Delete pages 2 through 12 of the printed A-engrossed bill.

On page 13, delete lines 1 through 3 and insert:

"SECTION 1. ORS 151.211 is amended to read:

"151.211. For purposes of ORS 151.211 to 151.221:

"[(1) 'Bar member' means an individual who is an active member of the Oregon State Bar.]

"[(2)] (1) ‘Chief Justice’ means the Chief Justice of the Supreme Court.


"[(4) 'Director' means the public defense services executive director appointed under ORS 151.216.]

"[(5) 'Office of public defense services’ means the office established by the commission under the director to handle the cases assigned and to carry out the administrative policies and procedures for the public defense system.]

"SECTION 2. ORS 151.213 is amended to read:

"151.213. (1) The [Public Defense Services Commission] Oregon Public Defense Commission is established in the judicial branch of state government. Except for the appointment or removal of commission members, the commission and employees of the commission are not subject to the exercise of administrative authority and supervision by the Chief Justice of the Supreme Court as the administrative head of the Judicial Department.

"(2)(a) [The commission consists of] Nine voting members and four nonvoting members shall be appointed to the commission by order of the Chief Justice. In addition to the nine appointed members, the Chief Justice serves as a nonvoting, ex officio member. The Chief Justice shall appoint at least three persons who are not bar members, at least one person who was formerly engaged in the provision of public defense services and at least one person who has been formerly represented by a public defense provider in this state. All members must have a demonstrated record of commitment to public defense. Except for the Chief Justice or a senior judge under ORS 1.300, a member may not serve concurrently as a judge, a prosecuting attorney or an employee of a law enforcement agency. A person who is primarily engaged in providing public defense services may not serve as a member of the commission.] as follows:

"(A) The Chief Justice shall appoint:

"(i) One voting member who is a retired judge.

"(ii) Two additional voting members, one of whom has experience as a public defense provider in criminal cases.

"(B) The Chief Justice shall appoint, from among persons recommended by the Governor:

"(i) One voting member who has been represented by a public defense provider.
“(ii) Two additional voting members, one of whom has experience as a public defense provider in juvenile delinquency or dependency cases.

“(iii) Two nonvoting members who are currently employed as public defense providers in this state, one of whom is from an urban area and one of whom is from a rural area.

“(C) The Chief Justice shall appoint, from among persons recommended by the President of the Senate:

“(i) One voting member who is a current dean or faculty member of an Oregon law school.

“(ii) One nonvoting member who is a member of the Senate at the time of appointment.

“(D) The Chief Justice shall appoint, from among persons recommended by the Speaker of the House of Representatives:

“(i) One voting member who has expertise in juvenile law and criminal defense, or who is a juvenile justice or criminal justice reform advocate.

“(ii) One nonvoting member who is a member of the House of Representatives at the time of appointment.

“(E) The Chief Justice shall appoint one voting member from among persons jointly recommended by the President of the Senate and the Speaker of the House of Representatives.

“(b) When recommending and appointing members of the commission, the Chief Justice, Governor, President of the Senate and Speaker of the House of Representatives shall:

“(A) Consider input from individuals and organizations with an interest in the delivery of public defense services.

“(B) Consider geographic, racial, ethnic and gender diversity.

“(C) Ensure that members appointed to the commission have significant experience with issues related to public defense or in the case types subject to representation by public defense providers.

“(D) Ensure that members appointed to the commission have demonstrated a strong commitment to quality public defense representation.

“(c) The following persons may not be appointed to and may not serve as members of the commission:

“(A) A prosecuting attorney.

“(B) A judge, magistrate or other person who performs judicial functions.

“(C) An employee of a law enforcement agency or the Department of Human Services.

“(d) A person who is primarily engaged in providing public defense services and who has a financial interest in the delivery of public defense services at the state level may not serve as a voting member of the commission.

“(e) As used in this subsection, ‘law enforcement agency’ means an entity that employs corrections officers, parole and probation officers, police officers, certified reserve officers or reserve officers, as those terms are defined in ORS 181A.355.

“(3) The term of a member is four years beginning on the effective date of the order of the Chief Justice appointing the member. A member is eligible for reappointment if qualified for membership at the time of reappointment, but may serve no more than two consecutive four-year terms. [A member may be removed from the commission by order of the Chief Justice.] The Chief Justice may remove any member of the commission at any time for cause. If a vacancy occurs for any cause before the expiration of the term of a member, the Chief Justice shall make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to become imme-
diately effective for the unexpired term. If the Chief Justice has not filled a vacancy within 45
days after the vacancy occurs, the remaining voting members of the commission shall, by a
majority vote, select a member to fill the vacancy for the remainder of the term. The se-
lected member must meet the requirements for membership described in this section.

“(4) A chairperson and a vice chairperson shall be [appointed by order of the Chief Justice] elected by the voting members of the commission every two years with such functions as the
commission may determine. A member is eligible for [reappointment] reelection as chairperson or
vice chairperson.

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

“(6)(a) All members of the commission shall:

“(A) Review the policies, procedures, standards and guidelines required by ORS 151.216
and provide input before the approval vote described in paragraph (b) of this subsection.

“(B) Review the budget of the commission and provide input before the approval vote
described in paragraph (b) of this subsection.

“(C) Meet as needed to carry out the duties described in this subsection.

“(b) The voting members of the commission shall:

“(A) Appoint, by a two-thirds vote, an executive director for a term of office of four
years. The term may be terminated for cause by a majority vote of the voting members after
notice and a hearing. When the term of an executive director ends without termination, the
voting members of the commission may reappoint the person currently in the position by a
majority vote.

“(B) Upon the vacancy of the executive director position, immediately designate an acting
executive director by a majority vote.

“(C) Approve by majority vote the policies, procedures, standards and guidelines required
by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.

“(D) Approve by majority vote the budget of the commission before submission to the
Legislative Assembly.

“(7) The members of the commission may not:

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

“(b) Have access to any case file; or

“(c) Interfere with the executive director or any member of the staff of the executive
director in carrying out professional duties involving the legal representation of public de-
defense clients.

“[(6)] (8) A member of the commission is [not] entitled to compensation for services as a member,
[but is entitled] and to expenses, as provided in ORS 292.495 [(2)].

“SECTION 3. ORS 151.216 is amended to read:

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) (b) 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] Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

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

“(d) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

“(e) Review the caseload policies described in paragraph [(c)(A)] (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

“(f) Adopt a statewide workload plan, based on the caseload policies described in paragraph [(c)(A)] (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the [office of public defense services] commission.

“(g) Submit the budget of the commission [and the office of public defense services] to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall present the budget to the Legislative Assembly.

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

“(i) Adopt a compensation plan, classification system and [personnel] affirmative action plan for the [office of public defense services] commission that are commensurate with other state agencies.

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

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

“(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

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

“(D) Appointed counsel compensation disputes;

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

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

“(G) Performance for legal representation;]
“[(H) The contracting of public defense services;]

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

“(F) The types of fees and expenses subject to a preauthorization requirement.

“(I) Any other matters necessary to carry out the duties of the commission.]

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

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

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

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

“(m) (i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

“(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

“(k) Set minimum standards by which appointed counsel are trained and supervised.

“(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

“(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

“(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

“(o) Develop standard operating expectations for persons and entities providing public defense services.

“(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

“(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

“(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population fore-
casts and other related forecasts.

“(s) Pay invoices submitted to the commission within 45 days of receipt or in accordance with statewide accounting policies established by the Oregon Department of Administrative Services.

“(t) Establish any other policies, procedures, standards and guidelines for the conduct of the commission’s affairs and promulgate policies necessary to carry out all powers and duties of the commission.

“(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

“(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

“(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel's ability to provide effective representation.

“(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

“(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

“(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

“(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

“(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

“(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and may establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

“(5) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission’s website.

“[(2)] (6) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission’s administrative responsibilities under this section and transferred duties, functions and powers as they occur.

“[(3)] (7) The commission may accept gifts, grants or contributions from any source, whether public or private. However, the commission may not accept a gift, grant or contribution if acceptance would create a conflict of interest. Moneys accepted under this subsection shall be deposited in the Public Defense Services Account established by ORS 151.225 and expended for the purposes for which given or granted.
“(d) The commission may not:
“(a) Make any decision regarding the handling of any individual case;
“(b) Have access to any case file; or
“(c) Interfere with the director or any member of the staff of the director in carrying out profes-
sional duties involving the legal representation of public defense clients.”

SECTION 4. ORS 151.219 is amended to read:
“151.219. (1) The public defense services executive director of the Oregon Public Defense
Commission shall:
“(a) Designate a deputy director of the commission who serves at the pleasure of the
executive director.
“(b) Hire necessary staff for the commission.
“(a) Recommend to the Public Defense Services commission how to establish and maintain,
in a cost-effective manner, the delivery of legal services to persons entitled to, and, where applica-
ble, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon
Constitution, the United States Constitution and consistent with Oregon and national standards of
justice.
“(b) Implement and ensure compliance with contracts, policies, procedures, standards and
guidelines adopted by the commission or required by statute.
“(c) Prepare and submit to the commission for its approval the biennial budget of the
commission and the office of public defense services.
“(d) Negotiate contracts, as appropriate, for providing legal services to persons eligible for
appointed counsel at state expense. [No contract so negotiated is binding or enforceable until the
contract has been reviewed and approved by the commission as provided in ORS 151.216.]
“(e) Employ personnel or contract for services as necessary to carry out the responsibilities
of the executive director and the office of public defense services commission.
“(f) Supervise the personnel, operation and activities of the office of public defense
services commission.
“(g) Provide services, facilities and materials necessary for the performance of the duties,
functions and powers of the Public Defense Services commission.
“(h) Pay the expenses of the commission and the office of public defense services.
“(i) Prepare and submit to the members of the office of public defense services
commission an annual report of the activities of the office of public defense services commission.
“(j) Prepare and submit to the Legislative Assembly a biennial report on the activities of the
office of public defense services.
“(k) Provide for legal representation, advice and consultation for the commission, its
members, the executive director and staff of the office of public defense services commission who
require such services or who are named as defendants in lawsuits arising from their duties, functions
and responsibilities. If requested by the executive director, the Attorney General may also provide
for legal representation, advice and consultation for the commission, its members, the executive
director and staff of the office of public defense services commission in litigation.
“(2) The executive director may:
“(a) Designate persons as representatives of the executive director for the purposes of deter-
mining and paying bills submitted to the office of public defense services commission and deter-
mining preauthorization for incurring fees and expenses under ORS 135.055.
“(b) Establish an external advisory group to assist in developing the standard operating
expectations for persons and entities providing public defense services.

*SECTION 5.* ORS 151.221 is amended to read:

> 151.221. Officers and employees of the [office of public defense services, who are appointed under a personnel plan adopted by the Public Defense Services Commission,] Oregon Public Defense Commission are state officers or employees in the exempt service and are not subject to ORS chapter 240.

*SECTION 6.* ORS 151.225 is amended to read:


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

> (b) Reimbursement of the State Court Administrator under ORS 151.216 [(1)(m)] (1)(i); and

> (c) Legal representation of parents and children involved in foster care for which matching funds under 45 C.F.R. 1356.60(c) may be used.

> (2) The following moneys shall be deposited in the Public Defense Services Account:

> (a) Moneys received by the commission from the State Court Administrator under ORS 151.216 [(1)(m)] (1)(i);

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

> (c) Federal matching funds received under 45 C.F.R. 1356.60(c); and

> (d) Miscellaneous revenues and receipts of the commission.

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

*SECTION 7.* ORS 135.055 is amended to read:

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

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

> (b) By the [public defense services] executive director of the Oregon Public Defense Commission from funds available for the purpose, in a proceeding in a circuit court.

> (2) Except for counsel appointed pursuant to contracts or counsel employed by the [public defense services executive director] Oregon Public Defense Commission, compensation payable to appointed counsel under subsection (1) of this section:

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

> (b) In a proceeding in a circuit court is subject to the applicable compensation established under ORS 151.216.

> (3)(a) A person determined to be eligible for appointed counsel is entitled to necessary and reasonable fees and expenses for investigation, preparation and presentation of the case for trial, negotiation and sentencing. The person or the counsel for the person shall upon written request secure preauthorization to incur fees and expenses that are not routine to representation but are necessary and reasonable in the investigation, preparation and presentation of the case and that require preauthorization under a policy of the Oregon Public Defense Commission, including but not limited to [nonroutine] travel, photocopying or other reproduction of [nonroutine] documents, necessary costs associated with obtaining the attendance of witnesses for the defense, investigator
fees and expenses, expert witness fees and expenses and fees for interpreters and assistive communication devices necessary for the purpose of communication between counsel and a client or witness in the case. Preauthorization to incur a fee or expense does not guarantee that a fee or expense incurred pursuant to the preauthorization will be determined to be necessary or reasonable when the fee or expense is submitted for payment.

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

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

“(d) Entitlement under subsection (7) of this section to payment for fees and expenses in circuit court is subject to the policies, procedures, standards and guidelines adopted under ORS 151.216. Entitlement to payment of [nonroutine] fees and expenses subject to a preauthorization requirement is dependent upon obtaining preauthorization from the court, if the case is in county or justice court, or from the [public defense services] executive director of the Oregon Public Defense Commission, if the case is in circuit court, except as otherwise provided in paragraph (c) of this subsection and in the policies, procedures, standards and guidelines adopted under ORS 151.216. Fees and expenses shall be paid:

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

“(B) By the [public defense services] executive director of the commission from funds available for the purpose, in respect to a proceeding in a circuit court.

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

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

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

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

“(7) In a circuit court, the total fees and expenses payable under this section must be submitted
to and are subject to review by the [public defense services] executive director of the Oregon Public Defense Commission. The [public defense services] executive director of the commission shall determine whether the amount is necessary, reasonable and properly payable from public funds for fees and expenses for representation in the case as provided by the policies, procedures, standards and guidelines of the [Public Defense Services Commission] commission. The [public defense services] executive director of the commission shall pay the amount of the fees and expenses determined necessary, reasonable and properly payable out of public funds. The court shall provide any information identified and requested by the [public defense services] executive director of the commission as needed for audit, statistical or any other purpose pertinent to ensure the proper disbursement of state funds or pertinent to the provision of appointed counsel compensated at state expense.

“(8) If the [public defense services] executive director of the Oregon Public Defense Commission denies, in whole or in part, fees and expenses submitted for review and payment, the person who submitted the payment request may appeal the decision to the presiding judge of the circuit court. The presiding judge or the designee of the presiding judge shall review the [public defense services] executive director’s decision for abuse of discretion. The decision of the presiding judge or the designee of the presiding judge is final.

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

“(a) Requests and administrative or court orders for preauthorization to incur [nonroutine] fees and expenses subject to a preauthorization requirement in the investigation, preparation and presentation of the case; and

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

“(10) Notwithstanding subsection (9) of this section, the total amount of moneys determined to be necessary and reasonable for [nonroutine] fees and expenses subject to a preauthorization requirement may be disclosed to the district attorney at the conclusion of the trial in the circuit court.

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

“SECTION 7a. (1) The Oregon Department of Administrative Services shall issue state public defense population forecasts including, but not limited to, expected populations of adults and juveniles eligible for appointed counsel, to be used by:

“(a) The Oregon Public Defense Commission, in preparing budget requests or for any other purpose determined necessary by the commission; or

“(b) Any other state agency concerned with the effect of public defense populations or policy developments on budgeting.

“(2) The department shall issue state public defense population forecasts on April 15 and October 15 of each year.

“(3) When the department issues a state public defense population forecast, the forecast must:

“(a) Discretely identify adult and juvenile populations that are eligible for appointed counsel categorized by either circuit or appellate court;

“(b) Identify the forecast’s margin of error for adult and juvenile populations; and

“(c) Attribute growth or decline in the forecast, relative to previously issued forecasts, to specific policies or to specific components of the baseline underlying the forecast.

“(4) The Oregon Public Defense Commission, the Oregon Criminal Justice Commission,
the Judicial Department and, if requested by the Oregon Department of Administrative Ser-
vice, any other state agency, shall provide the Oregon Department of Administrative Ser-
vices with any information necessary for the department to prepare the forecasts described
in this section.

“(5) As used in this section, ‘baseline underlying the forecast’ includes population demo-

graphics and crime trends.

+(Transfer of Duties)+

(SECTION 8. (1) The Public Defense Services Commission is abolished. On the operative
date of this section, the tenure of office of the members of the Public Defense Services
Commission ceases.

“(2) All of the duties, functions and powers of the Public Defense Services Commission,
except as those duties, functions and powers are modified by the amendments to ORS 151.213,
151.216 and 151.219 by sections 2 to 4 of this 2023 Act, are imposed upon, transferred to and

(SECTION 9. (1) The chairperson of the Public Defense Services Commission and the
public defense services executive director shall:

“(a) Deliver to the Oregon Public Defense Commission all records and property within
the jurisdiction of the chairperson and executive director that relate to the duties, functions
and powers transferred by section 8 of this 2023 Act; and

“(b) Transfer to the Oregon Public Defense Commission those employees engaged pri-

arily in the exercise of the duties, functions and powers transferred by section 8 of this
2023 Act.

“(2) The executive director of the Oregon Public Defense Commission shall take pos-
session of the records and property, and shall take charge of the employees and employ them
in the exercise of the duties, functions and powers transferred by section 8 of this 2023 Act,
without reduction of compensation but subject to change or termination of employment or
compensation as provided by law.

(SECTION 10. (1) The unexpended balances of amounts authorized to be expended by the
Public Defense Services Commission for the biennium beginning July 1, 2023, from revenues
dedicated, continuously appropriated, appropriated or otherwise made available for the pur-
pose of administering and enforcing the duties, functions and powers transferred by section
8 of this 2023 Act are transferred to and are available for expenditure by the Oregon Public
Defense Commission for the biennium beginning July 1, 2023, for the purpose of administer-
ing and enforcing the duties, functions and powers transferred by section 8 of this 2023 Act.

“(2) The expenditure classifications, if any, established by Acts authorizing or limiting
expenditures by the Public Defense Services Commission remain applicable to expenditures
by the Oregon Public Defense Commission under this section.

(SECTION 11. The transfer of duties, functions and powers to the Oregon Public Defense
Commission by section 8 of this 2023 Act does not affect any action, proceeding or prose-
cution involving or with respect to such duties, functions and powers begun before and
pending at the time of the transfer, except that the Oregon Public Defense Commission is
substituted for the Public Defense Services Commission in the action, proceeding or prose-
cution.
SECTION 12. (1) Nothing in this 2023 Act relieves a person of a liability, duty or obligation accruing under or with respect to the duties, functions and powers transferred by section 8 of this 2023 Act. The Oregon Public Defense Commission may undertake the collection or enforcement of any such liability, duty or obligation.

“(2) The rights and obligations of the Public Defense Services Commission legally incurred under contracts, leases and business transactions executed, entered into or begun before the operative date of section 8 of this Act are transferred to the Oregon Public Defense Commission. For the purpose of succession to these rights and obligations, the Oregon Public Defense Commission is a continuation of the Public Defense Services Commission and not a new authority.

SECTION 13. For the purpose of harmonizing and clarifying statutory law, the Legislative Counsel may substitute for words designating the ‘Public Defense Services Commission’ or its officers, or the office of public defense services, wherever they occur in statutory law, words designating the ‘Oregon Public Defense Commission’ or its officers.

SECTION 14. (1) Sections 7a to 13 of this 2023 Act and the amendments to ORS 151.211, 151.213, 151.216, 151.219, 151.221, 151.225 and 135.055 by sections 1 to 7 of this 2023 Act become operative on January 1, 2024.

“(2) Notwithstanding subsection (1) of this section:

“(a) No later than November 1, 2023, the Chief Justice of the Supreme Court shall by order appoint four nonvoting members and nine new voting members to the Oregon Public Defense Commission as provided in ORS 151.213 (2). Except as provided in subsection (3) of this section, the appointments described in this subsection take effect on January 1, 2024.

“(b) The Chief Justice, Governor, President of the Senate and Speaker of the House of Representatives may take any action before the operative date specified in subsection (1) of this section that is necessary to effectuate the appointment process described in this subsection and ORS 151.213 (2).

“(3)(a) Notwithstanding ORS 151.213 (6)(b), and subject to the provisions of sections 92 (3) and 102 (2) of this 2023 Act, on January 1, 2024, the public defense services executive director shall begin a four-year term as executive director of the Oregon Public Defense Commission, and is subject to termination or reappointment as described in ORS 151.213 (6)(b).

“(b) The public defense services executive director and the members of the commission may take any action before the operative date specified in subsection (1) of this section that is necessary to enable the executive director and the members to exercise, on and after the operative date specified in subsection (1) of this section, the duties, functions and powers conferred on the executive director and the members by sections 7a to 13 of this 2023 Act and the amendments to ORS 151.211, 151.213, 151.216, 151.219, 151.221, 151.225 and 135.055 by sections 1 to 7 of this 2023 Act.

“(4) Notwithstanding ORS 151.213 (3), and subject to the provisions of sections 92 (3) and 102 (2) of this 2023 Act, the initial terms of persons appointed as voting members to the Oregon Public Defense Commission under this section shall be staggered as follows:

“(a) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A), one of the voting members described in ORS 151.213 (2)(a)(B) and the voting member described in ORS 151.213 (2)(a)(E) shall be four years.

“(b) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A) and the voting member described in ORS 151.213 (2)(a)(C) shall be three years.
“(c) The initial term of one of the voting members described in ORS 151.213 (2)(a)(B) and the voting member described in ORS 151.213 (2)(a)(D) shall be two years.
“(d) The initial term of one of the voting members described in ORS 151.213 (2)(a)(A) and one of the voting members described in ORS 151.213 (2)(a)(B) shall be one year.
“(5) A person who is a member of the Public Defense Services Commission on November 1, 2023, is eligible for appointment to the Oregon Public Defense Commission if the person meets the requirements described in ORS 151.213 (2).”.

In line 12, delete “(1)(f)” and insert “(1)(i)”.

On page 66, delete lines 10 through 45 and delete pages 67 through 76 and insert:

“TRANSFER OF COMMISSION TO EXECUTIVE BRANCH

“(Appointment and Duties)

“SECTION 77. ORS 151.213, as amended by section 2 of this 2023 Act, is amended to read:
“ORS 151.213. (1) The Oregon Public Defense Commission is established in the [judicial] executive branch of state government. Except for the appointment or removal of commission members, the commission and employees of the commission are not subject to the exercise of administrative authority and supervision by the [Chief Justice of the Supreme Court as the administrative head of the Judicial Department] Governor.
“(2) Nine voting members and four nonvoting members shall be appointed to the commission by [order of the Chief Justice] the Governor as follows:
“(A) The Governor shall appoint:
“(i) One voting member who has been represented by a public defense provider.
“(ii) Two additional voting members, one of whom has experience as a public defense provider in juvenile delinquency or dependency cases.
“(iii) Two nonvoting members who are currently employed as public defense providers in this state, one of whom is from an urban area and one of whom is from a rural area.
“(B) The Governor shall appoint, from among persons recommended by the Chief Justice [shall appoint] of the Supreme Court:
“(i) One voting member who is a retired judge.
“(ii) Two additional voting members, one of whom has experience as a public defense provider in criminal cases.
“(C) The Governor shall appoint, from among persons recommended by the President of the Senate:
“(i) One voting member who is a current dean or faculty member of an Oregon law school.
“(ii) One nonvoting member who is a member of the Senate at the time of appointment.
“(D) The Governor shall appoint, from among persons recommended by the Speaker of the House of Representatives:
“(i) One voting member who has expertise in juvenile law and criminal defense, or who is a ju-
venile justice or criminal justice reform advocate.

“(ii) One nonvoting member who is a member of the House of Representatives at the time of
appointment.

“(E) The [Chief Justice] Governor shall appoint one voting member from among persons jointly
recommended by the President of the Senate and the Speaker of the House of Representatives.

“(b) When recommending and appointing members of the commission, the [Chief Justice,] Gov-
ernor, Chief Justice, President of the Senate and Speaker of the House of Representatives shall:

“(A) Consider input from individuals and organizations with an interest in the delivery of public
defense services.

“(B) Consider geographic, racial, ethnic and gender diversity.

“(C) Ensure that members appointed to the commission have significant experience with issues
related to public defense or in the case types subject to representation by public defense providers.

“(D) Ensure that members appointed to the commission have demonstrated a strong commitment
to quality public defense representation.

“(c) The following persons may not be appointed to and may not serve as members of the com-
mission:

“(A) A prosecuting attorney.

“(B) A judge, magistrate or other person who performs judicial functions.

“(C) An employee of a law enforcement agency or the Department of Human Services.

“(d) A person who is primarily engaged in providing public defense services and who has a fi-
nancial interest in the delivery of public defense services at the state level may not serve as a
voting member of the commission.

“(e) As used in this subsection, ‘law enforcement agency’ means an entity that employs cor-
rections officers, parole and probation officers, police officers, certified reserve officers or reserve
officers, as those terms are defined in ORS 181A.355.

“(3) The term of a member is four years beginning on the effective date of the [order of the Chief
Justice appointing the member] Governor’s appointment, but members serve at the pleasure of
the Governor. A member is eligible for reappointment if qualified for membership at the time of
reappointment, but may serve no more than two consecutive four-year terms. The [Chief Justice]
Governor may remove any member of the commission at any time [for cause]. If a vacancy occurs
for any cause before the expiration of the term of a member, the [Chief Justice] Governor shall
make an appointment to fill the vacancy, in the same manner as an appointment to a full term, to
become immediately effective for the unexpired term. [If the Chief Justice has not filled a vacancy
within 45 days after the vacancy occurs, the remaining voting members of the commission shall, by a
majority vote, select a member to fill the vacancy for the remainder of the term. The selected member
must meet the requirements for membership described in this section.]

“(4) A chairperson and a vice chairperson shall be elected by the voting members of the com-
mission every two years with such functions as the commission may determine. A member is eligible
for reelection as chairperson or vice chairperson.

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

“(6)(a) All members of the commission shall:

“(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and
provide input before the approval vote described in paragraph (b) of this subsection.

“(B) Review the budget of the commission and provide input before the approval vote described
in paragraph (b) of this subsection.
“(C) Meet as needed to carry out the duties described in this subsection.

“(b) The voting members of the commission shall:

“[(A) Appoint, by a two-thirds vote, an executive director for a term of office of four years. The term may be terminated for cause by a majority vote of the voting members after notice and a hearing. When the term of an executive director ends without termination, the voting members of the commission may reappoint the person currently in the position by a majority vote.]

“[(B) Upon the vacancy of the executive director position, immediately designate an acting executive director by a majority vote.]

“[(C)] (A) Approve by majority vote the policies, procedures, standards and guidelines required by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.

“[(D)] (B) Approve by majority vote the budget of the commission before submission to the Legislative Assembly.

“(7) The members of the commission may not:

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

“(b) Have access to any case file; or

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

“(8) A member of the commission is entitled to compensation for services as a member, and to expenses, as provided in ORS 292.495.

“(9)(a) The Governor shall appoint an executive director of the commission, subject to confirmation by the Senate in the manner prescribed by ORS 171.562 and 171.565. The person appointed as executive director must be well qualified by training and experience to perform the functions of the office.

“(b) The term of office of the executive director is four years, but the executive director serves at the pleasure of the Governor.

“(c) Before the expiration of the executive director's term, the Governor shall appoint a successor to take office upon the date of the expiration. The executive director is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

“SECTION 78. ORS 151.216, as amended by section 3 of this 2023 Act, is amended to read:

“151.216. (1) The Oregon Public Defense 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) Adopt policies for public defense providers that:

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

“(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

“(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 cost of living and business cost differences in each county or jurisdiction, including but not limited to rent, professional membership dues, malpractice insurance and other insurance and other reasonable and usual operating costs.
“(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

“(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

“(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

“(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The [Chief Justice of the Supreme Court and the] chairperson of the commission shall present the budget to the Legislative Assembly.

“(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

“(h) Adopt policies, procedures, standards and guidelines regarding:

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

“(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

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

“(D) Appointed counsel compensation disputes;

“(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

“(F) The types of fees and expenses subject to a preauthorization requirement.

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

“(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

“(k) Set minimum standards by which appointed counsel are trained and supervised.

“(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

“(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

“(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice.
Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

“(o) Develop standard operating expectations for persons and entities providing public defense services.

“(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

“(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

“(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

“[(s) Pay invoices submitted to the commission within 45 days of receipt or in accordance with statewide accounting policies established by the Oregon Department of Administrative Services.]

“[(t) (s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission’s affairs and promulgate policies necessary to carry out all powers and duties of the commission.

“(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

“(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

“(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel’s ability to provide effective representation.

“(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

“(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

“(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

“(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

“(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

“(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and may establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

“(5) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission’s website.

“(6) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administra-
tor, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission's administrative responsibilities under this section and transferred duties, functions and powers as they occur.

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

"(8) With the approval of a majority of the voting members of the commission, the commission may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

"(9) The commission shall request that the Governor include in the Governor's requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

"(10) The commission may adopt rules pursuant to ORS chapter 183.

"(Conforming Amendments)

SECTION 79. ORS 8.105, as amended by section 16 of this 2023 Act, is amended to read:

"8.105. (1) Before making any change to a compensation plan, an administrative division of the judicial department must submit the proposed change to the Joint Committee on Ways and Means during the period when the Legislative Assembly is in session, or to the Emergency Board or the Joint Interim Committee on Ways and Means during the interim period between sessions.

"(2) This section applies to all boards, commissions, committees and departments of the judicial department, as defined in ORS 174.113, including but not limited to [the Oregon Public Defense Commission and] the Commission on Judicial Fitness and Disability.

SECTION 80. ORS 42.125, as amended by section 19 of this 2023 Act, is amended to read:

"42.125. (1) For the purposes of ORS 40.510 (1)(a) and (d), each state officer and state agency may have a seal which, unless specifically provided otherwise by law, shall consist of an impression, imprint or likeness of the state seal accompanied by the name of the state officer or state agency.

"(2) As used in this section:

"(a) ‘Seal’ has the meaning given that term in ORS 42.110.

"(b) ‘State agency’ means every state officer, board, commission, department, institution, branch or agency of the state government, except[:]

"[(A)] the Legislative Assembly and the courts and their officers and committees[; and]

"[(B) The Oregon Public Defense Commission].

"(c) ‘State officer’ includes any appointed state official who is authorized by the Oregon Department of Administrative Services to have a seal and any elected state official, except members of the Legislative Assembly.

SECTION 81. ORS 84.064, as amended by section 22 of this 2023 Act, is amended to read:

"84.064. (1) For purposes of ORS 84.049, 84.052 and 84.055, the State Chief Information Officer shall make determinations and adopt standards for state agencies.

"(2) The State Chief Information Officer shall adopt rules to govern state agency use of electronic signatures. The rules must include control processes and procedures to ensure adequate integrity, security and confidentiality for business transactions that state agencies conduct using
electronic commerce and to ensure that the transactions can be audited as is necessary for the normal conduct of business.

“(3) As used in this section, ‘state agency’ means every state officer and board, commission, department, institution, branch and agency of the state government, the costs of which are paid wholly or in part from funds held in the State Treasury, except[:]

“[(a)] the Legislative Assembly, the courts, the district attorney for each county and the officers and committees of the Legislative Assembly, the courts and the district attorney; and

“[(b) The Oregon Public Defense Commission].

*SECTION 82. ORS 171.133, as amended by section 45 of this 2023 Act, is amended to read:

“171.133. (1) A state agency shall not cause a bill or measure to be introduced before the Legislative Assembly if the bill or measure has not been approved by the Governor.

“(2) As used in ORS 171.130 and this section, ‘state agency’ means every state agency whose costs are paid wholly or in part from funds held in the State Treasury, except:

“(a) The Legislative Assembly, the courts and their officers and committees; and

“[(b) The Oregon Public Defense Commission; and]

“(c) (b) The Secretary of State, the State Treasurer, the Attorney General and the Commissioner of the Bureau of Labor and Industries.

*SECTION 83. ORS 190.490, as amended by section 47 of this 2023 Act, is amended to read:

“190.490. (1) Every agreement entered into under ORS 190.485 shall be submitted to the Attorney General before taking effect. The Attorney General shall determine whether the agreement is in proper form and compatible with the laws of this state. If the Attorney General determines that the agreement is improper in some respect, the Attorney General shall give written notice to the state agency concerning the specific respects in which the agreement fails to comply with law. Failure of the Attorney General to give such notice to the state agency within 30 days of submission of the agreement to the Attorney General’s office shall constitute approval of the agreement. The Attorney General may exempt certain agreements, classes of agreements or form agreements from the requirement that the agreement be approved by the Attorney General before taking effect.

“(2) The state agency shall file any agreement made under ORS 190.485 with the Oregon Department of Administrative Services within 30 days of the effective date of the agreement. The department may adopt rules necessary for the administration of this subsection.

“(3) This section does not apply to the Legislative Assembly, the courts and their officers and committees[,] and the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices [and the Oregon Public Defense Commission].

*SECTION 84. ORS 283.110, as amended by section 49 of this 2023 Act, is amended to read:

“283.110. (1) Subject to rules prescribed by the Oregon Department of Administrative Services, any state agency shall, as its own facilities permit, furnish to any other state agency such services (including labor), facilities and materials as are requisitioned by the head of another agency. The expense shall be charged to the agency served, which shall pay the expense to the agency furnishing the services, facilities or materials in the manner other claims are paid. Agencies shall, as far as practicable, cooperate with one another in the use of services, quarters and equipment.

“(2) Except as provided in ORS 283.076 (3), all moneys received by an agency in payment of services, facilities or materials furnished to another state agency as provided in this section, or in payment of services, facilities or materials furnished to other persons may be, or if required by the Oregon Department of Administrative Services, shall be paid into the State Treasury for deposit to the credit of the miscellaneous receipts account established pursuant to ORS 279A.290 for the
agency furnishing the services, facilities or materials.

“(3) The constitutional state officers and the Legislative Assembly or any of its statutory, standing, special or interim committees, unless prohibited by law, may elect to furnish services, facilities and materials to one another and to state agencies and officers as defined in ORS 291.002, and the courts, constitutional state officers[,] and the Legislative Assembly or any of its statutory, standing, special or interim committees [and the Oregon Public Defense Commission] may elect to requisition services, facilities and materials as provided in this section.

**SECTION 85.** ORS 291.002, as amended by section 50 of this 2023 Act, is amended to read:

“291.002. As used in ORS 291.001 to 291.034, 291.201 to 291.222, 291.232 to 291.260, 291.261, 291.307 and 291.990, unless the context requires otherwise:

“(1) ‘Classification of expenditures’ means the categories of expenses for the purpose of budget-making and accounting that are provided in ORS 291.216 (6)(a).

“(2) ‘Dedicated fund’ means a fund in the State Treasury, or a separate account or fund in the General Fund in the State Treasury, that by law is dedicated, appropriated or set aside for a limited object or purpose, but ‘dedicated fund’ does not include a revolving fund or a trust fund.

“(3) ‘Department’ means the Oregon Department of Administrative Services.

“(4) ‘Director’ means the Director of the Oregon Department of Administrative Services.

“(5) ‘Legislatively adopted budget’ means the budget enacted by the Legislative Assembly during an odd-numbered year regular session for the biennium beginning July 1 of the year in which the regular session begins.

“(6) ‘Legislatively approved budget’ means the legislatively adopted budget as modified by the Emergency Board meeting in an interim period or by the Legislative Assembly meeting in special session or in an even-numbered year regular session.

“(7) ‘Revolving fund’ means a fund in the State Treasury, established by law, from which is paid the cost of goods or services furnished to or by a state agency, and which is replenished through charges made for such goods or services or through transfers from other accounts or funds.

“(8) ‘State agency’ or ‘agency’ means every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, except:

“(a) The Legislative Assembly, the courts and their officers and committees; and

“[(b) The Oregon Public Defense Commission; and]

“[(c)] (b) The Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices.

“(9) ‘State officer’ means any elected or appointed state officer, including members of boards and commissions, except the members and officers of the Legislative Assembly, the courts, the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices [and the members of the Oregon Public Defense Commission].

“(10) ‘Trust fund’ means a fund in the State Treasury in which designated persons or classes of persons have a vested beneficial interest or equitable ownership, or which was created or established by a gift, grant, contribution, devise or bequest that limits the use of the fund to designated objects or purposes.

**SECTION 86.** ORS 291.030, as amended by section 52 of this 2023 Act, is amended to read:

“291.030. As used in ORS 291.032 and 291.034, ‘state agency’ or ‘agency’ includes the Legislative Assembly, at its option, or any of its statutory, standing, special or interim committees, at the option of such committee, and the courts and their officers and committees and the constitutional state
officers, at their option, and the Oregon Public Defense Commission, at the option of the commission].

"SECTION 87. ORS 291.045, as amended by section 53 of this 2023 Act, is amended to read:

"291.045. As used in this section and ORS 291.047:

"(1) 'Information technology' includes, but is not limited to, all present and future forms of hardware, software and services for data processing, office automation and telecommunications.

"(2) 'State agency' includes every state officer, board, commission, department, institution, branch or agency of the state government, whose costs are paid wholly or in part from funds held in the State Treasury, except: [

"[(a)] the Legislative Assembly, the courts and their officers and committees; and

"[(b) The Oregon Public Defense Commission].

"(3) 'Public contract' means any acquisition, disposition, purchase, lease, sale or transfer of rights by a state agency of real or personal property, public improvements or services.

"(4) 'Public improvement' means projects for construction, reconstruction or renovation on real property by or for a state agency.

"SECTION 88. ORS 291.227, as amended by section 54 of this 2023 Act, is amended to read:

"291.227. (1)(a) As part of the development of the legislatively adopted budget, each state agency that employs more than 100 employees shall report to the Joint Committee on Ways and Means the state agency's maximum supervisory ratio for the biennium.

"(b) Before submitting the report to the committee, a state agency shall provide a copy of the report to all labor organizations that represent employees of the state agency.

"(2) A state agency must determine its maximum supervisory ratio by starting from a baseline ratio of one to 11 and adjusting the ratio based on some or all of the following factors:

"(a) Safety of the public or of state agency employees;

"(b) Geographic location of the agency's employees;

"(c) Complexity of the agency's duties;

"(d) Industry best practices and standards;

"(e) Size and hours of operation of the agency;

"(f) Unique personnel needs of the agency, including the agency's use of volunteers or seasonal or temporary employees, or the exercise of supervisory authority by agency supervisory employees over personnel who are not agency employees; and

"(g) Financial scope and responsibility of the agency.

"(3) The Joint Committee on Ways and Means shall review the maximum supervisory ratios reported by state agencies.

"(4) Subject to subsection (5) of this section, a state agency whose actual supervisory ratio is greater than its maximum supervisory ratio may not fill a supervisory position.

"(5)(a) The Oregon Department of Administrative Services may exempt a state agency from the limitations of subsection (4) of this section if the department determines that an additional supervisory position is reasonably necessary to the state agency. The department must make the determination with reference to some or all of the factors set forth in subsection (2) of this section.

"(b) At least five business days before granting an exemption under this subsection, the department shall notify all labor organizations that represent employees of the state agency of its intent to grant the exemption.

"(6)(a) The department shall, once per quarter, produce reports on the actual supervisory ratio of each state agency. The reports must include data on job families within each state agency to the
extent such data is reasonably available.

“(b) The department shall make the reports publicly available on the Internet and shall notify all labor organizations that represent state employees when the reports are available.

“(7) The department may adopt rules for the administration of this section, including rules governing how temporary, seasonal or part-time employees are accounted for in the calculation of a supervisory ratio.

“(8) As used in this section:

“(a) ‘Job families’ means groups of occupations based upon work performed, skills, education, training and credentials.

“(b) ‘Legislatively adopted budget’ has the meaning given that term in ORS 291.002.

“(c)(A) ‘State agency’ means all state officers, boards, commissions, departments, institutions, branches, agencies, divisions and other entities, without regard to the designation given to those entities, that are within the executive branch of government as described in Article III, section 1, of the Oregon Constitution.

“(B) ‘State agency’ does not include:

“(i) The legislative department as defined in ORS 174.114;

“(ii) The judicial department as defined in ORS 174.113;

“(iii) The Oregon Public Defense Commission;

“(iv) The Secretary of State and the State Treasurer;

“(v) Semi-independent state agencies listed in ORS 182.454;

“(v) The Oregon Tourism Commission;

“(vi) The Oregon Film and Video Office;

“(vii) Public universities listed in ORS 352.002;

“(viii) The Oregon Health and Science University;

“(ix) The Travel Information Council;

“(x) Oregon Corrections Enterprises;

“(xi) The Oregon State Lottery Commission;

“(xii) The State Accident Insurance Fund Corporation;

“(xiii) The Oregon Utility Notification Center;

“(xiv) Oregon Community Power;

“(xv) The Citizens’ Utility Board;

“(xvi) A special government body as defined in ORS 174.117;

“(xvii) Any other public corporation created under a statute of this state and specifically designated as a public corporation; and

“(xviii) Any other semi-independent state agency denominated by statute as a semi-independent state agency.

“(d) ‘Supervisory employee’ has the meaning given that term in ORS 243.650.

“(e) ‘Supervisory ratio’ means the ratio of employees who are supervisory employees to employees who are not supervisory employees.

“SECTION 89. ORS 293.300, as amended by section 55 of this 2023 Act, is amended to read:

“293.300. Except for claims based on obligations incurred or expenditures made by the Legislative Assembly and its officers and committees, the courts and their officers and committees[,] and the Secretary of State and State Treasurer in the performance of the functions of their constitutional offices [and the Oregon Public Defense Commission], a claim for payment from any moneys in the State Treasury may not be paid if the claim is disapproved by the Oregon Department of Ad-
ministrative Services. The department shall disapprove a claim if provision for payment thereof is not made by law and appropriation, the obligation or expenditure on which the claim is based is not authorized as provided by law or the claim does not otherwise satisfy requirements as provided by law.

“SECTION 90. ORS 293.590, as amended by section 56 of this 2023 Act, is amended to read:

“293.590. (1) The Oregon Department of Administrative Services shall direct and control the accounting for all the fiscal affairs of the state government and agencies thereof, and shall provide for the maintenance of accounting records, including accounts stated in summary or in detail, for those fiscal affairs. The department is responsible for establishing and maintaining systems of accounting for state government and agencies thereof. The principles, standards and related requirements of those systems of accounting shall be as prescribed by the department and except as otherwise provided in this section shall be used by the state agencies thereof, unless otherwise directed by the department.

“(2) In performing its functions under subsection (1) of this section, the department shall consult with the Secretary of State, State Treasurer and, to the extent it considers necessary or desirable, any other state agency or any federal agency.

“(3) The department may, as its own facilities permit, furnish to any other state agency such accounting services (including labor), facilities and materials as are necessary, as determined by the department, for compliance by the state agency with subsection (1) of this section. The cost to the department of furnishing the services, facilities and materials, as determined by the department, shall be charged to the state agency and paid to the department in the same manner as other claims against the state agency are paid.

“(4) This section is applicable to the Legislative Assembly and its officers and committees, the courts and their officers and committees[,] and the Secretary of State and State Treasurer in the performance of the functions of their constitutional offices [and the Oregon Public Defense Commission] only at their option.

“SECTION 91. ORS 293.875, as amended by section 57 of this 2023 Act, is amended to read:

“293.875. (1) The State Treasurer is designated the sole banking and cash management officer for the state and may review, establish and modify procedures for the efficient handling of moneys under the control of the State Treasury, the Secretary of State, the Judicial Department, the Legislative Assembly[,] and state agencies as defined in ORS 291.002. The State Treasurer shall perform all activities necessary or desirable to fulfill the duties of the treasurer as the banking and cash management officer. The activities may include, but are not limited to, entering into contracts for the provision of services related to the management, deposit and transfer of, or payment from, moneys deposited with the State Treasurer through banks and other financial institutions. The deposit, transfer or payment may be through physical presentation or drafting of an instrument or document by electronic or other means.

“(2) The State Treasurer shall continuously review the effectiveness of the cash management of state agencies, the Secretary of State, the Judicial Department and the Legislative Assembly, and when the State Treasurer considers it appropriate shall report in writing to the subject agency the findings of this review, along with any recommendations. A copy of the report shall be provided to the Legislative Fiscal Officer and to the Secretary of State.

“(3) This section controls over any other law that gives another state agency general responsibility for, or control over, the accounting, fiscal or electronic commerce affairs of the State Treasury, the Secretary of State, the Judicial Department, the Legislative Assembly[,
Defense Commission] and state agencies as defined in ORS 291.002. State agencies shall employ the principles, standards and related requirements for cash management prescribed by the State Treasurer, including:

“(a) Practices related to the use of credit, debit or similar cards or devices;
“(b) The use of secure disbursing and receiving instruments, documents and systems; and
“(c) The use of secure information resources, information technology and networks that meet the requirements of the State Treasurer for the electronic management, deposit or transfer of, or payment from, moneys deposited with the State Treasurer.

“(4) As used in this section, ‘information resources’ and ‘information technology’ have the meanings given those terms in ORS 276A.206.

“(Operative Dates)

SECTION 92. (1)(a) The Oregon Public Defense Commission is transferred from the judicial branch to the executive branch on January 1, 2025.
“(b) The amendments to ORS 8.105, 42.125, 84.064, 151.213, 151.216, 171.133, 190.490, 283.110, 291.002, 291.030, 291.045, 291.227, 293.300, 293.590 and 293.875 by sections 77 to 91 of this 2023 Act become operative on January 1, 2025.
“(2) The Oregon Public Defense Commission, the Judicial Department, the Oregon Department of Administrative Services and the Governor may take any action before the operative date specified in subsection (1) of this section that is necessary to:
“(a) Facilitate the transfer of the commission to the executive branch.
“(b) Enable those entities to exercise, on and after the operative date specified in subsection (1) of this section, all of the duties, functions and powers conferred on those entities by the amendments to ORS 8.105, 42.125, 84.064, 151.213, 151.216, 171.133, 190.490, 283.110, 291.002, 291.030, 291.045, 291.227, 293.300, 293.590 and 293.875 by sections 77 to 91 of this 2023 Act.
“(3)(a) A person who is a member of the Oregon Public Defense Commission on January 1, 2025, may finish the person’s term as a commission member and is eligible for reappointment if the person meets the requirements described in ORS 151.213 (2), but, beginning on January 1, 2025, and continuing until July 1, 2027, serves at the pleasure of the Governor.
“(b) The person serving as executive director of the Oregon Public Defense Commission on January 1, 2025, may finish the person’s term as executive director and is eligible for reappointment, but, beginning on January 1, 2025, and continuing until July 1, 2027, serves at the pleasure of the Governor.

“CHANGE IN SERVICE DELIVERY MODEL

“(Statutory Changes)

SECTION 93. ORS 151.211, as amended by section 1 of this 2023 Act, is amended to read:
“151.211. For purposes of ORS 151.211 to 151.221:
“(1) ‘Appointed counsel’ includes trial-level and appellate attorneys who are employees of the Oregon Public Defense Commission, attorneys employed by a nonprofit public defense organization and attorneys on the panel of qualified counsel described in ORS 151.216 (5) who contract with the commission to provide public defense services.
“(2) ‘Chief Justice’ means the Chief Justice of the Supreme Court.
“(4) ‘Nonprofit public defense organization’ means a nonprofit organization that employs attorneys who provide public defense services.

**SECTION 94.** ORS 151.216, as amended by sections 3 and 78 of this 2023 Act, is amended to read:

“151.216. (1) The Oregon Public Defense 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) Adopt policies for public defense providers that:

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

“(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

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

“(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

“(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

“(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

“(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The chairperson of the commission shall present the budget to the Legislative Assembly.

“(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

“(h) Adopt policies, procedures, standards and guidelines regarding:

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

“(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

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

“(D) Appointed counsel compensation disputes;

“(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and

“(F) The types of fees and expenses subject to a preauthorization requirement.
“(i) Reimburse the State Court Administrator from funds deposited in the Public Defense Services Account established by ORS 151.225 for the costs of personnel and other costs associated with location of eligibility verification and screening personnel pursuant to ORS 151.489 by the State Court Administrator.

“(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

“(k) Set minimum standards by which appointed counsel are trained and supervised.

“(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

“(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

“(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

“(o) Develop standard operating expectations for persons and entities providing public defense services.

“(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

“(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

“(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

“(s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission’s affairs and promulgate policies necessary to carry out all powers and duties of the commission.

“(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

“(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

“(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel’s ability to provide effective representation.

“(c) The ability, training and experience of appointed counsel must match the nature and com-
plexity of the case to which the counsel is appointed.

“(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

“(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

“(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

“(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

“(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and [may shall] establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

“(5)(a) The commission shall establish, supervise and maintain a panel of qualified counsel who contract with the commission and are directly assigned to cases. The commission shall develop a process for certification of attorneys to the panel with periodic eligibility and case review. Panel attorneys are not employees of the commission.

“(b) The payment of panel counsel:

“(A) May not be lower than the hourly rate established by the commission.

“(B) Shall be adjusted to reflect the same percentage amount of any positive cost of living adjustment granted to employees in the management service in other executive branch agencies.

“(C) May not provide a financial conflict of interest or economic incentives or disincentives that impair an attorney’s ability to provide effective representation.

“(6)(a) The commission may enter into contracts for the provision of public defense services with nonprofit public defense organizations.

“(b) The commission may enter into contracts with entities that subcontract with other entities or persons for the provision of public defense services.

“(c) The commission may not enter into a contract or agreement that pays appointed counsel a flat fee per case.

“(5) (7) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission’s website.

“(6)( 1) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission’s administrative responsibilities under this section and transferred duties, functions and powers as they occur.

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

“(8)( 1) With the approval of a majority of the voting members of the commission, the com-
mission may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

“(9) (11) The commission shall request that the Governor include in the Governor’s requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

“(10) (12) The commission may adopt rules pursuant to ORS chapter 183.

**SECTION 95.** ORS 151.219, as amended by section 4 of this 2023 Act, is amended to read:

“151.219. (1) The executive director of the Oregon Public Defense Commission shall:

“(a) Designate a deputy director of the commission who serves at the pleasure of the executive director.

“(b) Hire necessary staff for the commission.

“(c) Recommend to the commission how to establish and maintain, in a cost-effective manner, the delivery of legal services to persons entitled to, and, where applicable, financially eligible for, appointed counsel at state expense under Oregon statutes, the Oregon Constitution, the United States Constitution and consistent with Oregon and national standards of justice.

“(d) Implement and ensure compliance with contracts, policies, procedures, standards and guidelines adopted by the commission or required by statute.

“(e) Prepare and submit to the commission for its approval the biennial budget of the commission.

“(f) Negotiate contracts, as appropriate, for providing legal services to persons eligible for appointed counsel at state expense in accordance with ORS 151.216 (5) and (6).

“(g) Employ personnel or contract for services as necessary to carry out the responsibilities of the executive director and the commission.

“(h) Supervise the personnel, operation and activities of the commission.

“(i) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the commission.

“(j) Pay the expenses of the commission.

“(k) Prepare and submit to the members of the commission an annual report of the activities of the commission.

“(L) Provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission who require such services or who are named as defendants in lawsuits arising from their duties, functions and responsibilities. If requested by the executive director, the Attorney General may also provide for legal representation, advice and consultation for the commission, its members, the executive director and staff of the commission in litigation.

“(2) The executive director may:

“(a) Designate persons as representatives of the executive director for the purposes of determining and paying bills submitted to the commission and determining preauthorization for incurring fees and expenses under ORS 135.055.

“(b) Establish an external advisory group to assist in developing the standard operating expectations for persons and entities providing public defense services.

“(Temporary Provisions)

**SECTION 96.** (1)(a) The Oregon Public Defense Commission shall conduct a survey and
economic analysis to establish a formula for the commission to use to calculate an hourly
pay rate, taking into account overhead expenses, market rates and regional differences in
the cost of living, for appointed counsel who are not employees of the commission or a
nonprofit public defense organization.

“(b) The commission may conduct the survey and economic analysis internally or may
contract with an outside entity. The survey and economic analysis must be completed and
the hourly pay rate calculated no later than July 1, 2025.

“(c) After the hourly pay rate described in paragraph (a) of this subsection has been
calculated, and beginning with contracts entered into on or after July 1, 2027, the hourly pay
for appointed counsel who are not employees of the commission or a nonprofit public defense
organization may not be lower than that amount.

“(d) The commission may conduct another survey and economic analysis as described in
this subsection to establish a new formula and calculate a new hourly pay rate.

“(2)(a) By January 1, 2031, at least 20 percent of all appointed counsel at the trial level
must be attorneys employed by the Oregon Public Defense Commission.

“(b) By January 1, 2035, at least 30 percent of all appointed counsel at the trial level must
be attorneys employed by the Oregon Public Defense Commission.

“SECTION 97. Section 96 of this 2023 Act is repealed on January 2, 2035.

“(Reporting to Legislature)

“SECTION 98. (1) No later than May 15, 2024, the Oregon Public Defense Commission
shall provide a comprehensive report on the commission's plan for providing public defense
services in this state to the interim committees of the Legislative Assembly related to the
judiciary, in the manner described in ORS 192.245, that includes at least the following infor-
mation:

“(a) Financial projections for the commission based on anticipated workload;

“(b) A description of the commission's proposed method for providing public defense
services based on anticipated workload;

“(c) The establishment of training and supervision requirements for public defense pro-
viders;

“(d) Steps taken to determine a reasonable hourly rate for appointed counsel who are not
employees of the commission or nonprofit public defense organizations that accounts for
overhead expenses; and

“(e) Steps taken to improve oversight and enforcement of statewide objective standards
for the provision of public defense.

“(2) No later than December 1, 2025, and no later than December 1, 2026, the commission
shall provide the interim committees of the Legislative Assembly related to the judiciary
with an updated version of the report described in subsection (1) of this section.

“(3) Beginning no later than December 1, 2027, and biennially thereafter until December
1, 2035, the commission shall provide the interim committees of the Legislative Assembly
related to the judiciary with an updated version of the report described in subsection (1) of
this section.

“SECTION 99. Section 98 of this 2023 Act is repealed on January 2, 2036.
SECTIO\n
ORS 151.213, as amended by sections 2 and 77 of this 2023 Act, is amended to read:
"151.213. (1) The Oregon Public Defense Commission is established in the executive branch of
state government. Except for the appointment or removal of commission members, the commission
and employees of the commission are not subject to the exercise of administrative authority and
supervision by the Governor.
(2)(a) Nine voting members and four nonvoting members shall be appointed to the commission
by the Governor as follows:
(A) The Governor shall appoint:
(i) One voting member who has been represented by a public defense provider.
(ii) Two additional voting members, one of whom has experience as a public defense provider
in juvenile delinquency or dependency cases.
(iii) Two nonvoting members who are currently employed as public defense providers in this
state, one of whom is from an urban area and one of whom is from a rural area.
(B) The Governor shall appoint, from among persons recommended by the Chief Justice of the
Supreme Court:
(i) One voting member who is a retired judge.
(ii) Two additional voting members, one of whom has experience as a public defense provider
in criminal cases.
(C) The Governor shall appoint, from among persons recommended by the President of the
Senate:
(i) One voting member who is a current dean or faculty member of an Oregon law school.
(ii) One nonvoting member who is a member of the Senate at the time of appointment.
(D) The Governor shall appoint, from among persons recommended by the Speaker of the House
of Representatives:
(i) One voting member who has expertise in juvenile law and criminal defense, or who is a ju-
venile justice or criminal justice reform advocate.
(ii) One nonvoting member who is a member of the House of Representatives at the time of
appointment.
(E) The Governor shall appoint one voting member from among persons jointly recommended
by the President of the Senate and the Speaker of the House of Representatives.
(b) When recommending and appointing members of the commission, the Governor, Chief Jus-
tice, President of the Senate and Speaker of the House of Representatives shall:
(A) Consider input from individuals and organizations with an interest in the delivery of public
defense services.
(B) Consider geographic, racial, ethnic and gender diversity.
(C) Ensure that members appointed to the commission have significant experience with issues
related to public defense or in the case types subject to representation by public defense providers.
(D) Ensure that members appointed to the commission have demonstrated a strong commitment
to quality public defense representation.
(c) The following persons may not be appointed to and may not serve as members of the com-
mission:
(A) A prosecuting attorney.
“(B) A judge, magistrate or other person who performs judicial functions.
“(C) An employee of a law enforcement agency or the Department of Human Services.
“(d) A person who is primarily engaged in providing public defense services and who has a fi-
nancial interest in the delivery of public defense services at the state level may not serve as a
voting member of the commission.
“(e) As used in this subsection, ‘law enforcement agency’ means an entity that employs cor-
rections officers, parole and probation officers, police officers, certified reserve officers or reserve
officers, as those terms are defined in ORS 181A.355.
“(3) The term of a member is four years beginning on the effective date of the Governor’s
appointment, but members serve at the pleasure of the Governor. A member is eligible for reapp-
pointment if qualified for membership at the time of reappointment, but may serve no more than two
consecutive four-year terms. The Governor may remove any member of the commission at any time
for inefficiency, neglect of duty or malfeasance in office. If a vacancy occurs for any cause be-
fore the expiration of the term of a member, the Governor shall make an appointment to fill the
vacancy, in the same manner as an appointment to a full term, to become immediately effective for
the unexpired term.
“(4) A chairperson and a vice chairperson shall be elected by the voting members of the com-
mission every two years with such functions as the commission may determine. A member is eligible
for reelection as chairperson or vice chairperson.
“(5) A majority of the voting members constitutes a quorum for the transaction of business.
“(6)(a) All members of the commission shall:
“(A) Review the policies, procedures, standards and guidelines required by ORS 151.216 and
provide input before the approval vote described in paragraph (b) of this subsection.
“(B) Review the budget of the commission and provide input before the approval vote described
in paragraph (b) of this subsection.
“(C) Meet as needed to carry out the duties described in this subsection.
“(b) The voting members of the commission shall:
“(A) Appoint an executive director of the commission. The term of office of the executive
director is four years, but the executive director serves at the pleasure of the voting mem-
bers of the commission.
“(B) Approve by majority vote the policies, procedures, standards and guidelines required
by ORS 151.216 before those policies, procedures, standards and guidelines may take effect.
“(C) Approve by majority vote the budget of the commission before submission to the
Legislative Assembly.
“(7) The members of the commission may not:
“(a) Make any decision regarding the handling of any individual case;
“(b) Have access to any case file; or
“(c) Interfere with the executive director or any member of the staff of the executive director
in carrying out professional duties involving the legal representation of public defense clients.
“(8) A member of the commission is entitled to compensation for services as a member, and to
expenses, as provided in ORS 292.495.
“(9)(a) The Governor shall appoint an executive director of the commission, subject to confirmation
by the Senate in the manner prescribed by ORS 171.562 and 171.565. The person appointed as executive
director must be well qualified by training and experience to perform the functions of the office.
“(b) The term of office of the executive director is four years, but the executive director serves at
the pleasure of the Governor.

“(c) Before the expiration of the executive director’s term, the Governor shall appoint a successor to take office upon the date of the expiration. The executive director is eligible for reappointment. If there is a vacancy for any cause, the Governor shall make an appointment to become immediately effective for the unexpired term.

“SECTION 101. ORS 151.216, as amended by sections 3, 78 and 94 of this 2023 Act, is amended to read:

“151.216. (1) The Oregon Public Defense 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) Adopt policies for public defense providers that:

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

“(B) Ensure all public defense provider contracts provide for compensation that is commensurate with the character of service performed;

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

“(c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

“(d) Review the caseload policies described in paragraph (b)(A) of this subsection annually, and revise the policies as necessary and at least every four years.

“(e) Adopt a statewide workload plan, based on the caseload policies described in paragraph (b)(A) of this subsection, that takes into account the needs of each county or jurisdiction, practice structure and type of practice overseen by the commission.

“(f) Submit the budget of the commission to the Legislative Assembly after the budget is submitted to the commission by the executive director and approved by the voting members of the commission. The chairperson of the commission shall present the budget to the Legislative Assembly.

“(g) Adopt a compensation plan, classification system and affirmative action plan for the commission that are commensurate with other state agencies.

“(h) Adopt policies, procedures, standards and guidelines regarding:

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

“(B) The appointment of counsel, including the appointment of counsel at state expense regardless of financial eligibility in juvenile delinquency matters;

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

“(D) Appointed counsel compensation disputes;

“(E) The costs associated with the representation of a person by appointed counsel in the state courts that are required to be paid by the state; and
“(F) The types of fees and expenses subject to a preauthorization requirement.

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

“(j) Develop, adopt and oversee the implementation, enforcement and modification of policies, procedures, minimum standards and guidelines to ensure that public defense providers are providing effective assistance of counsel consistently to all eligible persons in this state as required by statute and the Oregon and United States Constitutions. The policies, procedures, standards and guidelines described in this paragraph apply to employees of the commission and to any person or entity that contracts with the commission to provide public defense services in this state.

“(k) Set minimum standards by which appointed counsel are trained and supervised.

“(L) Establish a system, policies and procedures for the mandatory collection of data concerning the operation of the commission and all public defense providers.

“(m) Enter into contracts and hire attorneys to bring the delivery of public defense services into and maintain compliance with the minimum policies, procedures, standards and guidelines described in this subsection. All contracts for the provision of public defense services to which the commission is a party must include a requirement for collection by the commission of data determined by the commission to be qualitatively necessary for any report required to be submitted to the Legislative Assembly.

“(n) At least once every two years, report to the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, and to the Governor and Chief Justice, concerning compliance metrics for the minimum standards described in this subsection and recommendations for legislative changes.

“(o) Develop standard operating expectations for persons and entities providing public defense services.

“(p) In consultation with the Judicial Department, ensure the existence of policies that create a standardized process for determining and verifying financial eligibility for appointed counsel under ORS 151.485.

“(q) Ensure access to systematic and comprehensive training programs for attorneys for the purpose of meeting statewide standards set by the commission.

“(r) Enter into contracts or interagency agreements with the Oregon Department of Administrative Services for the purpose of supporting state public defense population forecasts and other related forecasts.

“(s) Establish any other policies, procedures, standards and guidelines for the conduct of the commission’s affairs and promulgate policies necessary to carry out all powers and duties of the commission.

“(2) When establishing the minimum policies, procedures, standards and guidelines described in this section, the commission shall adhere to the following principles:

“(a) Appointed counsel shall be provided sufficient time and a space where attorney-client confidentiality is safeguarded for meetings with clients.

“(b) The workload of appointed counsel must be controlled to permit effective representation. Economic disincentives or incentives that impair the ability of appointed counsel to provide effective assistance of counsel must be avoided. The commission may develop workload controls to enhance appointed counsel’s ability to provide effective representation.
“(c) The ability, training and experience of appointed counsel must match the nature and complexity of the case to which the counsel is appointed.

“(d) The same appointed counsel shall continuously represent a client throughout the pendency of the case and shall appear at every court appearance other than ministerial hearings.

“(e) The commission shall establish continuing legal education requirements for public defense providers who are employed by or contract with the commission that are specific to the subject matter area and practice of each type of court-appointed counsel.

“(f) The commission and public defense providers shall systematically review appointed counsel for efficiency and for effective representation according to commission standards.

“(3) The commission shall be organized in a manner for the effective delivery of public defense services as prescribed by the policies and procedures created pursuant to statute to financially eligible persons and consistent with the budgetary structure established for the commission by the Legislative Assembly.

“(4) The commission shall hire attorneys to serve as appointed counsel, including at the trial level in Oregon circuit courts, and shall establish a trial division within the commission consisting of attorneys employed by the commission who are trial-level public defense providers.

“(5)(a) The commission shall establish, supervise and maintain a panel of qualified counsel who contract with the commission and are directly assigned to cases. The commission shall develop a process for certification of attorneys to the panel with periodic eligibility and case review. Panel attorneys are not employees of the commission.

“(b) The payment of panel counsel:

“(A) May not be lower than the hourly rate established by the commission.

“(B) Shall be adjusted to reflect the same percentage amount of any positive cost of living adjustment granted to employees in the management service in other executive branch agencies.

“(C) May not provide a financial conflict of interest or economic incentives or disincentives that impair an attorney’s ability to provide effective representation.

“(6)(a) The commission may enter into contracts for the provision of public defense services with nonprofit public defense organizations.

“[(b) The commission may enter into contracts with entities that subcontract with other entities or persons for the provision of public defense services.]

“[c)] (b) The commission may not enter into a contract or agreement that pays appointed counsel a flat fee per case.

“(7) The policies, procedures, standards and guidelines adopted by the commission must be made available in an accessible manner to the public on the commission’s website.

“(8) Policies, procedures, standards and guidelines adopted by the commission supersede any conflicting rules, policies or procedures of the Public Defender Committee, State Court Administrator, circuit courts, the Court of Appeals, the Supreme Court and the Psychiatric Security Review Board related to the exercise of the commission’s administrative responsibilities under this section and transferred duties, functions and powers as they occur.

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

“(10) With the approval of a majority of the voting members of the commission, the commission
may advocate for or against legislation before the Legislative Assembly or policies or budgets being considered by the Legislative Assembly.

“(11) The commission shall request that the Governor include in the Governor’s requested budget, for each fiscal period, at a minimum, the amount of funds identified by the commission as being necessary to carry out the duties and activities of the commission.

“(12) The commission may adopt rules pursuant to ORS chapter 183.

“(Operative Dates)

SECTION 102. (1)(a) The amendments to ORS 151.211, 151.216 and 151.219 by sections 93 to 95 of this 2023 Act become operative on July 1, 2025.

“(b) The amendments to ORS 151.213 and 151.216 by sections 100 and 101 of this 2023 Act become operative on July 1, 2027.

“(2)(a) A person who is a member of the Oregon Public Defense Commission on July 1, 2027, may finish the person’s term as a commission member and is eligible for reappointment, but, beginning July 1, 2027, may be removed by the Governor only for inefficiency, neglect of duty or malfeasance in office.

“(b) The person serving as executive director of the Oregon Public Defense Commission on July 1, 2027, may finish the person’s term as executive director and is eligible for reappointment, but, beginning on July 1, 2027, serves at the pleasure of the voting members of the commission.

“(3) The Oregon Public Defense Commission, the Oregon Department of Administrative Services and the Governor may take any action before the operative dates specified in subsection (1) of this section that is necessary to enable the commission to exercise, on and after the operative dates specified in subsection (1) of this section, all of the duties, functions and powers conferred on those entities by the amendments to ORS 151.211, 151.213, 151.216 and 151.219 by sections 93 to 95, 100 and 101 of this 2023 Act.

“CAPTIONS

SECTION 103. The unit captions used in this 2023 Act are provided only for the convenience of the reader and do not become part of the statutory law of this state or express any legislative intent in the enactment of this 2023 Act.

“EMERGENCY CLAUSE

SECTION 104. This 2023 Act being necessary for the immediate preservation of the public peace, health and safety, an emergency is declared to exist, and this 2023 Act takes effect on its passage.”.