a licensed psychologist or a regulated social
16 worker. If an evaluation is requested, the party at whose request the evalu-
17 ation was ordered shall notify the court and other parties of the date, time
18 and location of the evaluation and the name of the evaluator chosen by the
19 party. A party or the court may submit written information to the evaluator
20 for consideration. When written information that has not been provided to
21 the court or an opposing party is submitted to the evaluator, the party sub-
22 mitting the written information to the evaluator shall provide the written
23 information to the court and the opposing party.

24 “(2)(a) Upon motion of the youth, or upon the court’s own motion, a court
25 shall determine whether the youth is financially eligible under the policies,
26 procedures, standards and guidelines of the Public Defense Services Com-
27 mission.

28 “(b) If a county court or justice court determines that the youth is fi-
29 nancially eligible, the court shall order the county to pay the fees and costs
30 described in subsection (3) of this section from funds available for that pur-

1 pose.

2 “(c) If a circuit court determines that the youth is financially eligible, the
3 court shall order the [*public defense services*] executive director **of the Of-**
4 **ice of Public Defense Services** to pay the fees and costs described in
5 subsection (3) of this section from funds available for that purpose.

6 “(3) If a court determines that a youth is financially eligible under sub-
7 section (2) of this section, the court shall order that:

8 “(a) A reasonable fee be paid to a psychiatrist, licensed psychologist or
9 regulated social worker in private practice who conducts the evaluation; and

10 “(b) All costs, including transportation of the youth, be paid if the eval-
11 uation is conducted by a psychiatrist, licensed psychologist or regulated so-
12 cial worker employed by the Department of Human Services or is conducted
13 by a community mental health program or community developmental disa-
14 bilities program established under ORS 430.610 to 430.695.

15 “(4) If an evaluation is ordered under ORS 419C.378 at the request of or
16 with the acquiescence of a youth, and the youth is determined not to be fi-
17 nancially eligible under subsection (2) of this section, the evaluation shall
18 be performed at the youth’s expense.

19 “(5) If an evaluation is ordered under ORS 419C.378 at the request of the
20 district attorney or juvenile department, the county shall pay for the expense
21 of the evaluation.

22 “(6) After a motion is made by the court or the youth under ORS 419C.378
23 (3), the state shall have the right to seek an independent evaluation at its
24 own expense.

25 “(7) A youth may not be removed from the youth’s current placement for
26 the purpose of an evaluation performed under this section unless the youth
27 has been placed in a detention facility as defined in ORS 419A.004 or a youth
28 correction facility as defined in ORS 420.005.

29 **“SECTION 26.** ORS 419C.535 is amended to read:

30 “419C.535. (1) If the juvenile panel of the Psychiatric Security Review

1 Board determines that a young person about whom a hearing under ORS
2 419C.532 is being held is financially eligible, the juvenile panel shall appoint
3 suitable counsel to represent the young person. Counsel appointed must be
4 an attorney who satisfies the professional qualification standards established
5 by the Public Defense Services Commission under ORS 151.216. The [*public*
6 *defense services*] executive director **of the Office of Public Defense Ser-**
7 **vices** shall determine and allow fair compensation for counsel appointed
8 under this subsection and the reasonable expenses of the young person in
9 respect to the hearing. Compensation payable to appointed counsel may not
10 be less than the applicable compensation level established under ORS
11 151.216. The [*public defense services*] executive director shall pay compen-
12 sation and expenses allowed from funds available for that purpose.

13 “(2) When the juvenile panel appoints counsel to represent the young
14 person, the juvenile panel may order the young person, if able, parent, if
15 able, or guardian of the estate, if the estate is able, to pay to the Public
16 Defense Services Account established by ORS 151.225, through the clerk of
17 the court, in full or in part, the administrative costs of determining the
18 ability of the young person, parent or estate to pay for legal services and the
19 costs of the legal and other services that are related to the provision of ap-
20 pointed counsel. The juvenile panel’s order of payment may be entered in the
21 County Clerk Lien Record and enforced as provided in ORS 205.126.

22 “(3) The test of the young person’s, parent’s or estate’s ability to pay costs
23 under subsection (2) of this section is the same test as applied to appoint-
24 ment of counsel for defendants under ORS 135.050 or under the rules adopted
25 under ORS 151.216. If counsel is provided at state expense, the juvenile panel
26 shall apply this test in accordance with the guidelines adopted by the Public
27 Defense Services Commission under ORS 151.485.

28 “(4) If counsel is provided at state expense, the juvenile panel shall de-
29 termine the amount the young person, parent or estate is required to pay for
30 the costs of administrative, legal and other services related to the provision

1 of appointed counsel in the same manner as this amount is determined under
2 ORS 151.487.

3 “(5) The Attorney General may represent the state at contested hearings
4 before the juvenile panel unless the district attorney of the county in which
5 the young person was adjudicated elects to represent the state. The district
6 attorney of the county in which the young person was adjudicated shall co-
7 operate with the Attorney General in securing the material necessary for
8 presenting a contested hearing before the juvenile panel. If the district at-
9 torney elects to represent the state, the district attorney shall give timely
10 written notice to the Attorney General, the juvenile panel and the attorney
11 representing the young person.

12 **“SECTION 27.** ORS 426.135 is amended to read:

13 “426.135. If a person determined to be a person with mental illness as
14 provided in ORS 426.130, or determined to be an extremely dangerous person
15 with mental illness under ORS 426.701 or 426.702, appeals the determination
16 or the disposition, and is determined to be financially eligible for appointed
17 counsel at state expense, upon request of the person or upon its own motion,
18 the court shall appoint suitable legal counsel to represent the person. The
19 compensation for legal counsel and costs and expenses necessary to the ap-
20 peal shall be determined and paid by the [*public defense services*] executive
21 director **of the Office of Public Defense Services** as provided in ORS
22 135.055 if the circuit court is the appellate court or as provided in ORS
23 138.500 if the Court of Appeals or Supreme Court is the appellate court. The
24 compensation, costs and expenses shall be paid as provided in ORS 138.500.

25 **“SECTION 28.** ORS 426.250 is amended to read:

26 “426.250. The following is a nonexclusive list of responsibilities for pay-
27 ment of various costs related to commitment proceedings under this chapter
28 as described:

29 “(1) Any physician or qualified professional recommended by the Oregon
30 Health Authority who is employed under ORS 426.110 to make an examina-

1 tion as to the mental condition of a person alleged to have a mental illness
2 shall be allowed a fee as the court in its discretion determines reasonable
3 for the examination.

4 “(2) Witnesses subpoenaed to give testimony shall receive the same fees
5 as are paid in criminal cases, and are subject to compulsory attendance in
6 the same manner as provided in ORS 136.567 to 136.603. The attendance of
7 out-of-state witnesses may be secured in the same manner as provided in ORS
8 136.623 to 136.637. The party who subpoenas the witness or requests the court
9 to subpoena the witness is responsible for payment of the cost of the
10 subpoena and payment for the attendance of the witness at a hearing. When
11 the witness has been subpoenaed on behalf of a person alleged to have a
12 mental illness who is represented by appointed counsel, the fees and costs
13 allowed for that witness shall be paid pursuant to ORS 135.055. If the costs
14 of witnesses subpoenaed by the person are paid as provided under this sub-
15 section, the procedure for subpoenaing witnesses shall comply with ORS
16 136.570.

17 “(3) If a person with a right to a counsel under ORS 426.100, 426.701 or
18 426.702 is determined to be financially eligible for appointed counsel at state
19 expense, the [*public defense services*] executive director **of the Office of**
20 **Public Defense Services** shall determine and pay, as provided in ORS
21 135.055, the reasonable expenses related to the representation of the person
22 and compensation for legal counsel. The expenses and compensation so al-
23 lowed shall be paid by the [*public defense services*] executive director from
24 funds available for the purpose.

25 “(4) The authority shall pay the costs of expenses incurred under ORS
26 426.100 by the Attorney General’s office. Any costs for district attorneys or
27 other counsel appointed to assume responsibility for presenting the state’s
28 case shall be paid by the county where the commitment hearing is held,
29 subject to reimbursement under ORS 426.310.

30 “(5) All costs incurred in connection with a proceeding under ORS

1 426.180, 426.701 or 426.702, including the costs of transportation, commitment
2 and delivery of the person, shall be paid by the community mental health
3 program in the county of which the person is a resident. If the person is not
4 a resident of this state, then the costs incurred in connection with the pro-
5 ceeding shall be paid by the community mental health program in the county
6 from which the emergency admission was made.

7 “(6) All costs incurred in connection with a proceeding under ORS 426.180
8 for the commitment of a person from a reservation, including the cost of
9 transportation, commitment and delivery of the person, shall be paid by the
10 governing body of the reservation of which the person is a resident.

11 **“SECTION 29.** ORS 427.265 is amended to read:

12 “427.265. (1) At the time that a person who is alleged to have an intel-
13 lectual disability and to be in need of commitment for residential care,
14 treatment and training is brought before the court, the court shall advise the
15 person of the reason for being brought before the court, the nature of the
16 proceedings and the possible results of the proceedings. The court shall also
17 advise the person of the right to subpoena witnesses and to suitable legal
18 counsel possessing skills and experience commensurate with the nature of
19 the allegations and complexity of the case during the proceedings, and that
20 if the person does not have funds with which to retain suitable legal counsel,
21 the court shall appoint such legal counsel to represent the person. If the
22 person does not request legal counsel, the legal guardian, relative or friend
23 may request the assistance of legal counsel on behalf of the person.

24 “(2) If no request for legal counsel is made, the court shall appoint suit-
25 able legal counsel.

26 “(3) If the person is unable to afford legal counsel, the court, if the matter
27 is before a county or justice court, or the [*public defense services*] executive
28 director **of the Office of Public Defense Services**, if the matter is before
29 the circuit court, shall determine and allow, as provided in ORS 135.055, the
30 reasonable expenses of the person and compensation for legal counsel. The

1 expenses and compensation so allowed by a county court shall be paid by the
2 county of residence of the person. The expenses and compensation determined
3 by the [*public defense services*] executive director shall be paid by the [*public*
4 *defense services*] executive director from funds available for the purpose. In
5 all cases legal counsel shall be present at the hearing and may examine all
6 witnesses offering testimony, and otherwise represent the person.

7 “(4) The court may, for good cause, postpone the hearing for not more
8 than 72 hours to allow preparation for the hearing and order the continua-
9 tion of detention authorized under ORS 427.255 during a postponement, if
10 requested by the person, the legal counsel, parent or guardian of the person,
11 an examiner or on the court’s own motion.

12 **“SECTION 30.** ORS 427.295 is amended to read:

13 “427.295. If a person appeals a commitment order issued under ORS
14 427.290, the court, upon request of the person or upon its own motion and
15 upon finding that the person is financially eligible for appointed counsel at
16 state expense, shall appoint suitable legal counsel to represent the person.
17 The compensation for legal counsel and costs and expenses necessary to the
18 appeal shall be determined and paid by the [*public defense services*] executive
19 director **of the Office of Public Defense Services** as provided in ORS
20 135.055 if the circuit court is the appellate court or as provided in ORS
21 138.500 if the Court of Appeals or Supreme Court is the appellate court. The
22 compensation, costs and expenses so allowed shall be paid as provided in
23 ORS 138.500.

24 **“SECTION 31.** ORS 433.466 is amended to read:

25 “433.466. (1) A person or group of persons subject to isolation or
26 quarantine or other public health measure pursuant to ORS 433.121 or
27 433.123 has the right to be represented by legal counsel if the person or
28 group of persons so elects. If the person or group of persons requests legal
29 counsel and cannot afford counsel, the court shall appoint legal counsel. If
30 no request for legal counsel is made, the court must appoint legal counsel

1 unless counsel is expressly, knowingly and intelligently refused by the person
2 or the group of persons. The person or the group of persons may request le-
3 gal counsel at any time during the period of imposition of the isolation,
4 quarantine or other public health measure.

5 “(2) If a person is unable to afford legal counsel, the [*public defense ser-*
6 *vices*] executive director **of the Office of Public Defense Services** shall
7 determine and pay, as provided in ORS 135.055, the reasonable expenses of
8 the person and compensation for legal counsel appointed to represent the
9 person.

10

11

“MISCELLANEOUS

12

13 **“SECTION 32. Section 7 of this 2019 Act is repealed on December**
14 **31, 2021.**

15 **“SECTION 33. The unit captions used in this 2019 Act are provided**
16 **only for the convenience of the reader and do not become part of the**
17 **statutory law of this state or express any legislative intent in the**
18 **enactment of this 2019 Act.**

19 **“SECTION 34. This 2019 Act being necessary for the immediate**
20 **preservation of the public peace, health and safety, an emergency is**
21 **declared to exist, and this 2019 Act takes effect on its passage.”.**

22
