

Requested by Representative BYNUM

**PROPOSED AMENDMENTS TO
HOUSE BILL 2467**

1 On page 1 of the printed bill, line 2, after the semicolon delete the rest
2 of the line and insert “creating new provisions; amending ORS 151.216 and
3 151.219; and prescribing an effective date.”.

4 Delete lines 3 through 15.

5 Delete lines 17 through 27 and delete pages 2 and 3 and insert:

6

7

“LOAN REPAYMENT ASSISTANCE

8

9 **“SECTION 1. (1) As used in this section:**

10 **“(a) ‘Public defense attorney’ means an attorney:**

11 **“(A) Who is appointed to represent eligible individuals as required**
12 **by Oregon statutes, the Oregon Constitution or the United States**
13 **Constitution;**

14 **“(B) Whose legal work is funded by the office of public defense**
15 **services and who is employed by the state or a public defense services**
16 **contractor; and**

17 **“(C) Who meets any further definition of ‘public defense attorney’**
18 **set forth by the Oregon State Bar.**

19 **“(b) ‘Public defense staff member’ means an investigator, support**
20 **staff member or case manager who is employed by a public defense**
21 **services contractor.**

1 **“(2) The Public Defense Services Student Loan Repayment Assist-**
2 **ance Program is established in the Oregon State Bar.**

3 **“(3)(a) The program shall provide forgivable loans to an eligible**
4 **public defense attorney or public defense staff member for up to \$20,000**
5 **in payments of principal and interest on outstanding public or private**
6 **student loans for each 12 months of service.**

7 **“(b) The program may provide forgivable loans to a public defense**
8 **attorney or public defense staff member for 10 years or until the pro-**
9 **gram has provided a total of \$200,000 in forgivable loans, whichever**
10 **occurs first.**

11 **“(4)(a) A public defense attorney is eligible for the program if:**

12 **“(A) The attorney resides in this state;**

13 **“(B) The provision of public defense services constitutes at least 70**
14 **percent of the attorney’s working hours, as defined in the policies of**
15 **the Public Defense Services Commission, while the attorney is partic-**
16 **ipating in the program;**

17 **“(C) The attorney commits to provide public defense services for a**
18 **period of 10 years; and**

19 **“(D) The attorney meets other requirements established by the**
20 **Oregon State Bar under subsection (5) of this section.**

21 **“(b) A public defense staff member is eligible for the program if:**

22 **“(A) The person resides in this state;**

23 **“(B) The provision of public defense services constitutes at least 70**
24 **percent of the staff member’s working hours, as defined in the policies**
25 **of the Public Defense Services Commission, while the staff member is**
26 **participating in the program;**

27 **“(C) The person commits to provide public defense services for a**
28 **period of 10 years; and**

29 **“(D) The person meets other requirements established by the**
30 **Oregon State Bar under subsection (5) of this section.**

1 **“(5) The Oregon State Bar shall adopt policies for administration**
2 **of the program, including eligibility and application requirements. The**
3 **policies shall include that amounts of forgivable loans for student loan**
4 **payments be based on the amount of the person’s working hours spent**
5 **providing public defense services, provided that the provision of public**
6 **defense services constitutes at least 70 percent of the person’s working**
7 **hours.**

8 **“SECTION 2. No later than August 31 of each year, the Oregon**
9 **State Bar shall report on the Public Defense Services Student Loan**
10 **Repayment Assistance Program to a committee or interim committee**
11 **of the Legislative Assembly related to the judiciary. The report must**
12 **include:**

13 **“(1) The number of attorneys and staff members who entered the**
14 **program, and the month and year of entry.**

15 **“(2) The average amount of forgivable loans provided to a partic-**
16 **ipant.**

17 **“(3) The total amount of forgivable loans provided.**

18 **“(4) The number of attorneys and staff members who participated**
19 **in the program in each county.**

20 **“(5) The number of participants who are employed by a state agency**
21 **or by a private entity that contracts with the Public Defense Services**
22 **Commission and, if the latter, the type of entity.**

23 **“(6) The number of attorneys and staff members who report that**
24 **participation in the program is a substantial factor in removing eco-**
25 **nomic barriers to the ability to perform public defense services.**

26 **“(7) The average amount of outstanding student loan debt for each**
27 **participant.**

28 **“(8) Demographic information on the participants in the program,**
29 **including race, ethnicity and cultural and linguistic information, to**
30 **ensure that workforce recruitment and retention is meeting the needs**

1 of the public defense system to be culturally specific and responsive.

2 “(9) Other information that is useful in evaluating the program.

3
4 “PUBLIC DEFENSE SERVICES COMMISSION

5
6 “**SECTION 3.** ORS 151.216 is amended to read:

7 “151.216. (1) The Public Defense Services Commission shall:

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

11 “(b) Establish an office of public defense services and appoint a public
12 defense services executive director who serves at the pleasure of the com-
13 mission.

14 “(c) Adopt policies for contracting for public defense providers not em-
15 ployed by the office of public defense services that:

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

18 “(B) Promote policies for public defense provider compensation and re-
19 sources that are [*comparable to prosecution*] **commensurate with the com-**
20 **ensation and resources of state employees providing comparable**
21 **services or in comparable job classifications;**

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

24 “(D) Recognize the need to consider overhead costs that account for the
25 cost of living and business cost differences in each county or jurisdiction,
26 including but not limited to rent, professional membership dues, malpractice
27 insurance and other insurance and other reasonable and usual operating
28 costs.

29 “(d) Establish operational and contracting systems that allow for over-
30 sight, ensure transparency and stakeholder engagement and promote equity,

1 inclusion and culturally specific representation.

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

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

9 “(g) Submit the budget of the commission and the office of public defense
10 services to the Legislative Assembly after the budget is submitted to the
11 commission by the director and approved by the commission. The Chief Jus-
12 tice of the Supreme Court and the chairperson of the commission shall
13 present the budget to the Legislative Assembly.

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

16 “(i) Adopt a compensation plan, classification system and personnel plan
17 for the office of public defense services that are commensurate with other
18 state agencies.

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

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

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

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

27 “(D) Appointed counsel compensation disputes;

28 “(E) Any other costs associated with the representation of a person by
29 appointed counsel in the state courts that are required to be paid by the
30 state under ORS 34.355, 135.055, 138.500, 138.590, 161.346, 161.348, 161.365,

1 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408,
2 419C.535, 426.100, 426.135, 426.250, 426.307, 427.265, 427.295, 436.265 or 436.315
3 or any other provision of law that expressly provides for payment of such
4 compensation, costs or expenses by the commission;

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

7 “(G) Performance for legal representation;

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

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

12 “(J) Any other matters necessary to carry out the duties of the commis-
13 sion.

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

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

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

26 “(2) Policies, procedures, standards and guidelines adopted by the com-
27 mission supersede any conflicting rules, policies or procedures of the Public
28 Defender Committee, State Court Administrator, circuit courts, the Court of
29 Appeals, the Supreme Court and the Psychiatric Security Review Board re-
30 lated to the exercise of the commission’s administrative responsibilities un-

1 der this section and transferred duties, functions and powers as they occur.

2 **“(3) The commission may provide grants to entities that contract**
3 **with the commission to provide public defense services to support the**
4 **recruitment of attorneys and other staff, increase and diversify attor-**
5 **neys and other staff and help meet the public defense needs within this**
6 **state.**

7 “[3] (4) The commission may accept gifts, grants or contributions from
8 any source, whether public or private. However, the commission may not
9 accept a gift, grant or contribution if acceptance would create a conflict of
10 interest. Moneys accepted under this subsection shall be deposited in the
11 Public Defense Services Account established by ORS 151.225 and expended
12 for the purposes for which given or granted.

13 “[4] (5) The commission may not:

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

15 “(b) Have access to any case file; or

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

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

20 “151.219. (1) The public defense services executive director shall:

21 “(a) Recommend to the Public Defense Services Commission how to es-
22 tablish and maintain, in a cost-effective manner, the delivery of legal ser-
23 vices to persons entitled to, and, where applicable, financially eligible for,
24 appointed counsel at state expense under Oregon statutes, the Oregon Con-
25 stitution, the United States Constitution and consistent with Oregon and
26 national standards of justice.

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

30 “(c) Prepare and submit to the commission for its approval the biennial

1 budget of the commission and the office of public defense services.

2 “(d) Negotiate contracts, as appropriate, for providing legal services to
3 persons eligible for appointed counsel at state expense. No contract so ne-
4 gotiated is binding or enforceable until the contract has been reviewed and
5 approved by the commission as provided in ORS 151.216.

6 “(e) Employ personnel or contract for services as necessary to carry out
7 the responsibilities of the director and the office of public defense services.

8 “(f) Supervise the personnel, operation and activities of the office of
9 public defense services.

10 “(g) Provide services, facilities and materials necessary for the perform-
11 ance of the duties, functions and powers of the Public Defense Services
12 Commission.

13 “(h) Pay the expenses of the commission and the office of public defense
14 services.

15 “(i) Prepare and submit to the commission an annual report of the activ-
16 ities of the office of public defense services.

17 “(j) Prepare and submit to the Legislative Assembly a biennial report on
18 the activities of the office of public defense services.

19 “(k) Provide for legal representation, advice and consultation for the
20 commission, its members, the director and staff of the office of public defense
21 services who require such services or who are named as defendants in
22 lawsuits arising from their duties, functions and responsibilities. If requested
23 by the director, the Attorney General may also provide for legal represen-
24 tation, advice and consultation for the commission, its members, the director
25 and staff of the office of public defense services in litigation.

26 **“(L) Develop training programs for employees of the office of public**
27 **defense services, set training protocols and expectations for the**
28 **trainings and coordinate with professional associations to provide**
29 **continuing legal education opportunities.**

30 **“(m) Ensure that the contracts negotiated under paragraph (d) of**

1 **this subsection:**

2 **“(A) Provide for staff members within the offices of public defense**
3 **providers who train and supervise other attorneys, assist in the ori-**
4 **entation of new employees and coordinate continuing legal educational**
5 **opportunities, while having the ability to have a lower caseload than**
6 **other attorneys within the office.**

7 **“(B) Compensate contracted public defense providers at the same**
8 **rate as employees of the office of public defense services performing**
9 **comparable work.**

10 **“(2) The director may designate persons as representatives of the director**
11 **for the purposes of determining and paying bills submitted to the office of**
12 **public defense services and determining preauthorization for incurring fees**
13 **and expenses under ORS 135.055.**

14 **“SECTION 5. The Public Defense Services Commission shall report**
15 **to the committees of the Legislative Assembly related to the judiciary**
16 **during each odd-numbered year regular session of the Legislative As-**
17 **sembly on:**

18 **“(1) The number of attorneys working in Oregon as public defense**
19 **providers, distinguishing those employed by the state or through con-**
20 **sortiums or nonprofit organizations, and tracking movement of pro-**
21 **viders between those two employment models.**

22 **“(2) The estimated number of public defense providers needed to**
23 **meet caseload demand.**

24 **“(3) The attrition rate of attorneys leaving the public defense prac-**
25 **tice.**

26 **“(4) The percentage of new public defense providers coming to**
27 **Oregon from outside the state.**

28 **“(5) Recommendations for legislation to assist the commission with**
29 **meeting goals for recruiting public defense providers and providing**
30 **constitutionally adequate services.**

1 “(6) How the commission is working with law schools to develop
2 incentives for law students and recent alumni to become public de-
3 fense providers.

4 “SECTION 6. The Public Defense Services Commission may provide
5 grants to law schools in Oregon for projects designed to increase the
6 number of graduates choosing employment as public defense providers,
7 including but not limited to:

8 “(1) Experiential clinics specialized in criminal defense, juvenile
9 defense and juvenile dependency defense.

10 “(2) Career fairs and networking events.

11 “(3) Scholarships and financial assistance for students working to
12 become public defense providers.

13 “(4) Loan forgiveness for graduates working as public defense pro-
14 viders.

15 “(5) Paid clerkships.

16 “(6) Paid positions for students taking a nontraditional path to
17 taking the bar examination.

18 “SECTION 7. The Public Defense Services Commission shall con-
19 duct outreach at law schools outside of this state and at nonprofit
20 organizations to attract public defense providers to this state, with
21 special dedication to recruiting providers with the following lived ex-
22 periences or background:

23 “(1) Experience of discrimination because of race or ethnicity.

24 “(2) Bilingual skills or experience living in a home where English
25 is not the first language.

26 “(3) Citizenship status belonging to a country other than the United
27 States.

28 “(4) Low socioeconomic status.

29 “(5) Residence in a rural or frontier community.

30 “(6) Experience working with people experiencing mental illness.

1 **“(7) Experience in providing trauma-informed services.**

2

3

“CAPTIONS

4

5 **“SECTION 8. The unit captions used in this 2023 Act are provided**
6 **only for the convenience of the reader and do not become part of the**
7 **statutory law of this state or express any legislative intent in the**
8 **enactment of this 2023 Act.**

9

10

“EFFECTIVE DATE

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12 **“SECTION 9. This 2023 Act takes effect on the 91st day after the**
13 **date on which the 2023 regular session of the Eighty-second Legislative**
14 **Assembly adjourns sine die.”.**

15
