

HB 4004 STAFF MEASURE SUMMARY

Carrier: Rep. Sanchez

House Committee On Judiciary

Action Date: 02/07/20

Action: Do Pass.

Vote: 10-0-1-0

Yeas: 10 - Barker, Bynum, Lawrence Spence, Lewis, Moore-Green, Noble, Piluso, Power, Sanchez, Sprenger

Exc: 1 - Greenlick

Fiscal: Has minimal fiscal impact

Revenue: No revenue impact

Prepared By: Addie Smith, Counsel

Meeting Dates: 2/3, 2/7

WHAT THE MEASURE DOES:

Expands membership of the Public Defense Services Commission (PDSC) from seven to nine members. Requires the adoption of specific policies by the PDSC for contracting with public defense providers. Requires a report to the Legislative Assembly by March 1, 2021. Declares emergency; effective upon passage.

ISSUES DISCUSSED:

- Authority of Public Defense Services Commission to promulgate rules
- Chief Justice appointment authority over PDSC
- Sixth Amendment Center Report on Oregon's Public Defense System

EFFECT OF AMENDMENT:

No amendment.

BACKGROUND:

In Oregon, the Public Defense Services Commission (PDSC) oversees the Office of Public Defense Services (OPDS), which is the state agency responsible for establishing and maintaining a public defense system that provides effective defense counsel for indigent defendants in criminal proceedings, youth in delinquency proceedings, and parents and children in dependency proceedings.

In 2018, the Sixth Amendment Center, a nonpartisan, nonprofit organization that provides technical assistance and evaluation services to policymakers focusing on the constitutional requirement to provide effective assistance of counsel, assessed the PDSC, OPDS, and the systems they maintain to provide public defense for indigent defendants in Oregon's criminal justice system. The assessment found,

"[T]he state has created a complex bureaucracy that collects a significant amount of indigent defense data, yet does not provide sufficient oversight or financial accountability. In some instances, the complex bureaucracy is itself a hindrance to effective assistance of counsel. Moreover, the report concludes that this complex bureaucracy obscures an attorney compensation plan that is at root a fixed fee contract system that pits appointed lawyers' financial self-interest against the due process rights of their clients, and is prohibited by national public defense standards."

House Bill 4004 makes changes to the composition of the PDSC, requires the PDSC's adoption of specific policies to correct for constitutional concerns and the need for increased oversight, and requires a report to the Legislative Assembly on these efforts by March 1, 2021.