

D R A F T

SUMMARY

Authorizes Public Defense Services Commission to award grants for purpose of carrying out duties of commission.

A BILL FOR AN ACT

Relating to Public Defense Services Commission; amending ORS 151.216 and 151.225.

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

SECTION 1. ORS 151.216 is amended to read:

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

(a) Establish and maintain a public defense system that ensures the provision of public defense services consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

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

(c) Adopt policies for contracting for public defense providers not employed by the office of public defense services that:

(A) Ensure compensation, resources and caseloads are in accordance with national and regional best practices;

(B) Promote policies for public defense provider compensation and resources that are comparable to prosecution compensation and resources;

(C) Ensure funding and resources to support required data collection and training requirements; and

(D) Recognize the need to consider overhead costs that account for the

1 cost of living and business cost differences in each county or jurisdiction,
2 including but not limited to rent, professional membership dues, malpractice
3 insurance and other insurance and other reasonable and usual operating
4 costs.

5 (d) Establish operational and contracting systems that allow for over-
6 sight, ensure transparency and stakeholder engagement and promote equity,
7 inclusion and culturally specific representation.

8 (e) Review the caseload policies described in paragraph (c)(A) of this
9 subsection annually, and revise the policies as necessary and at least every
10 four years.

11 (f) Adopt a statewide workload plan, based on the caseload policies de-
12 scribed in paragraph (c)(A) of this subsection, that takes into account the
13 needs of each county or jurisdiction, practice structure and type of practice
14 overseen by the office of public defense services.

15 (g) Submit the budget of the commission and the office of public defense
16 services to the Legislative Assembly after the budget is submitted to the
17 commission by the director and approved by the commission. The Chief Jus-
18 tice of the Supreme Court and the chairperson of the commission shall
19 present the budget to the Legislative Assembly.

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

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

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

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

28 (B) The appointment of counsel, including the appointment of counsel at
29 state expense regardless of financial eligibility in juvenile delinquency mat-
30 ters;

31 (C) The fair compensation of counsel appointed to represent a person fi-

1 nancially eligible for appointed counsel at state expense;

2 (D) Appointed counsel compensation disputes;

3 (E) Any other costs associated with the representation of a person by
4 appointed counsel in the state courts that are required to be paid by the
5 state under ORS 34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365,
6 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408,
7 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315
8 or any other provision of law that expressly provides for payment of such
9 compensation, costs or expenses by the commission;

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

12 (G) Performance for legal representation;

13 (H) The contracting of public defense services;

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

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

18 (k) Establish a peer review system for the approval of nonroutine fees and
19 expenses incurred in cases involving aggravated murder and the crimes listed
20 in ORS 137.700 and 137.707. The review shall be conducted by a panel of at-
21 torneys who practice in the area of criminal defense.

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

25 (m) Reimburse the State Court Administrator from funds deposited in the
26 Public Defense Services Account established by ORS 151.225 for the costs of
27 personnel and other costs associated with location of eligibility verification
28 and screening personnel pursuant to ORS 151.489 by the State Court Ad-
29 ministrator.

30 (2) Policies, procedures, standards and guidelines adopted by the commis-
31 sion supersede any conflicting rules, policies or procedures of the Public

1 Defender Committee, State Court Administrator, circuit courts, the Court of
2 Appeals, the Supreme Court and the Psychiatric Security Review Board re-
3 lated to the exercise of the commission's administrative responsibilities un-
4 der this section and transferred duties, functions and powers as they occur.

5 (3) The commission may accept gifts, grants or contributions from any
6 source, whether public or private. However, the commission may not accept
7 a gift, grant or contribution if acceptance would create a conflict of interest.
8 Moneys accepted under this subsection shall be deposited in the Public De-
9 fense Services Account established by ORS 151.225 and expended for the
10 purposes for which given or granted.

11 **(4) The commission may:**

12 **(a) Award grants from funds appropriated by the Legislative As-**
13 **sembly to the commission or from funds otherwise available from any**
14 **other source, for the purpose of carrying out the duties of the com-**
15 **mission.**

16 **(b) Adopt rules to carry out the provisions of this subsection.**

17 [(4)] **(5)** The commission may not:

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

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

20 (c) Interfere with the director or any member of the staff of the director
21 in carrying out professional duties involving the legal representation of
22 public defense clients.

23 **SECTION 2.** ORS 151.225 is amended to read:

24 151.225. (1) The Public Defense Services Account is established in the
25 State Treasury, separate and distinct from the General Fund. The Public
26 Defense Services Account is continuously appropriated to the Public Defense
27 Services Commission for:

28 (a) Administration and support of the public defense system;

29 (b) Reimbursement of the State Court Administrator under ORS 151.216

30 (1)(m); [and]

31 (c) Legal representation of parents and children involved in foster care

1 for which matching funds under 45 C.F.R. 1356.60(c) may be used[.]; **and**

2 **(d) Awarding grants under ORS 151.216.**

3 (2) The following moneys shall be deposited in the Public Defense Ser-
4 vices Account:

5 (a) Moneys received by the commission from the State Court Adminis-
6 trator under ORS 151.216 (1)(m);

7 (b) Moneys received by the Judicial Department under ORS 135.050 (8),
8 151.487 (1), 419A.211 or 419B.198 (1);

9 (c) Federal matching funds received under 45 C.F.R. 1356.60(c); [*and*]

10 (d) Miscellaneous revenues and receipts of the commission[.]; **and**

11 **(e) Moneys appropriated by the Legislative Assembly for deposit in**
12 **the account.**

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

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