

SUBCOMMITTEE RECOMMENDATION

SB 337 Relating to Public Defense

To: Ways and Means Full Committee
From: Public Safety Subcommittee
Carrier: Representative Evans

SB 337 reforms the public defense system and seeks to address the unrepresented defendant/persons crisis. The measure declares an emergency and is effective on passage; however, the measure includes various operative dates, and includes the repeal of select provisions.

Major public defense system reform provisions include:

- Modifies the composition of the Public Defense Service Commission, renames the commission to the Oregon Public Defense Commission, and abolishes the Office of Public Defense Services
- Transfers the commission from the judicial branch to the executive branch with an operative date of January 1, 2025
- Disallows economic incentives in the pay structure and prohibits a flat fee model
- Requires commission to hire trial-level employee attorneys
- Requires the commission to contract directly with providers and prohibits subcontracting with an exception for nonprofits
- Requires the commission to develop rules, standards, and provide oversight, and the collect data as well as directs reporting to the Legislative Assembly

Provisions related to unrepresented defendant/persons crisis include:

- Directs the presiding judge of each judicial district to develop and implement a coordinated public safety unrepresented defendant crisis plan and submit the plan to Oregon Criminal Justice Commission no later than September 1, 2023.
- Directs presiding judges of judicial districts with a population over 100,000 to convene a crisis team comprised of at least the presiding judge, district attorney(s), and the Executive Director of the PDSC or director's designee, to coordinate the development and implementation of a crisis plan.
- Directs the Criminal Justice Commission to conduct a review of each judicial district's coordinated public safety unrepresented defendant crisis plan and report to the legislature by no later than October 1, 2023.
- Directs PDSC to promulgate and disseminate guidance related to the development of judicial district and develop a training plan for public defense providers.

The budget provisions of the measure relating to the unrepresented defendant/persons crisis total \$7.4 million General Fund and includes \$1.9 million and 29 positions for the Judicial Department and \$5.5 million and 17 positions for PDSC for a pilot program for the hiring of state employees to serve as trial-level appointed counsel.

The budget provisions of the measure relating to the reform of public defense system total \$34.9 million General Fund and includes funding for the compensation of commission members, continued funding of a financial and case management system, increases in hourly pay for attorneys, investigators, and interpreters, a one-time incentive compensation for the retention of contract providers, and staffing for PDSC, among other intertreatment.

The provisions of the measure related to calculating and then adjusting the rate of hourly pay by a cost-of-living factor for panel counsel is indeterminate.

Outside the scope of a two-biennia fiscal impact is Oregon Public Defense Commission moving to a model of at least 20% state employees and 80% contract providers by January 1, 2031, and then moving to a model of at least 30% state employees and 70% contract providers by January 1, 2035.

The Public Safety Subcommittee recommends SB 337 be amended by the –B10 amendment and be reported out do pass, as amended.