



**TESTIMONY ON HB 2614
HOUSE COMMITTEE ON JUDICIARY
MARCH 5, 2025**

Chair Kropf, Co-Chair Wallan, Co-Chair Chotzen, and Members of the Committee:

I am Shaun McCrea, Executive Director of the Oregon Criminal Defense Lawyers Association. OCDLA's 1,200 members statewide include public defense providers, private bar attorneys, investigators, experts, and law students. Our attorneys represent Oregon's children and parents in juvenile dependency proceedings, youth in juvenile delinquency proceedings, adults in criminal proceedings at the trial and the appellate level, as well as civil commitment proceedings throughout the state of Oregon. Our mission is championing justice, promoting individual rights, and supporting the legal defense community through education and advocacy.

Oregon is a unique state in many ways, particularly in how we provide criminal and juvenile defense representation. OCDLA has always supported a diversity in service delivery models.

Historically the Oregon Public Defense Commission (OPDC) recognized that trial defense services should be local. The Commission took its cue from the long tradition in this state regarding law enforcement: district attorneys, police, sheriffs and the trial courts are drawn from the surrounding community, not from a centralized agency. The Commission built a public defense structure for criminal and juvenile defense based on local people providing services to the members of their community. And it worked until the perfect storm of decades of chronic underinvestment, high caseloads, COVID, and ballooning academic debt caused an overwhelming shortage of attorneys to do the work.

After *Gideon v. Wainwright* constitutionally guaranteed the right to counsel in 1963, approximately eight community based public defense organizations were created (nonprofits) and continue now as the institutional foundation of public defense, including the largest: Metropolitan Public Defenders (MPD) and Multnomah Defenders Inc. (MDI) with volunteer public minded boards of directors, providing training for new lawyers and stable institutional support to the system. These nonprofits handle roughly 40% of the public defense caseload.

Because in Oregon, "one size does not fit all," the Commission created consortia to handle the remaining roughly 60% of the public defense caseload, to provide locally

based trial defense, largely utilizing solo practitioners or small law firms who band together with other lawyers or small firms to contract with the state agency to represent people in their community. Consortia choose their members and the lawyers participating in consortia tend to be more experienced and to have practiced longer than many in the nonprofit offices. The Commission determined that consortia, like nonprofits, should be accountable through use of volunteer boards of directors.

Now there is an additional trial delivery model: the trial division, whose attorneys are state employees. Notably the three trial division offices are also geographically based to take local cases in Portland, Salem and Medford. Arguably the expectation was that as more experienced attorneys, consortia members would move to trial division offices and become state employees. In practice this has not happened and failing to recruit out of state lawyers, trial offices have simply rearranged the deck chairs between state offices and nonprofits with little added capacity.

OCDLA is relieved that lawmakers (-1s) recognize that sunseting the consortia in 2027 is unworkable. The necessity for greater transparency and accountability in the system should be achievable without eliminating the consortia service delivery model; loss of consortia attorneys will worsen the unrepresented crisis. OCDLA's 2023 organization-wide survey indicated little interest among consortia attorneys to move to state trial offices which has been borne out in practice and frankly given the overall shortage of attorneys, they have many other options. OCDLA urges lifting the sunset altogether to help stabilize the system and then implement other modifications to the consortia contracting model to assure standards moving forward.

OPDC is still transitioning to the executive branch, we are in the midst of a crisis of unrepresented persons and Oregon has too few lawyers in all practice areas. We need "all hands on deck." We need everyone who is currently handling public defense criminal and juvenile cases to continue taking these cases, and we need time to recruit, train and retain lawyers to ensure every person charged has a lawyer. Keeping consortia will stabilize the providers operating in that model and retain their capacity in the system. Consortia must be able to offer long term employment to potential members they recruit, otherwise those folks will elect to practice some other kind of law with a guaranteed salary and better caseload. Keeping consortia for now will also assist the nonprofit offices by continuing the stability and predictability of the current system.

While OCDLA would prefer to see the sunset repealed with other accountability measures, in the alternative, moving the date out further by several biennia would provide a more realistic timeframe to recruit new lawyers graduating from law school and lawyers from out of state while keeping the ship of public defense afloat.

OCDLA suggests the -2 amendments are unnecessary. The governor currently has the power to remove the OPDC executive director or individual commissioners for “inefficiency, neglect of duty or malfeasance in office.” Such grounds are sufficient to exercise oversight and ensure accountability of an agency and a function that fundamentally should retain a nonpolitical posture and independent stance.

Thank you for the opportunity to testify today. We look forward to working with the committee to address the needs of the state, public defense and the accused. We recognize that things are not working as they should, that we face a terrible crisis and that no one likes change...but we are sincerely committed to being a good partner in finding solutions.

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