

Enrolled Senate Bill 337

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CHAPTER

AN ACT

Relating to public defense; creating new provisions; amending ORS 1.009, 8.105, 34.355, 40.225, 42.125, 45.275, 45.285, 84.064, 125.035, 125.080, 135.050, 135.055, 136.603, 137.020, 138.310, 138.480, 138.500, 138.590, 144.335, 144.337, 147.537, 147.560, 151.211, 151.213, 151.216, 151.219, 151.221, 151.225, 151.485, 151.487, 151.493, 151.505, 161.309, 161.346, 161.348, 161.365, 161.665, 171.133, 181A.010, 190.490, 244.050, 283.110, 291.002, 291.011, 291.030, 291.045, 291.227, 293.300, 293.590, 293.875, 419A.200, 419A.211, 419A.252, 419A.255, 419B.112, 419B.195, 419B.198, 419B.237, 419B.532, 419B.647, 419C.200, 419C.380, 419C.535, 426.135, 426.250, 427.265, 427.295 and 433.466; and declaring an emergency.

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

ESTABLISHMENT OF THE OREGON PUBLIC DEFENSE COMMISSION (Appointment and Duties)

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.

[(3)] (2) “Commission” means the [Public Defense Services Commission] **Oregon Public Defense Commission.**

[(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 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 [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 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:

151.216. (1) The [Public Defense Services Commission] **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) 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) (c) Establish operational and contracting systems that allow for oversight, ensure transparency and stakeholder engagement and promote equity, inclusion and culturally specific representation.

[(e) (d) 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) (e) 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) (f) 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) (g) 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) (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) [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.

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

[(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 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) 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.

[4] *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 professional 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] (c) 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 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.

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

[(c)] (e) Prepare and submit to the commission for its approval the biennial budget of the commission [*and the office of public defense services*].

[(d)] (f) 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)] (g) 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)] (h) Supervise the personnel, operation and activities of the [*office of public defense services*] **commission**.

[(g)] (i) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the [*Public Defense Services*] commission.

[(h)] (j) Pay the expenses of the commission [*and the office of public defense services*].

[(i)] (k) Prepare and submit to the **members of the** 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)] (L) 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 determining and paying bills submitted to the [*office of public defense services*] **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.**

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:

151.225. (1) The Public Defense Services Account is established in the State Treasury, separate and distinct from the General Fund. The Public Defense Services Account is continuously appropriated to the [*Public Defense Services Commission*] **Oregon Public Defense Commission** for:

(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 Services, any other state agency, shall provide the Oregon Department of Administrative Services 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 demographics 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 vested in the Oregon Public Defense Commission.

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 primarily 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 possession 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 purpose 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 administering 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 prosecution 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 prosecution.

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).

(Conforming Amendments)

SECTION 15. ORS 1.009 is amended to read:

1.009. (1) The Judicial Department Operating Account is established in the State Treasury, separate and distinct from the General Fund. Interest earned by the account shall be credited to the account. All moneys in the account are continuously appropriated to the Judicial Department and may be used only to pay the operating expenses of the department.

(2) All moneys received by the department pursuant to ORS 151.216 [(1)(m)] (1)(i) shall be deposited in the Judicial Department Operating Account.

(3) The department may accept gifts, grants or contributions from any source, whether public or private, for deposit in the Judicial Department Operating Account.

SECTION 16. ORS 8.105 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 [Public Defense Services Commission] **Oregon Public Defense Commission** and the Commission on Judicial Fitness and Disability.

SECTION 17. ORS 34.355 is amended to read:

34.355. If counsel is appointed by a court to represent, in an initial proceeding by habeas corpus or on appeal as provided in ORS 34.710, a person who is imprisoned or otherwise restrained of liberty by virtue of a charge or conviction of crime and who is determined to be financially eligible for appointed counsel at state expense, the [public defense services] executive director of the **Oregon Public Defense Commission** shall determine compensation for counsel and costs and expenses of the person in the proceeding or on appeal. Compensation for counsel and expenses of the person in an initial proceeding or in a circuit court on appeal shall be determined and paid as provided in ORS 135.055. Compensation for counsel and costs and expenses of the person on appeal to the Court of Appeals or on review by the Supreme Court shall be determined and paid as provided in ORS 138.500. The compensation and expenses so allowed in an initial proceeding in a county court shall be paid by the county in which the person was charged or convicted of crime.

SECTION 18. ORS 40.225 is amended to read:

40.225. (1) As used in this section, unless the context requires otherwise:

(a) "Client" means:

(A) A person, public officer, corporation, association or other organization or entity, either public or private, who is rendered professional legal services by a lawyer, or who consults a lawyer with a view to obtaining professional legal services from the lawyer.

(B) A person, public officer, corporation, association or other organization or entity, either public or private, who consults a lawyer referral service with a view to obtaining professional legal services from a lawyer.

(b) "Confidential communication" means a communication not intended to be disclosed to third persons other than those to whom disclosure is in furtherance of the rendition of professional legal services to the client or those reasonably necessary for the transmission of the communication.

(c) "Lawyer" means a person authorized, or reasonably believed by the client to be authorized, to practice law in any state or nation.

(d) "Lawyer referral service" means an entity that, as a regular part of its business, refers potential clients to lawyers, including but not limited to a public nonprofit entity sponsored or operated by the Oregon State Bar.

(e) "Representative of the client" means:

(A) A principal, an officer or a director of the client; or

(B) A person who has authority to obtain professional legal services, or to act on legal advice rendered, on behalf of the client, or a person who, for the purpose of effectuating legal representation for the client, makes or receives a confidential communication while acting in the person's scope of employment for the client.

(f) "Representative of the lawyer" means one employed to assist the lawyer in the rendition of professional legal services, but does not include a physician making a physical or mental examination under ORCP 44.

(2) A client has a privilege to refuse to disclose and to prevent any other person from disclosing confidential communications made for the purpose of facilitating the rendition of professional legal services to the client:

(a) Between the client or the client's representative and the client's lawyer or a representative of the lawyer;

(b) Between the client's lawyer and the lawyer's representative or the client's lawyer referral service;

(c) By the client or the client's lawyer to a lawyer representing another in a matter of common interest;

(d) Between representatives of the client or between the client and a representative of the client;

(e) Between lawyers representing the client; or

(f) Between the client or a representative of the client and a lawyer referral service.

(3) The privilege created by this section may be claimed by the client, a guardian or conservator of the client, the personal representative of a deceased client, or the successor, trustee, or similar representative of a corporation, association, or other organization, whether or not in existence. The person who was the lawyer or lawyer referral service or the lawyer's representative at the time of the communication is presumed to have authority to claim the privilege but only on behalf of the client.

(4) There is no privilege under this section:

(a) If the services of the lawyer or lawyer referral service were sought or obtained to enable or aid anyone to commit or plan to commit what the client knew or reasonably should have known to be a crime or fraud;

(b) As to a communication relevant to an issue between parties who claim through the same deceased client, regardless of whether the claims are by testate or intestate succession or by inter vivos transaction;

(c) As to a communication relevant to an issue of breach of duty by the lawyer or lawyer referral service to the client or by the client to the lawyer or lawyer referral service;

(d) As to a communication relevant to an issue concerning an attested document to which the lawyer or lawyer referral service is an attesting witness; or

(e) As to a communication relevant to a matter of common interest between two or more clients if the communication was made by any of them to a lawyer retained or consulted in common, when offered in an action between any of the clients.

(5) Notwithstanding ORS 40.280, a privilege is maintained under this section for a communication made to the [office of public defense services established under ORS 151.216] **Oregon Public Defense Commission** for the purpose of seeking preauthorization for or payment of [nonroutine] fees or expenses under ORS 135.055.

(6) Notwithstanding subsection (4)(c) of this section and ORS 40.280, a privilege is maintained under this section for a communication that is made to the [office of public defense services established under ORS 151.216] **Oregon Public Defense Commission** for the purpose of making, or providing information regarding, a complaint against a lawyer providing public defense services.

(7) Notwithstanding ORS 40.280, a privilege is maintained under this section for a communication ordered to be disclosed under ORS 192.311 to 192.478.

SECTION 19. ORS 42.125 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 [Public Defense Services Commission] **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 20. ORS 45.275 is amended to read:

45.275. (1)(a) The court shall appoint a qualified interpreter in a civil or criminal proceeding, and a hearing officer or the designee of a hearing officer shall appoint a qualified interpreter in an adjudicatory proceeding, whenever it is necessary:

(A) To interpret the proceedings to a non-English-speaking party;

(B) To interpret the testimony of a non-English-speaking party or witness; or

(C) To assist the court, agency or hearing officer in performing the duties and responsibilities of the court, agency or hearing officer.

(b) The court shall appoint a qualified interpreter in a criminal proceeding whenever it is necessary to interpret the proceedings to a non-English-speaking victim who seeks to exercise in open court a right that is granted by Article I, section 42 or 43, of the Oregon Constitution, including the right to be present at a critical stage of the proceeding.

(2) A fee may not be charged to any person for the appointment of an interpreter to interpret testimony of a non-English-speaking party or witness, to interpret the proceedings to a non-English-speaking party or victim or to assist the court, agency or hearing officer in performing the duties and responsibilities of the court, agency or hearing officer. A fee may not be charged to any person for the appointment of an interpreter if appointment is made to determine whether the person is non-English-speaking for the purposes of this section.

(3) Fair compensation for the services of an interpreter appointed under this section shall be paid:

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

(b) By the city, subject to the approval of the terms of the contract by the governing body of the city, in a proceeding in a municipal court.

(c) By the state in a proceeding in a circuit court. Amounts payable by the state are not payable from the Public Defense Services Account established by ORS 151.225 or from moneys appropriated to the [Public Defense Services Commission] **Oregon Public Defense Commission**. Fees of an interpreter necessary for the purpose of communication between appointed counsel and a client or witness in a criminal case are payable from the Public Defense Services Account or from moneys appropriated to the [Public Defense Services Commission] **Oregon Public Defense Commission**.

(d) By the agency in an adjudicatory proceeding.

(4) If a party, victim or witness is dissatisfied with the interpreter appointed by the court, the hearing officer or the designee of the hearing officer, the party, victim or witness may request the

appointment of a different interpreter. A request under this subsection must be made in a manner consistent with the policies and notice requirements of the court or agency relating to the appointment and scheduling of interpreters. If the substitution of another interpreter will delay the proceeding, the person making the request must show good cause for the substitution. Any party may object to use of any interpreter for good cause. Unless the court, hearing officer or the designee of the hearing officer has appointed a different interpreter for cause, the party using any interpreter other than the interpreter originally appointed by the court, hearing officer or the designee of the hearing officer shall bear any additional costs beyond the amount required to pay the original interpreter.

(5) A judge or hearing officer, on the judge's or hearing officer's own motion, may substitute a different interpreter for the interpreter initially appointed in a proceeding. A judge or hearing officer may make a substitution under this subsection at any time and for any reason.

(6) A court may allow as costs reasonable expenses incurred by a party in employing the services of an interpreter in civil proceedings in the manner provided by ORCP 68.

(7) A court, a hearing officer or the designee of a hearing officer shall require any person serving as an interpreter for the court or agency to state the person's name on the record and whether the person is certified under ORS 45.291. If the person is certified under ORS 45.291, the interpreter need not make the oath or affirmation required by ORS 40.325 or submit the interpreter's qualifications on the record. If the person is not certified under ORS 45.291, the interpreter must make the oath or affirmation required by ORS 40.325 and submit the interpreter's qualifications on the record.

(8) For the purposes of this section:

(a) "Hearing officer" includes an administrative law judge.

(b) "Non-English-speaking person" means a person who, by reason of place of birth or culture, speaks a language other than English and does not speak English with adequate ability to communicate effectively in the proceedings.

(c) "Qualified interpreter" means a person who is readily able to communicate with the non-English-speaking person and who can orally transfer the meaning of statements to and from English and the language spoken by the non-English-speaking person. A qualified interpreter must be able to interpret in a manner that conserves the meaning, tone, level, style and register of the original statement, without additions or omissions. "Qualified interpreter" does not include any person who is unable to interpret the dialect, slang or specialized vocabulary used by the party, victim or witness.

SECTION 21. ORS 45.285 is amended to read:

45.285. (1) For the purposes of this section:

(a) "Assistive communication device" means any equipment designed to facilitate communication by a person with a disability.

(b) "Hearing officer" includes an administrative law judge.

(c) "Person with a disability" means a person who cannot readily understand the proceedings because of deafness or a physical hearing impairment, or cannot communicate in the proceedings because of a physical speaking impairment.

(d) "Qualified interpreter" means a person who is readily able to communicate with the person with a disability, interpret the proceedings and accurately repeat and interpret the statements of the person with a disability to the court.

(2) In any civil action, adjudicatory proceeding or criminal proceeding, including a court-ordered deposition if no other person is responsible for providing an interpreter, in which a person with a disability is a party or witness, the court, hearing officer or the designee of the hearing officer shall appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings to the person with a disability, or to interpret the testimony of the person with a disability.

(3) In any criminal proceeding, the court shall appoint a qualified interpreter and make available appropriate assistive communication devices whenever it is necessary to interpret the proceedings

to a victim who is a person with a disability and who seeks to exercise in open court a right that is granted by Article I, section 42 or 43, of the Oregon Constitution, including the right to be present at a critical stage of the proceeding.

(4) A fee may not be charged to the person with a disability for the appointment of an interpreter or use of an assistive communication device under this section. A fee may not be charged to any person for the appointment of an interpreter or the use of an assistive communication device if appointment or use is made to determine whether the person is a person with a disability for the purposes of this section.

(5) Fair compensation for the services of an interpreter or the cost of an assistive communication device under this section shall be paid:

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

(b) By the city, subject to the approval of the terms of the contract by the governing body of the city, in a proceeding in a municipal court.

(c) By the state in a proceeding in a circuit court. Amounts payable by the state are not payable from the Public Defense Services Account established by ORS 151.225 or from moneys appropriated to the [*Public Defense Services Commission*] **Oregon Public Defense Commission**. Fees of an interpreter necessary for the purpose of communication between appointed counsel and a client or witness in a criminal case are payable from the Public Defense Services Account or from moneys appropriated to the [*Public Defense Services Commission*] **Oregon Public Defense Commission**.

(d) By the agency in an adjudicatory proceeding.

SECTION 22. ORS 84.064 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 [*Public Defense Services Commission*] **Oregon Public Defense Commission**.

SECTION 23. ORS 125.035 is amended to read:

125.035. (1) As used in this section:

(a) "Case subtype" means guardianship, conservatorship or guardianship and conservatorship.

(b) "Case type" means adult protective proceeding or minor protective proceeding.

(2) No later than September 15 of each year, the Judicial Department shall submit, to the interim committees of the Legislative Assembly related to the judiciary, a report on county-level data concerning protective proceedings in Multnomah, Lane and Columbia Counties during the two calendar years immediately preceding the year of the report, including:

(a) The number of protective proceedings initiated, broken out by case type and case subtype;

(b) The number of protective proceedings where the respondent was 65 years of age or older at the time the petition was filed;

(c) The number of protective proceedings granted, broken out by case type and case subtype; and

(d) The number of respondents or protected persons for whom the court appointed counsel under ORS 125.080, broken out by case subtype.

(3) The department, in consultation with the [office of public defense services] **Oregon Public Defense Commission**, shall also include in the report described in subsection (2) of this section, to the extent the data is available:

(a) The number of cases with court-appointed counsel where payment for court-appointed counsel was from the assets of the respondent or protected person, broken out by case subtype; and

(b) The aggregate number of hours court-appointed counsel spent representing respondents or protected persons and the average number of hours court-appointed counsel spent per case.

SECTION 24. ORS 125.080 is amended to read:

125.080. (1) The court may require that a hearing be held on any petition or motion in a protective proceeding.

(2) A hearing must be held on a petition or motion if the respondent or protected person makes or files an objection to the petition or motion and the objection is not withdrawn before the time scheduled for the hearing.

(3) A hearing must be held on a motion to modify a guardian's powers under ORS 125.323.

(4) The respondent or protected person may appear at a hearing in person or by counsel.

(5) If the hearing is regarding a petition for appointment of a guardian for a vulnerable youth or a petition involving a vulnerable youth guardianship, the court:

(a) May allow the respondent or protected person, proposed guardian, guardian or any other witness to appear by telephone, video or other remote technology;

(b)(A) May take testimony from or confer with the respondent or protected person and may exclude from the conference others if the court finds that doing so would be in the best interests of the respondent or protected person; and

(B) Notwithstanding subparagraph (A) of this paragraph, shall permit any attorney for the respondent or protected person to attend the conference and the conference must be reported;

(c) May not inquire into the nationality or current immigration status of the proposed guardian, guardian or any other witness; and

(d) May not inquire about any prior immigration status of the respondent or protected person or about the manner or place in which the respondent or protected person entered the United States of America.

(6)(a) If the court requires that a hearing be held or a hearing is otherwise required under this section, the court shall appoint counsel for the respondent or protected person when:

(A) The respondent or protected person requests that counsel be appointed;

(B) An objection is made or filed to the petition or motion by any person;

(C) The court has appointed a visitor under ORS 125.150, 125.160 or 125.605, and the visitor recommends appointment of counsel for the respondent or protected person; or

(D) The court determines that the respondent or protected person is in need of legal counsel.

(b) The court is not required to appoint counsel under this subsection if the respondent or protected person is already represented by counsel or otherwise objects to appointment of counsel.

(7) If the court appoints counsel under subsection (6) of this section:

(a) The court shall order payment of attorney fees and costs from the guardianship or conservatorship estate of the respondent or protected person if sufficient funds exist to pay all or a portion of the attorney fees and costs due; or

(b) The court may determine that a respondent or protected person is financially eligible for appointed counsel at state expense and, if so, the compensation for legal counsel and costs and expenses necessary for representation of the respondent or protected person shall be determined and paid by the [public defense services] executive director **of the Oregon Public Defense Commission** as provided under ORS 135.055.

SECTION 25. ORS 135.050 is amended to read:

135.050. (1) Suitable counsel for a defendant shall be appointed by a municipal, county or justice court if:

(a) The defendant is before a court on a matter described in subsection (5) of this section;

(b) The defendant requests aid of counsel;

(c) The defendant provides to the court a written and verified financial statement; and
(d) It appears to the court that the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family.

(2) Suitable counsel for a defendant shall be appointed by a circuit court if:

(a) The defendant is before the court on a matter described in subsection (5) of this section;

(b) The defendant requests aid of counsel;

(c) The defendant provides to the court a written and verified financial statement; and

(d)(A) The defendant is determined to be financially eligible under ORS 151.485 and the standards established by the [*Public Defense Services Commission*] **Oregon Public Defense Commission** under ORS 151.216; or

(B) The court finds, on the record, substantial and compelling reasons why the defendant is financially unable to retain adequate representation without substantial hardship in providing basic economic necessities to the defendant or the defendant's dependent family despite the fact that the defendant does not meet the financial eligibility standards established by the commission.

(3) Appointed counsel may not be denied to any defendant merely because the defendant's friends or relatives have resources adequate to retain counsel or because the defendant has deposited or is capable of depositing security for release. However, appointed counsel may be denied to a defendant if the defendant's spouse has adequate resources which the court determines should be made available to retain counsel.

(4) The defendant's financial statement under subsection (1) or (2) of this section shall include, but not be limited to:

(a) A list of bank accounts in the name of defendant or defendant's spouse, and the balance in each;

(b) A list of defendant's interests in real property and those of defendant's spouse;

(c) A list of automobiles and other personal property of significant value belonging to defendant or defendant's spouse;

(d) A list of debts in the name of defendant or defendant's spouse, and the total of each; and

(e) A record of earnings and other sources of income in the name of defendant or defendant's spouse, and the total of each.

(5) Counsel must be appointed for a defendant who meets the requirements of subsection (1) or (2) of this section and who is before a court on any of the following matters:

(a) Charged with a crime.

(b) For a hearing to determine whether an enhanced sentence should be imposed when such proceedings may result in the imposition of a felony sentence.

(c) For extradition proceedings under the provisions of the Uniform Criminal Extradition Act.

(d) For any proceeding concerning an order of probation, including but not limited to the revoking or amending thereof.

(6) Unless otherwise ordered by the court, the appointment of counsel under this section shall continue during all criminal proceedings resulting from the defendant's arrest through acquittal or the imposition of punishment. The court having jurisdiction of the case may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the [*Public Defense Services Commission*] **Oregon Public Defense Commission** under ORS 151.216.

(7) If, at any time after the appointment of counsel, the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel, the court may terminate the appointment of counsel. If, at any time during criminal proceedings, the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom the defendant has retained, the court may appoint counsel as provided in this section.

(8) The court may order the defendant in a circuit court to pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, in full or in part the administrative costs of determining the eligibility of the defendant for appointed counsel and the costs of

the legal and other services that are related to the provision of appointed counsel under ORS 151.487.

(9) In addition to any criminal prosecution, a civil proceeding may be initiated by any public body which has expended moneys for the defendant's legal assistance within two years of judgment if the defendant was not qualified in accordance with subsection (1) or (2) of this section for legal assistance.

(10) The civil proceeding shall be subject to the exemptions from execution as provided for by law.

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

SECTION 26. ORS 136.603 is amended to read:

136.603. (1)(a) Whenever any person attends any court, grand jury or committing magistrate as a witness on behalf of the prosecution or of any person accused of a crime upon request of the district attorney or city attorney or pursuant to subpoena, or by virtue of a recognizance for that purpose, and it appears that the witness has come from outside the state or that the witness is indigent, the court may, by an order entered in its records, direct payment to the witness of such sum of money as the court considers reasonable for the expenses of the witness. The order of the court, so entered, is sufficient authority for the payment.

(b) Except as otherwise specifically provided by law, if a witness who is to be paid expenses pursuant to this subsection:

(A) Attends a grand jury, a circuit court or judge thereof, a judge of a county court or a justice of the peace, on behalf of the prosecution, payment shall be made by the county.

(B) Attends a municipal court or judge thereof on behalf of the prosecution, payment shall be made by the city.

(C) Attends a circuit court or judge thereof on behalf of a financially eligible defendant, payment shall be made by the *[public defense services]* executive director **of the Oregon Public Defense Commission.**

(D) Attends a judge of the county court or a justice of the peace on behalf of a financially eligible defendant, payment shall be made by the county.

(E) Attends a municipal court or judge thereof on behalf of a financially eligible defendant, payment shall be made by the city.

(F) Attends any court on behalf of a defendant who is not financially eligible, payment shall be made by the defendant, and the court shall so order.

(2) In the case of a prisoner of a jurisdiction outside of this state who is required to attend as a witness in this state, whether for the prosecution or the defense, the sheriff shall be responsible for transporting the witness to the proper court of this state, and the sheriff shall assume any costs incurred in connection with the witness while the witness is in the custody of the sheriff. However, the sheriff and not the witness shall be entitled to the witness fees, mileage and expenses to which the witness would otherwise be entitled under this section and ORS 136.627 or other applicable law.

SECTION 27. ORS 137.020 is amended to read:

137.020. (1) After a plea or verdict of guilty, or after a verdict against the defendant on a plea of former conviction or acquittal, if the judgment is not arrested or a new trial granted, the court shall appoint a time for pronouncing judgment.

(2)(a) The time appointed shall be at least two calendar days after the plea or verdict if the court intends to remain in session so long. If the court does not intend to remain in session at least two calendar days, the time appointed may be sooner than two calendar days, but shall be as remote a time as can reasonably be allowed. However, in the latter case, the judgment shall not be given less than six hours after the plea or verdict, except with the consent of the defendant.

(b) Except for good cause shown or as otherwise provided in this paragraph, a court shall not delay for more than 31 calendar days after the plea or verdict the sentencing of a defendant held in custody on account of the pending proceedings. Except for good cause shown or as otherwise provided in this paragraph, a court shall not delay for more than 56 calendar days after the plea

or verdict the sentencing of a defendant not held in custody on account of the pending proceedings. If the defendant is not in custody and the court does not pronounce judgment within 56 calendar days after the plea or verdict, any period of probation imposed as a part of a subsequent judgment shall begin to run from the date of the plea or verdict.

(3) If the defendant is in custody following the verdict, the court shall pronounce judgment as soon as practicable, but in any case within seven calendar days following the verdict if no presentence investigation is ordered, and within seven calendar days after delivery of the presentence report to the court if a presentence investigation has been ordered; however, the court may delay pronouncement of judgment beyond the limits of this subsection for good cause shown.

(4) If the final calendar day a defendant must be sentenced is not a judicial day then sentencing may be delayed until the next judicial day.

(5)(a) At the time a court pronounces judgment the defendant, if present, shall be advised of the right to appeal and of the procedure for protecting that right. If the defendant is not present, the court shall advise the defendant in writing of the right to appeal and of the procedure for protecting that right.

(b) If the trial court sentences the defendant subsequent to a plea of guilty or no contest or upon probation revocation or sentence suspension, or if the trial court sentences the defendant after judgment of an appellate court or a post-conviction relief court, the court shall advise the defendant of the limitations on reviewability imposed by ORS 138.105 in person or, if the defendant is not present, in writing.

(6) If the defendant is financially eligible for appointment of counsel at state expense on appeal under ORS 138.500, trial counsel shall determine whether the defendant wishes to pursue an appeal. If the defendant wishes to pursue an appeal, trial counsel shall transmit to the [office of public defense services established under ORS 151.216] **Oregon Public Defense Commission**, on a form prepared by the office, information necessary to perfect the appeal.

SECTION 28. ORS 138.310 is amended to read:

138.310. When the [public defense services] executive director **of the Oregon Public Defense Commission** pays costs, expenses or compensation under ORS 138.500 (5) on appeal in a criminal action, the [public defense services] executive director shall notify the court below of the costs, expenses and compensation paid in order that the court below may exercise its discretion under ORS 151.505 or 161.665 (2).

SECTION 29. ORS 138.480 is amended to read:

138.480. The Supreme Court or the Court of Appeals may, in its discretion, at the request of an individual who is deprived of liberty by a judgment, is without means to retain an attorney and is without the aid of an attorney, direct the [Public Defense Services Commission] **Oregon Public Defense Commission** to provide representation for the individual in a proceeding before it to test the validity of that judgment.

SECTION 30. ORS 138.500 is amended to read:

138.500. (1) If a defendant in a criminal action or a petitioner in a proceeding pursuant to ORS 138.510 to 138.680 wishes to appeal from an appealable adverse final order or judgment of a circuit court and if the person is without funds to employ suitable counsel possessing skills and experience commensurate with the nature and complexity of the case for the appeal, the person may request the circuit court from which the appeal is or would be taken to appoint counsel to represent the person on appeal. The following apply to a request under this subsection:

(a) The request shall be in writing and shall be made within the time during which an appeal may be taken or, if the notice of appeal has been filed, at any time thereafter. The request shall include a brief statement of the assets, liabilities and income in the previous year of the person unless the court already determined the person to be financially eligible for appointed counsel at state expense for purposes of the specific case, in which instance, the written request need only so indicate. However, if a request relies on a court's previous determination that the person is financially eligible, the court, in its discretion, may require the person to submit a new statement of assets, liabilities and income.

(b) If, based upon a request under paragraph (a) of this subsection, the court finds that petitioner or defendant previously received the services of appointed counsel or currently is without funds to employ suitable counsel for an appeal, the court shall appoint counsel to represent petitioner or defendant on the appeal.

(2)(a) Notwithstanding subsection (1) of this section, when a defendant has been sentenced to death, the request for appointed counsel shall be made to the Supreme Court. The Supreme Court shall appoint suitable counsel to represent the defendant on the appeal.

(b) After the notice of appeal has been filed, the Court of Appeals has concurrent authority to appoint or substitute counsel or appoint or substitute a legal advisor for the defendant under ORS 138.504.

(c) The Supreme Court has concurrent authority to appoint or substitute counsel or appoint or substitute a legal advisor for the defendant under ORS 138.504 in connection with review of a Court of Appeals decision under ORS 2.520.

(d) Neither the Court of Appeals nor the Supreme Court may substitute one appointed counsel for another under paragraph (b) or (c) of this subsection except pursuant to the policies, procedures, standards and guidelines of the [Public Defense Services Commission] **Oregon Public Defense Commission**.

(3) Whenever a defendant in a criminal action or a petitioner in a proceeding pursuant to ORS 138.510 to 138.680 has filed a notice of appeal from an appealable adverse final order or judgment of a circuit court and the person is without funds to pay for a transcript, or portion thereof, necessary to present adequately the case upon appeal, the person may request the [public defense services] executive director **of the Oregon Public Defense Commission** to have the transcript, or portion thereof, prepared for purposes of appeal. The following apply to a request under this subsection:

(a) The [public defense services] executive director shall authorize the preparation of a transcript after a court has determined that the person is eligible for court-appointed counsel or, if the person has not applied for court-appointed counsel, the person submits a statement of the person's assets, liabilities and income in the previous year and the director determines that the person is eligible for preparation of a transcript at state expense.

(b) The cost of the transcript preparation under paragraph (a) of this subsection shall be in the amount prescribed in ORS 21.345 and paid for as provided by the policies, procedures, standards and guidelines of the [Public Defense Services Commission] **Oregon Public Defense Commission**.

(4) After submission of the original brief by counsel, the [public defense services] executive director **of the Oregon Public Defense Commission** shall determine the cost of briefs and any other expenses of appellant, except transcripts, necessary to appellate review and a reasonable amount of compensation for counsel appointed under this section. Compensation payable to appointed counsel shall be as established under ORS 151.216. On any review by the Supreme Court of the judgment of the Court of Appeals the [public defense services] executive director shall similarly determine the costs of briefs and any other expenses necessary for review and a reasonable amount of compensation for counsel appointed under this section.

(5) Costs, expenses and compensation determined by the [public defense services] executive director **of the Oregon Public Defense Commission** under subsection (4) of this section shall be paid by the [public defense services] executive director from funds available for that purpose.

(6) If the [public defense services] executive director **of the Oregon Public Defense Commission** denies, in whole or in part, costs, expenses and compensation submitted for review and payment, the person who submitted the payment request may appeal the decision to the Chief Judge of the Court of Appeals, if the appeal is in the Court of Appeals, or to the Chief Justice of the Supreme Court, if the appeal is in the Supreme Court. The Chief Judge, Chief Justice or the designee of the Chief Judge or Chief Justice, as appropriate, shall review the [public defense services] executive director's decision for abuse of discretion. The decision of the Chief Judge, the Chief Justice or the designee of the Chief Judge or Chief Justice is final.

(7) The provisions of this section shall apply in favor of the defendant in a criminal action or the petitioner in a proceeding pursuant to ORS 138.510 to 138.680 when the person is respondent in an appeal taken by the state in a criminal action or by the defendant in a proceeding pursuant to ORS 138.510 to 138.680.

(8) As used in this section, "criminal action" does not include an action that involves only violations.

(9) As used in subsection (4) of this section, "counsel" includes a legal advisor appointed under ORS 138.504.

SECTION 31. ORS 138.590 is amended to read:

138.590. (1) Any petitioner who is unable to pay the expenses of a proceeding pursuant to ORS 138.510 to 138.680 or to employ suitable counsel possessing skills and experience commensurate with the nature of the conviction and complexity of the case for the proceeding may proceed as a financially eligible person pursuant to this section upon order of the circuit court in which the petition is filed.

(2) If the petitioner wishes to proceed as a financially eligible person, the person shall file with the petition an affidavit stating inability to pay the expenses of a proceeding pursuant to ORS 138.510 to 138.680, including, but not limited to, the filing fee required by ORS 138.560, or to employ suitable counsel for such a proceeding. The affidavit shall contain a brief statement of the petitioner's assets and liabilities and income during the previous year. If the circuit court is satisfied that the petitioner is unable to pay such expenses or to employ suitable counsel, it shall order that the petitioner proceed as a financially eligible person. If the court finds that a petitioner who has been sentenced to death is not competent to decide whether to accept or reject the appointment of counsel, the court shall appoint counsel to represent the petitioner. However, when a circuit court orders petitioner's case transferred to another circuit court as provided in ORS 138.560 (4), the matter of petitioner's proceeding as a financially eligible person shall be determined by the latter court.

(3) If a petitioner who has been sentenced to death qualifies for the appointment of counsel under this section but rejects the appointment, the court shall determine, after a hearing if necessary, whether the petitioner rejected the offer of counsel and made the decision with an understanding of its legal consequences. The court shall make appropriate findings on the record.

(4) In the order to proceed as a financially eligible person, the circuit court shall appoint suitable counsel to represent petitioner. Counsel so appointed shall represent petitioner throughout the proceedings in the circuit court. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the [*Public Defense Services Commission*] **Oregon Public Defense Commission**.

(5) If counsel appointed by the circuit court determines that the petition as filed by petitioner is defective, either in form or in substance, or both, counsel may move to amend the petition within 15 days following counsel's appointment, or within a further period as the court may allow. The amendment shall be permitted as of right at any time during this period. If appointed counsel believes that the original petition cannot be construed to state a ground for relief under ORS 138.510 to 138.680, and cannot be amended to state a ground for relief, counsel shall, in lieu of moving to amend the petition, inform the petitioner and notify the circuit court of counsel's belief by filing an affidavit stating the belief and the reasons therefor with the clerk of the circuit court. This affidavit does not constitute a ground for denying the petition prior to a hearing upon its sufficiency, but the circuit court may consider the affidavit in deciding upon the sufficiency of the petition at the hearing.

(6) When a petitioner has been ordered to proceed as a financially eligible person, the expenses which are necessary for the proceedings upon the petition in the circuit court and the compensation to appointed counsel for petitioner as provided in this subsection shall be paid by the [*public defense services*] executive director **of the Oregon Public Defense Commission** from funds available for the purpose. At the conclusion of proceedings on a petition pursuant to ORS 138.510 to 138.680, the [*public defense services*] executive director shall determine and pay, as provided by the policies,

procedures, standards and guidelines of the [Public Defense Services Commission] **Oregon Public Defense Commission**, the amount of expenses of petitioner and compensation for the services of appointed counsel in the proceedings in the circuit court.

(7) If the [public defense services] executive director of the **Oregon Public Defense Commission** denies, in whole or in part, expenses and compensation 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.

(8)(a) When a petitioner has been authorized to proceed as a financially eligible person, all court fees in the circuit court, except for the filing fee required by ORS 138.560, are waived.

(b) When a petitioner is allowed to file a petition without payment of the fee required by ORS 138.560 due to inability to pay, the fee is not waived but may be drawn from, or charged against, the petitioner's trust account if the petitioner is an adult in custody in a correctional facility.

(9) Notwithstanding any other provision of this chapter, a court may not appoint as counsel for a petitioner who has been sentenced to death a counsel who previously represented the petitioner at trial or on automatic and direct review in the case resulting in the death sentence unless the petitioner and the counsel expressly request continued representation.

SECTION 32. ORS 144.335 is amended to read:

144.335. (1) A person over whom the State Board of Parole and Post-Prison Supervision exercises its jurisdiction may seek judicial review of a final order of the board as provided in this section if:

- (a) The person is adversely affected or aggrieved by a final order of the board; and
- (b) The person has exhausted administrative review as provided by board rule.

(2) A person requesting administrative review shall provide the person's current mailing address in the request. The board shall mail its order disposing of the request for administrative review to the person at that address, unless the person has otherwise notified the board in writing of a change of address.

(3) The order of the board need not be in any special form, and the order is sufficient for purposes of judicial review if it appears that the board acted within the scope of the board's authority. The Court of Appeals may affirm, reverse or remand the order on the same basis as provided in ORS 183.482 (8). The filing of the petition shall not stay the board's order, but the board may do so, or the court may order a stay upon application on such terms as it deems proper.

(4) If a person described in subsection (1) of this section seeks judicial review of a final order of the board, the person shall file a petition for judicial review with the Court of Appeals within 60 days after the date the board mails the order disposing of the person's request for administrative review. The person shall serve a copy of the petition for judicial review on the board.

(5) Within 30 days after being served with a copy of the petition for judicial review, or such further time as the court may allow, the board shall:

(a) Submit to the court the record of the proceeding or, if the petitioner agrees, a shortened record; and

(b) Deliver a copy of the record to the petitioner or the petitioner's attorney, if the petitioner is represented by an attorney.

(6) At any time after submission of the petitioner's brief, the court, on its own motion or on motion of the board, without submission of the board's brief and without oral argument, may summarily affirm the board's order if the court determines that the judicial review does not present a substantial question of law. Notwithstanding ORS 2.570, the Chief Judge, or other judge of the Court of Appeals designated by the Chief Judge, may, on behalf of the Court of Appeals, deny or, if the petitioner does not oppose the motion, grant the board's motion for summary affirmance. A summary affirmance under this subsection constitutes a decision on the merits of the petitioner's issues on judicial review.

(7) During the pendency of judicial review of an order, if the board withdraws the order for the purpose of reconsideration and thereafter issues an order on reconsideration, and the petitioner

wishes to proceed with the judicial review, the petitioner need not seek administrative review of the order on reconsideration and need not file a new petition for judicial review. The petitioner shall file, within a time established by the court, a notice of intent to proceed with judicial review.

(8) In the case of disputed allegations of irregularities in procedure before the board not shown in the record that, if proved, would warrant reversal or remand, the Court of Appeals may refer the allegations to a master appointed by the court to take evidence and make findings of fact upon them.

(9) If the court determines that a brief filed by the petitioner, when liberally construed, fails to state a colorable claim for review, the court may order the petitioner to pay, in addition to the board's recoverable costs, attorney fees incurred by the board not to exceed \$100. If the petitioner moves to dismiss the petition prior to a summary affirmance described in subsection (6) of this section, the court may not award costs or attorney fees to the board.

(10) Upon request by the board, the Department of Corrections may draw from or charge to the petitioner's trust account and pay to the board the amount of any costs or attorney fees awarded to the board by the court in any judicial review under this section.

(11) If the petitioner prevails on judicial review and is represented by an attorney funded by the [Public Defense Services Commission] **Oregon Public Defense Commission**, any recoverable costs shall be paid to the commission.

SECTION 33. ORS 144.337 is amended to read:

144.337. (1) Pursuant to ORS 151.216 and 151.219, the [Public Defense Services Commission] **Oregon Public Defense Commission** shall provide for the representation of financially eligible persons petitioning for review under ORS 144.335.

(2) If the commission determines that a person petitioning for review under ORS 144.335 is not financially eligible for appointed counsel at state expense, the commission shall promptly notify the person of the determination and of the person's right to request review of the determination by the Court of Appeals. The person may request review of the commission's determination by filing a motion in the Court of Appeals no later than 60 days after the date of the commission's notice.

(3) The determination of the Court of Appeals under subsection (2) of this section as to whether the person is financially eligible is final.

SECTION 34. ORS 147.537 is amended to read:

147.537. (1) Appellate review of an order described in ORS 147.535 (4)(a) must be initiated by filing a notice of interlocutory appeal with the Supreme Court substantially in the form prescribed by rule of the Supreme Court. Review of the order is a matter of right.

(2) The person or party filing the notice of interlocutory appeal shall be identified as the appellant and the defendant shall be identified as the respondent. Any other person described in subsection (6)(a) to (f) of this section who is a party to the appeal shall be identified as a respondent.

(3) The notice of interlocutory appeal must contain:

(a) A designation of those portions of the trial court record, including oral proceedings, to be included in the record on appeal; and

(b) A statement of why the notice is timely.

(4) The appellant shall include with the notice of interlocutory appeal the following materials:

(a) A copy of the order for which appellate review is sought, which must be attached to the notice.

(b) Excerpts of the record necessary to determine the question presented and the relief sought. An excerpt of record must include a copy of the form described in ORS 147.515 (2)(a), if the form was completed and provided to the trial court.

(c) A memorandum of law containing:

(A) A concise but complete statement of facts material to a determination of the question presented and the relief sought; and

(B) Supporting arguments and citations of authority.

(5) The Supreme Court may:

(a) Direct a party to the appeal to supplement the record with a copy of additional parts of the record or a transcript of the parts of the oral proceedings in the trial court necessary to determine the question presented and the relief sought; or

(b) Direct the trial court administrator to forward all or part of the trial court record.

(6) The appellant shall serve a copy of the notice of interlocutory appeal and the accompanying materials described in subsection (4) of this section on the following other persons:

(a) The victim who asserted the claim that resulted in the order being appealed and any victim who asserted a related claim;

(b) Any person who filed a response under ORS 147.517 (4) to the claim that resulted in the order being appealed or a related claim;

(c) Any person who filed the motion that resulted in the order being appealed or a related motion under ORS 147.522;

(d) Any person against whom relief was sought in the hearing that resulted in the order being appealed or a related hearing under ORS 147.530;

(e) The prosecuting attorney;

(f) The Attorney General;

(g) The defendant; and

(h) The *[office of public defense services established under ORS 151.216]* **Oregon Public Defense Commission**, if the defendant is represented by appointed counsel.

(7) The appellant shall serve a copy of the notice of interlocutory appeal on:

(a) The trial court administrator; and

(b) The trial court transcript coordinator, if the notice of interlocutory appeal contains a designation of the oral proceedings before the trial court as part of the record on appeal.

(8)(a) Except as otherwise provided in this subsection, the appellant shall serve and file the notice of interlocutory appeal and, if applicable, the accompanying materials described in subsection (4) of this section within seven days after the date the trial court entered the order being appealed.

(b) An appellant who seeks to appeal an order issued under ORS 147.530 and who was not provided with a copy of the order as required by ORS 147.530 (6) may serve and file the notice of interlocutory appeal and, if applicable, the accompanying materials described in subsection (4) of this section within seven days after the date of receiving a copy of the order.

(c) The appellant shall serve the prosecuting attorney and the Attorney General so that the copy of the notice of interlocutory appeal and accompanying materials are received on the same day the notice is filed with the Supreme Court.

(d) Except as provided in paragraph (c) of this subsection, the appellant shall serve all persons described in subsections (6) and (7) of this section so that the copy of the notice of interlocutory appeal and, if applicable, accompanying materials are received no later than one judicial day after the notice is filed.

(9) Within three days after receipt of a notice of interlocutory appeal that contains a designation of record under subsection (3) of this section, the trial court administrator shall forward to the Supreme Court an audio record of the designated oral proceedings.

(10) If the Supreme Court directs a party to provide a transcript of oral proceedings under subsection (5) of this section, the party shall provide the transcript to the Supreme Court within seven days after the date of the Supreme Court's order.

(11)(a) The following requirements are jurisdictional and may not be waived or extended:

(A) The timely filing of the original notice of interlocutory appeal and accompanying materials described in subsection (4) of this section with the Supreme Court; and

(B) The service of the notice of interlocutory appeal within the time limits described in subsection (8) of this section on all persons identified in subsection (6) of this section.

(b) Failure to timely serve a true and complete copy of the accompanying materials described in subsection (4) of this section is not jurisdictional, provided that the appellant made a good faith effort to do so and substantially complied with those requirements.

(c) Notwithstanding paragraph (b) of this subsection, the Supreme Court may dismiss the appeal as to any respondent if the appellant, after receipt of a notice of noncompliance, does not promptly cure a deficiency in the materials or if the failure to timely serve a true and complete copy of the accompanying materials substantially prejudices the respondent's ability to respond to the appeal.

(12) A respondent may file a response, which must be filed within seven days after the date the notice of interlocutory appeal is filed with the Supreme Court.

(13)(a) Except as provided in paragraph (b) of this subsection, the appellant may not file a reply.

(b) If the Supreme Court determines that the case is unusually complex, due to the number of persons involved or the existence of novel questions of law, and the court would benefit from additional briefing, the court may extend the briefing schedule described in this section and allow the appellant to file a reply.

(14) The appellant or respondent may request oral argument. The Supreme Court may grant or deny a request for oral argument or order oral argument on its own motion.

(15) At any time after submission of the appellant's memorandum of law, the Supreme Court, on its own motion or on the motion of the respondent, may summarily affirm the trial court's order, with or without the submission of a response or oral argument, if the Supreme Court determines that the appeal does not present a substantial question of law. A motion for summary affirmance has no effect on the timelines described in this section.

(16)(a) Except as provided in paragraph (b) of this subsection, the Supreme Court shall issue its decision on appeal under this section within 21 days after the date the notice of interlocutory appeal is filed.

(b) The Supreme Court may issue a final decision beyond the 21-day period if the court determines that the ends of justice served by issuing a final decision at a later date outweigh the best interests of the victim, the prosecuting attorney, the defendant, any person against whom relief was ordered and the public.

(c) In making the determination under paragraph (b) of this subsection, the Supreme Court shall consider:

(A) Whether the case is unusually complex, due to the number of persons involved or the existence of novel questions of law, and whether 21 days is an unreasonable amount of time for the court to issue a decision; and

(B) Whether the failure to extend the 21-day period would be likely to result in a miscarriage of justice.

(17) Appellate review under this section is confined to the record. The Supreme Court may not substitute its judgment for that of the trial court as to any issue of fact and shall review challenges to a factual finding for evidence in the record to support the finding. The Supreme Court shall review for errors of law and, when the law delegates discretion to the trial court, determine whether the trial court's exercise of discretion was outside the range of discretion delegated to the trial court.

(18) The Supreme Court may affirm, modify, reverse or remand the trial court's order. The court may reverse or remand the order only if it finds that the order is unlawful in substance or procedure and that the substantial rights of the appellant were prejudiced as a result.

(19) Notwithstanding any other provision of law, a notice of interlocutory appeal and the response described in subsection (12) of this section are filed under this section when those documents are physically received by the Supreme Court or, if the documents are filed electronically, as provided by rule of the Chief Justice of the Supreme Court.

(20) In addition to any other method authorized by law, service under this section may be accomplished by electronic mail or facsimile transmission, in a manner consistent with any applicable rules of appellate procedure.

SECTION 35. ORS 147.560 is amended to read:

147.560. (1) There is created the Task Force on Victims' Rights Enforcement consisting of the Attorney General and at least nine members appointed as follows:

(a) The Attorney General shall appoint:

(A) Two members employed by or associated with a group advocating for the rights of victims of crime;

(B) A member who represents the Department of Justice Crime Victims' Services Division;

(C) A lawyer routinely engaged in the representation of persons charged with a crime, after consulting with professional organizations serving such lawyers;

(D) A lawyer routinely engaged in prosecuting persons charged with person felony crimes, after consulting with professional organizations serving such lawyers;

(E) A lawyer routinely engaged in prosecuting persons charged with a crime, after consulting with professional organizations serving such lawyers; and

(F) Other persons the Attorney General deems appropriate;

(b) The Chief Justice of the Supreme Court shall appoint:

(A) A person employed by the Judicial Department, other than a judge; and

(B) A judge; and

(c) The executive director of the [*office of public defense services established under ORS 151.216*] **Oregon Public Defense Commission** shall appoint a person employed by the [*office of public defense services*] **commission**.

(2) The task force shall review the implementation of ORS 147.500 to 147.550.

(3) The Attorney General shall serve as chair of the task force and may establish a term of office for the members. The task force shall meet at times and places specified by the call of the chairperson or of a majority of the members of the task force.

(4) Members serve at the pleasure of the appointing authority. If there is a vacancy for any cause, the appointing authority shall make an appointment to become immediately effective.

(5) The task force may prepare reports that include recommendations for legislation designed to improve, in a cost-efficient manner, the protection of rights granted to victims of crime by the Oregon Constitution. The task force may submit a report prepared under this subsection to the Legislative Assembly in the manner provided in ORS 192.245.

(6) Members of the task force are not entitled to compensation or reimbursement for expenses and serve as volunteers on the task force.

(7) The Department of Justice shall provide staff support to the task force.

(8) All agencies of state government, as defined in ORS 174.111, are directed to assist the task force in the performance of its duties and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice as the members of the task force consider necessary to perform their duties.

SECTION 36. ORS 151.485 is amended to read:

151.485. (1) For purposes of determining the financial eligibility for appointed counsel of persons with a constitutional or statutory right to counsel in matters before the state courts and whose counsel is authorized to be paid by the [*public defense services*] executive director [*under ORS 151.219*] **of the Oregon Public Defense Commission**, a person is financially eligible for appointed counsel if the person is determined to be financially unable to retain adequate counsel without substantial hardship in providing basic economic necessities to the person or the person's dependent family under standards established by the [*Public Defense Services Commission*] **Oregon Public Defense Commission** under ORS 151.216.

(2) A determination of financial eligibility shall be made upon the basis of information contained in a detailed financial statement submitted by the person for whom counsel is requested or appointed or, in an appropriate case, by the person's parent, guardian or custodian. The financial statement shall be in the form prescribed by the [*Public Defense Services Commission*] **Oregon Public Defense Commission**. The form shall contain a full disclosure of all assets, liabilities, current income, dependents and other information required by ORS 135.050 (4) and, in addition, any information required by the commission and state courts as necessary to determine eligibility. The commission shall adopt uniform statewide guidelines and procedures that prescribe how to use the form and determine financial eligibility for appointed counsel.

(3) If at any time after the appointment of counsel the court having jurisdiction of the case finds that the defendant is financially able to obtain counsel, the court may terminate the appointment of counsel. If at any time during criminal proceedings the court having jurisdiction of the case finds that the defendant is financially unable to pay counsel whom the defendant has retained, the court may appoint counsel as provided in this section.

(4) In addition to any criminal prosecution, a civil proceeding may be initiated by any public body that has expended moneys for the defendant's legal assistance within two years of judgment if the defendant was not qualified for legal assistance in accordance with subsections (1) and (2) of this section. As used in this subsection, "legal assistance" includes legal counsel, transcripts, witness fees and expenses and any other goods or services required by law to be provided to a financially eligible person at state expense under ORS 151.216 and 151.219.

(5) The civil proceeding shall be subject to the exemptions from execution as provided for by law.

SECTION 37. ORS 151.487 is amended to read:

151.487. (1) If in determining that a person is financially eligible for appointed counsel under ORS 151.485, the court finds that the person has financial resources that enable the person to pay in full or in part the administrative costs of determining the eligibility of the person and the costs of the legal and other services to be provided at state expense that are related to the provision of appointed counsel, the court shall enter a limited judgment requiring that the person pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, the amount that it finds the person is able to pay without creating substantial hardship in providing basic economic necessities to the person or the person's dependent family. The amount that a court may require the person to pay is subject to the guidelines and procedures issued by the [Public Defense Services Commission] **Oregon Public Defense Commission** as provided in subsection (4) of this section.

(2) Failure to comply with the requirements of a limited judgment entered under this section is not grounds for contempt or grounds for withdrawal by the appointed attorney.

(3) Except as authorized in this section, a person, organization or governmental agency may not request or accept a payment or promise of payment for assisting in the representation of a person by appointment.

(4) The commission shall promulgate and issue guidelines and procedures:

(a) For the determination of persons provided with appointed counsel who have some financial resources to pay in full or in part the administrative, legal and other costs under subsection (1) of this section; and

(b) Regarding the amounts persons may be required to pay by a court under subsection (1) of this section.

(5) The determination that a person is able to pay or partially able to pay, or that a person no longer has the ability to pay the amount ordered in subsection (1) of this section, is subject to review at any time by the court.

SECTION 38. ORS 151.493 is amended to read:

151.493. (1) Notwithstanding any other provision of law, any state agency as defined in ORS 192.311 that receives a request for release of information from the state courts for the purpose of verifying the financial eligibility of a person under ORS 151.485 to 151.497 shall release all requested information to the state court. The court shall forward to the state agency a certification signed by the person about whom the requested information is sought that authorizes the release of the information.

(2) Upon its own motion or motion of the [public defense services] executive director **of the Oregon Public Defense Commission**, a court that has appointed counsel for a person by reason of financial eligibility may order the release of any information relating to the person's financial situation held by any other person.

SECTION 39. ORS 151.505 is amended to read:

151.505. (1) At the conclusion of a case or matter in which the first accusatory instrument or petition in the trial court was filed after January 1, 1998, and in which the court appointed counsel to represent a person, a trial, appellate or post-conviction court may include in its judgment a money award requiring that the person repay in full or in part the administrative costs of determining the eligibility of the person for appointed counsel, and the costs of the legal and other services that are related to the provision of appointed counsel, that have not previously been required to be paid under a limited judgment entered under ORS 151.487. An award under this section is a monetary obligation payable to the state.

(2) Costs that may be included in a money award under this section include a reasonable attorney fee for counsel appointed to represent the person and a reasonable amount for expenses authorized under ORS 135.055. A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the [Public Defense Services Commission] **Oregon Public Defense Commission** under ORS 151.216. For purposes of this subsection, compensation of counsel is determined by reference to a schedule of compensation established by the commission.

(3) The court may not require a person to pay costs under this section unless the person is or may be able to pay the costs. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the person and the nature of the burden that payment of costs will impose.

(4)(a) A person who has been required to pay costs under this section and who is not in contumacious default in the payment of the costs may at any time petition the court for remission of the payment of costs or any unpaid portion of the costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the person ordered to repay or on the immediate family of the person, or will interfere with the ability of the person to complete an alcohol or drug treatment program, the court may enter a supplemental judgment that remits all or part of the amount due or modifies the method of payment.

(b) In accordance with ORS 144.089, a person may enter into a written agreement to participate in a community service exchange program as an alternative to paying costs imposed under this section.

(5) All moneys collected or paid under a money award made pursuant to this section shall be paid into the Criminal Fine Account. If the money award is part of a criminal judgment of conviction, the award is a Type 2, Level II obligation for the purpose of ORS 137.145 to 137.159.

SECTION 40. ORS 161.309 is amended to read:

161.309. (1) The defendant may not introduce evidence on the issue of insanity under ORS 161.295, unless the defendant:

(a) Gives notice of intent to do so in the manner provided in subsection (3) of this section; and
(b) Files with the court a report of a psychiatric or psychological evaluation, conducted by a certified evaluator, in the manner provided in subsection (4) of this section.

(2) The defendant may not introduce in the case in chief expert testimony regarding partial responsibility or diminished capacity under ORS 161.300 unless the defendant gives notice of intent to do so in the manner provided in subsection (3) of this section.

(3)(a) A defendant who is required under subsection (1) or (2) of this section to give notice shall file a written notice of purpose at least 45 days before trial.

(b) Notwithstanding paragraph (a) of this subsection, the court may, for good cause, permit the defendant to file the notice within 45 days before trial.

(c) If the defendant fails to file notice under this subsection, the defendant may not introduce evidence for the establishment of a defense under ORS 161.295 or 161.300 unless the court, in its discretion, permits the evidence to be introduced where just cause for failure to file the notice is shown.

(4) A defendant who is required under subsection (1) of this section to file a report of a psychiatric or psychological evaluation shall file the report before trial. The report must be based on an evaluation conducted after the date of the alleged offense and must address the issue of insanity under ORS 161.295 and the dispositional determination described in ORS 161.325. If the defendant

fails to file a complete report before trial, the defendant may not introduce evidence for the establishment of a defense under ORS 161.295 unless:

(a) The court, in its discretion, permits the evidence to be introduced when just cause for failure to file the report is shown; and

(b) If the defendant is charged with a felony, the defendant is tried by a jury.

(5)(a) A court may not accept a plea of guilty except for insanity to a felony unless a report described in subsection (4) of this section is filed with the court. If the report has not been filed, the court may order that a psychiatric or psychological evaluation of the defendant be conducted by a certified evaluator and a report of the evaluation be filed with the court.

(b) When the court orders an evaluation of a financially eligible person under this subsection, the court shall order the [*public defense services*] executive director **of the Oregon Public Defense Commission** to pay a reasonable fee for the evaluation from funds available for that purpose.

(c) A certified evaluator performing an evaluation of a defendant on the issue of insanity under this subsection is not obligated to evaluate the defendant for fitness to proceed unless, during the evaluation, the certified evaluator determines that the defendant's fitness to proceed is drawn in question.

(6) Prior to accepting a plea of guilty except for insanity to a felony, the court shall inform the defendant of the possibility that the court may order commitment or conditional discharge after entry of judgment, and of the maximum total period of commitment or conditional discharge under ORS 161.327 (7).

(7) As used in this section, "certified evaluator" means a psychiatrist or psychologist who holds a valid certification under the provisions of ORS 161.392.

SECTION 41. ORS 161.346 is amended to read:

161.346. (1) When the Psychiatric Security Review Board conducts a hearing under ORS 161.315 to 161.351, the board shall enter an order and make findings in support of the order. If the board finds that a person under the jurisdiction of the board:

(a) Is no longer affected by a qualifying mental disorder, or, if so affected, no longer presents a substantial danger to others, the board shall order the person discharged from commitment and conditional release.

(b) Is still affected by a qualifying mental disorder and is a substantial danger to others, but can be controlled adequately if conditionally released with treatment as a condition of release, the board shall order the person conditionally released as provided in ORS 161.336.

(c) Has not recovered from the qualifying mental disorder, is a substantial danger to others and cannot adequately be controlled if conditionally released on supervision, the board shall order the person committed to, or retained in, a state hospital, or if the person is under 18 years of age, a secure intensive community inpatient facility, for care, custody and treatment.

(2) To assist the board in making the determination described in subsection (1) of this section, the board may, at any time, appoint a psychiatrist or licensed psychologist to examine the person and to submit a report to the board. The report must include an opinion as to the mental condition of the person, whether the person presents a substantial danger to others and whether the person could be adequately controlled with treatment as a condition of release.

(3) The board may make the determination regarding discharge or conditional release based upon the written reports submitted pursuant to this section. If any member of the board desires further information from the examining psychiatrist or licensed psychologist who submitted the report, the board shall summon the person to give testimony. The board shall consider all evidence available to it that is material, relevant and reliable regarding the issues before the board. The evidence may include but is not limited to the record of trial, the information supplied by the attorney representing the state or by any other interested party, including the person, and information concerning the person's mental condition and the entire psychiatric and criminal history of the person. All evidence of a type commonly relied upon by reasonably prudent persons in the conduct of their serious affairs shall be admissible at hearings. Testimony shall be taken upon oath or affirmation

of the witness from whom received. The officer presiding at the hearing shall administer oaths or affirmations to witnesses.

(4) The board shall furnish to the person about whom the hearing is being conducted, the attorney representing the person, the Attorney General and the district attorney of the county from which the person was committed written notice of any hearing pending under this section within a reasonable time prior to the hearing. The notice shall include:

(a) The time, place and location of the hearing.

(b) The nature of the hearing and the specific action for which a hearing has been requested, the issues to be considered at the hearing and a reference to the particular sections of the statutes and rules involved.

(c) A statement of the legal authority and jurisdiction under which the hearing is to be held.

(d) A statement of all rights under subsection (6) of this section.

(5) Prior to the commencement of the hearing, the board shall serve personally or by mail a written notice to each party as provided in ORS 183.413 (2).

(6) At the hearing, the person about whom the hearing is being held shall have the right:

(a) To appear at all proceedings held pursuant to this section, except for deliberations.

(b) To cross-examine all witnesses appearing to testify at the hearing.

(c) To subpoena witnesses and documents as provided in ORS 161.395.

(d) To be represented by suitable legal counsel possessing skills and experience commensurate with the nature and complexity of the case, to consult with counsel prior to the hearing and, if financially eligible, to have suitable counsel appointed at state expense.

(e) To examine all information, documents and reports that the board considers. If then available to the board, the information, documents and reports shall be disclosed to the person so as to allow examination prior to the hearing.

(7) A record shall be kept of all hearings conducted under ORS 161.315 to 161.351, except for deliberations.

(8) Upon request of any party, or on motion of the board, the hearing may be continued for a reasonable period not to exceed 60 days to obtain additional information or testimony or for other good cause shown.

(9) Within 30 days following the conclusion of the hearing, the board shall provide to the person, the attorney representing the person, the Attorney General or other attorney representing the state, if any, written notice of the order entered by the board.

(10) The burden of proof on all issues at hearings under ORS 161.315 to 161.351 shall be by a preponderance of the evidence.

(11) If the board determines that the person about whom the hearing is being held is financially eligible, the board shall appoint suitable counsel to represent the person. Counsel so appointed shall be an attorney who satisfies the [professional qualifications] **minimum standards** established by the [Public Defense Services Commission] **Oregon Public Defense Commission** under ORS 151.216. The [public defense services] executive director **of the commission** shall determine and allow fair compensation for counsel appointed under this subsection and the reasonable expenses of the person in respect to the hearing. Compensation payable to appointed counsel shall not be less than the applicable compensation level established under ORS 151.216. The compensation and expenses so allowed shall be paid by the [public defense services] executive director from funds available for the purpose.

(12) The Attorney General may represent the state at contested hearings under ORS 161.315 to 161.351 unless the district attorney of the county from which the person was committed elects to represent the state. The district attorney of the county from which the person was committed shall cooperate with the Attorney General in securing the material necessary for presenting a contested hearing. If the district attorney elects to represent the state, the district attorney shall give timely written notice of such election to the Attorney General, the board and the attorney representing the person.

SECTION 42. ORS 161.348 is amended to read:

161.348. (1) When a person over whom the Psychiatric Security Review Board exercises jurisdiction under ORS 161.315 to 161.351 or 419C.544 is adversely affected or aggrieved by a final order of the board, the person is entitled to judicial review of the final order. The person is entitled on judicial review to suitable counsel possessing skills and experience commensurate with the nature and complexity of the case. If the person is financially eligible, suitable counsel shall be appointed by the reviewing court in the manner provided in ORS 138.500 (1). If the person is financially eligible, the [public defense services] executive director of the Oregon Public Defense Commission shall determine and pay, as provided in ORS 138.500, the cost of briefs, any other expenses of the person necessary to the review and compensation for counsel appointed for the person. The costs, expenses and compensation so allowed shall be paid as provided in ORS 138.500.

(2) The order and the proceedings underlying the order are subject to review by the Court of Appeals upon petition to that court filed within 60 days of the order for which review is sought. The board shall submit to the court the record of the proceeding or, if the person agrees, a shortened record. The record may include a certified true copy of a tape recording of the proceedings at a hearing in accordance with ORS 161.346. A copy of the record transmitted shall be delivered to the person by the board.

(3) The court may affirm, reverse or remand the order on the same basis as provided in ORS 183.482 (8).

(4) The filing of the petition does not stay the order of the board, but the board or the Court of Appeals may order a stay upon application on such terms as are deemed proper.

SECTION 43. ORS 161.365 is amended to read:

161.365. (1)(a) When the court has reason to doubt the defendant's fitness to proceed by reason of incapacity as described in ORS 161.360, the court may call any witness to assist it in reaching its decision and, except as provided in paragraph (b) of this subsection, shall order that a community mental health program director, or the director's designee, consult with the defendant and with any local entity that would be responsible for providing community restoration services to the defendant if the defendant were to be released in the community, to determine whether appropriate community restoration services are present and available in the community. After the consultation, the program director or the director's designee shall provide to the court a copy of the findings resulting from the consultation.

(b) If the defendant is charged with one or more of the following offenses the court is not required to, but may in its discretion, order the consultation described in paragraph (a) of this subsection:

- (A) Aggravated murder;
- (B) Murder in any degree;
- (C) Attempted aggravated murder;
- (D) Attempted murder in any degree;
- (E) Manslaughter in any degree;
- (F) Aggravated vehicular homicide;
- (G) Arson in the first degree when classified as crime category 10 of the sentencing guidelines grid of the Oregon Criminal Justice Commission;
- (H) Assault in the first degree;
- (I) Assault in the second degree;
- (J) Kidnapping in the first degree;
- (K) Kidnapping in the second degree;
- (L) Rape in the first degree;
- (M) Sodomy in the first degree;
- (N) Unlawful sexual penetration in the first degree;
- (O) Robbery in the first degree; or
- (P) Robbery in the second degree.

(c) If the court determines the assistance of a psychiatrist or psychologist would be helpful, the court may:

(A) Order that a psychiatric or psychological examination of the defendant be conducted by a certified evaluator and a report of the examination be prepared; or

(B) Order the defendant to be committed for the purpose of an examination to a state mental hospital or other facility designated by the Oregon Health Authority if the defendant is at least 18 years of age, or to a secure intensive community inpatient facility designated by the authority if the defendant is under 18 years of age. The state mental hospital or other facility may retain custody of a defendant committed under this paragraph for the duration necessary to complete the examination of the defendant, not to exceed 30 days. The examination may include a period of observation.

(d) The court shall provide a copy of any order entered under this subsection to the community mental health program director or designee and to the state mental hospital or other facility by the end of the next judicial day.

(2)(a) A defendant committed under subsection (1)(c)(B) of this section shall be transported to the state mental hospital or other facility for the examination.

(b) At the conclusion of the examination, the superintendent of the state mental hospital or the superintendent's designee or the director of the facility may:

(A) Return the defendant to the facility from which the defendant was transported; or

(B) Inform the court and the parties that the defendant requires a hospital level of care due to the acuity of symptoms of the defendant's qualifying mental disorder and request that the defendant remain at the state mental hospital or other facility pending a hearing or order under ORS 161.370.

(3) The report of an examination described in this section must include, but is not necessarily limited to, the following:

(a) A description of the nature of the examination;

(b) A statement of the mental condition of the defendant;

(c) If the defendant suffers from a qualifying mental disorder, an opinion as to whether the defendant is incapacitated within the description set out in ORS 161.360; and

(d) If the defendant is incapacitated within the description set out in ORS 161.360, a recommendation of treatment and services necessary to allow the defendant to gain or regain capacity, including whether a hospital level of care is required due to the acuity of symptoms of the defendant's qualifying mental disorder.

(4) Except when the defendant and the court both request to the contrary, the report may not contain any findings or conclusions as to whether the defendant as a result of a qualifying mental disorder was subject to the provisions of ORS 161.295 or 161.300 at the time of the criminal act charged.

(5) If the examination by the certified evaluator cannot be conducted by reason of the unwillingness of the defendant to participate in the examination, the report must so state and must include, if possible, an opinion as to whether the unwillingness of the defendant was the result of a qualifying mental disorder affecting fitness to proceed.

(6) The report resulting from the examination of a defendant under this section may be filed electronically and must be filed with the clerk of the court, who shall cause copies to be delivered to the district attorney and to counsel for defendant.

(7)(a) When upon motion of the court or a financially eligible defendant, the court has ordered a psychiatric or psychological examination of the defendant, a county or justice court shall order the county to pay, a municipal court shall order the city to pay, and a circuit court shall order the [public defense services] executive director **of the Oregon Public Defense Commission** to pay from funds available for the purpose:

(A) A reasonable fee if the examination of the defendant is conducted by a certified evaluator in private practice; and

(B) All costs including transportation of the defendant if the examination is conducted by a certified evaluator in the employ of the Oregon Health Authority or a community mental health program established under ORS 430.610 to 430.670.

(b) When an examination is ordered at the request or with the acquiescence of a defendant who is determined not to be financially eligible, the examination shall be performed at the defendant's expense. When an examination is ordered at the request of the prosecution, the county shall pay for the expense of the examination.

(8) The Oregon Health Authority shall establish by rule standards for the consultation described in subsection (1) of this section.

SECTION 44. ORS 161.665 is amended to read:

161.665. (1) Except as provided in ORS 151.505, the court, only in the case of a defendant for whom it enters a judgment of conviction, may include in its sentence thereunder a money award for all costs specially incurred by the state in prosecuting the defendant. Costs include a reasonable attorney fee for counsel appointed pursuant to ORS 135.045 or 135.050 and a reasonable amount for fees and expenses incurred pursuant to preauthorization under ORS 135.055. A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the [*Public Defense Services Commission*] **Oregon Public Defense Commission** under ORS 151.216. Costs do not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law.

(2) Except as provided in ORS 151.505, the court, after the conclusion of an appeal of its initial judgment of conviction, may include in its general judgment, or enter a supplemental judgment that includes, a money award that requires a convicted defendant to pay a reasonable attorney fee for counsel appointed pursuant to ORS 138.500, including counsel who is appointed under ORS 151.216 or counsel who is under contract to provide services for the proceeding under ORS 151.219, and other costs and expenses allowed by the [*public defense services*] executive director **of the Oregon Public Defense Commission** under ORS 138.500 (4). A reasonable attorney fee is presumed to be a reasonable number of hours at the hourly rate authorized by the commission under ORS 151.216.

(3) For purposes of subsections (1) and (2) of this section, compensation of counsel is determined by reference to a schedule of compensation established by the commission under ORS 151.216.

(4) The court may not sentence a defendant to pay costs under this section unless the defendant is or may be able to pay them. In determining the amount and method of payment of costs, the court shall take account of the financial resources of the defendant and the nature of the burden that payment of costs will impose.

(5) A defendant who has been sentenced to pay costs under this section and who is not in contumacious default in the payment of costs may at any time petition the court that sentenced the defendant for remission of the payment of costs or of any unpaid portion of costs. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on the defendant or the immediate family of the defendant, the court may enter a supplemental judgment that remits all or part of the amount due in costs, or modifies the method of payment under ORS 161.675.

(6) Except as provided in subsection (7) of this section, all moneys collected or paid under this section shall be paid into the Criminal Fine Account.

(7) The court may, in the judgment of conviction, include a money award requiring the defendant to pay the costs of extraditing the defendant to this state. Any amounts awarded to the state under this subsection must be listed separately in the money award portion of the judgment. All moneys collected or paid under this subsection shall be deposited into the Arrest and Return Account established by ORS 133.865.

SECTION 45. ORS 171.133 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;

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

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

SECTION 46. ORS 181A.010 is amended to read:

181A.010. As used in ORS 181A.010 to 181A.350, unless the context requires otherwise:

(1) “Criminal justice agency” means:

(a) The Governor;

(b) Courts of criminal jurisdiction;

(c) The Attorney General;

(d) District attorneys, city attorneys with criminal prosecutorial functions, attorney employees of the [*office of public defense services*] **Oregon Public Defense Commission** and nonprofit public defender organizations established under contract with the [*Public Defense Services*] commission;

(e) Law enforcement agencies;

(f) The Department of Corrections;

(g) The Oregon Youth Authority;

(h) The State Board of Parole and Post-Prison Supervision;

(i) The Department of Public Safety Standards and Training;

(j) The enforcement division of the Oregon Liquor and Cannabis Commission in performing duties related to investigating and enforcing the criminal laws of this state that the commission is charged to enforce;

(k) Civilian or community oversight boards, agencies or review bodies designated by a municipality or a law enforcement agency in performing duties related to investigating allegations of officer misconduct or reviewing police policies and practices;

(L) Regional information systems that share programs to track, identify and remove cross-jurisdictional criminal and terrorist conspiracies; and

(m) Any other state or local agency with law enforcement authority.

(2) “Criminal offender information” includes records and related data as to physical description and vital statistics, fingerprints received and compiled for purposes of identifying criminal offenders and alleged offenders, records of arrests and the nature and disposition of criminal charges, including sentencing, confinement, parole and release.

(3) “Department” means the Department of State Police established under ORS 181A.015.

(4) “Deputy superintendent” means the Deputy Superintendent of State Police appointed under ORS 181A.035.

(5) “Designated agency” means any state, county or municipal government agency where Oregon criminal offender information is required to implement a federal or state statute, executive order or administrative rule that expressly refers to criminal conduct and contains requirements or exclusions expressly based on such conduct or for agency employment purposes, licensing purposes or other demonstrated and legitimate needs when designated by order of the Governor.

(6) “Disposition report” means a form or process prescribed or furnished by the department, containing a description of the ultimate action taken subsequent to an arrest.

(7) “Law enforcement agency” means:

(a) County sheriffs, municipal police departments, police departments established by a university under ORS 352.121 or 353.125 and state police;

(b) Other police officers of this state or another state, including humane special agents as defined in ORS 181A.345;

(c) A tribal government as defined in ORS 181A.940 that employs authorized tribal police officers as defined in ORS 181A.940; and

(d) Law enforcement agencies of the federal government.

(8) “State police” means the sworn members of the state police force appointed under ORS 181A.050.

(9) “Superintendent” means the Superintendent of State Police appointed under ORS 181A.030.

SECTION 47. ORS 190.490 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, the Secretary of State and the State Treasurer in the performance of the duties of their constitutional offices and the [Public Defense Services Commission] **Oregon Public Defense Commission**.

SECTION 48. ORS 244.050, as amended by section 1, chapter 66, Oregon Laws 2022, is amended to read:

244.050. (1) On or before April 15 of each year the following persons shall file with the Oregon Government Ethics Commission a verified statement of economic interest as required under this chapter:

(a) The Governor, Secretary of State, State Treasurer, Attorney General, Commissioner of the Bureau of Labor and Industries, district attorneys and members of the Legislative Assembly.

(b) Any judicial officer, including justices of the peace and municipal judges, except any pro tem judicial officer who does not otherwise serve as a judicial officer.

(c) Any candidate for a public office designated in paragraph (a) or (b) of this subsection.

(d) The Deputy Attorney General.

(e) The Deputy Secretary of State.

(f) The Legislative Administrator, the Legislative Counsel, the Legislative Fiscal Officer, the Legislative Policy and Research Director, the Secretary of the Senate, the Chief Clerk of the House of Representatives and the Legislative Equity Officer.

(g) The president and vice presidents, or their administrative equivalents, in each public university listed in ORS 352.002.

(h) The following state officers:

(A) Adjutant General.

(B) Director of Agriculture.

(C) Manager of State Accident Insurance Fund Corporation.

(D) Water Resources Director.

(E) Director of the Department of Environmental Quality.

(F) Director of the Oregon Department of Administrative Services.

(G) State Fish and Wildlife Director.

(H) State Forester.

(I) State Geologist.

(J) Director of Human Services.

(K) Director of the Department of Consumer and Business Services.

(L) Director of the Department of State Lands.

(M) State Librarian.

(N) Administrator of the Oregon Liquor and Cannabis Commission.

(O) Superintendent of State Police.

(P) Director of the Public Employees Retirement System.

(Q) Director of Department of Revenue.

(R) Director of Transportation.

- (S) Public Utility Commissioner.
- (T) Director of Veterans' Affairs.
- (U) Executive director of Oregon Government Ethics Commission.
- (V) Director of the State Department of Energy.
- (W) Director and each assistant director of the Oregon State Lottery.
- (X) Director of the Department of Corrections.
- (Y) Director of the Oregon Department of Aviation.
- (Z) Executive director of the Oregon Criminal Justice Commission.
- (AA) Director of the Oregon Business Development Department.
- (BB) Director of the Oregon Department of Emergency Management.
- (CC) Director of the Employment Department.
- (DD) State Fire Marshal.
- (EE) Chief of staff for the Governor.
- (FF) Director of the Housing and Community Services Department.
- (GG) State Court Administrator.
- (HH) Director of the Department of Land Conservation and Development.
- (II) Board chairperson of the Land Use Board of Appeals.
- (JJ) State Marine Director.
- (KK) Executive director of the Oregon Racing Commission.
- (LL) State Parks and Recreation Director.
- (MM) [*Public defense services*] Executive director **of the Oregon Public Defense Commission.**
- (NN) Chairperson of the Public Employees' Benefit Board.
- (OO) Director of the Department of Public Safety Standards and Training.
- (PP) Executive director of the Higher Education Coordinating Commission.
- (QQ) Executive director of the Oregon Watershed Enhancement Board.
- (RR) Director of the Oregon Youth Authority.
- (SS) Director of the Oregon Health Authority.
- (TT) Deputy Superintendent of Public Instruction.
- (i) The First Partner, the legal counsel, the deputy legal counsel and all policy advisors within the Governor's office.
- (j) Every elected city or county official.
- (k) Every member of a city or county planning, zoning or development commission.
- (L) The chief executive officer of a city or county who performs the duties of manager or principal administrator of the city or county.
- (m) Members of local government boundary commissions formed under ORS 199.410 to 199.519.
- (n) Every member of a governing body of a metropolitan service district and the auditor and executive officer thereof.
- (o) Each member of the board of directors of the State Accident Insurance Fund Corporation.
- (p) The chief administrative officer and the financial officer of each common and union high school district, education service district and community college district.
- (q) Every member of the following state boards, commissions and councils:
 - (A) Governing board of the State Department of Geology and Mineral Industries.
 - (B) Oregon Business Development Commission.
 - (C) State Board of Education.
 - (D) Environmental Quality Commission.
 - (E) Fish and Wildlife Commission of the State of Oregon.
 - (F) State Board of Forestry.
 - (G) Oregon Government Ethics Commission.
 - (H) Oregon Health Policy Board.
 - (I) Oregon Investment Council.
 - (J) Land Conservation and Development Commission.

- (K) Oregon Liquor and Cannabis Commission.
 - (L) Oregon Short Term Fund Board.
 - (M) State Marine Board.
 - (N) Mass transit district boards.
 - (O) Energy Facility Siting Council.
 - (P) Board of Commissioners of the Port of Portland.
 - (Q) Employment Relations Board.
 - (R) Public Employees Retirement Board.
 - (S) Oregon Racing Commission.
 - (T) Oregon Transportation Commission.
 - (U) Water Resources Commission.
 - (V) Workers' Compensation Board.
 - (W) Oregon Facilities Authority.
 - (X) Oregon State Lottery Commission.
 - (Y) Pacific Northwest Electric Power and Conservation Planning Council.
 - (Z) Columbia River Gorge Commission.
 - (AA) Oregon Health and Science University Board of Directors.
 - (BB) Capitol Planning Commission.
 - (CC) Higher Education Coordinating Commission.
 - (DD) Oregon Growth Board.
 - (EE) Early Learning Council.
 - (FF) The Oversight and Accountability Council.
 - (r) The following officers of the State Treasurer:
 - (A) Deputy State Treasurer.
 - (B) Chief of staff for the office of the State Treasurer.
 - (C) Director of the Investment Division.
 - (s) Every member of the board of commissioners of a port governed by ORS 777.005 to 777.725 or 777.915 to 777.953.
 - (t) Every member of the board of directors of an authority created under ORS 441.525 to 441.595.
 - (u) Every member of a governing board of a public university listed in ORS 352.002.
 - (v) Every member of the district school board of a common school district or union high school district.
 - (w) Every member of the board of directors of an authority created under ORS 465.600 to 465.621.
- (2) By April 15 next after the date an appointment takes effect, every appointed public official on a board or commission listed in subsection (1) of this section shall file with the Oregon Government Ethics Commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.
- (3) By April 15 next after the filing deadline for the primary election, each candidate described in subsection (1) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.
- (4) Not later than the 40th day before the date of the statewide general election, each candidate described in subsection (1) of this section who will appear on the statewide general election ballot and who was not required to file a statement of economic interest under subsections (1) to (3) of this section shall file with the commission a statement of economic interest as required under ORS 244.060, 244.070 and 244.090.
- (5) Subsections (1) to (3) of this section apply only to persons who are incumbent, elected or appointed public officials as of April 15 and to persons who are candidates on April 15.
- (6) If a statement required to be filed under this section has not been received by the commission within five days after the date the statement is due, the commission shall notify the public official or candidate and give the public official or candidate not less than 15 days to comply with the

requirements of this section. If the public official or candidate fails to comply by the date set by the commission, the commission may impose a civil penalty as provided in ORS 244.350.

SECTION 49. ORS 283.110 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, the Legislative Assembly or any of its statutory, standing, special or interim committees and the [*Public Defense Services Commission*] **Oregon Public Defense Commission** may elect to requisition services, facilities and materials as provided in this section.

SECTION 50. ORS 291.002 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;

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

(c) 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 [*Public Defense Services Commission*] **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 51. ORS 291.011 is amended to read:

291.011. (1) The Director of the Oregon Department of Administrative Services may require a fidelity bond of any officer, employee or agent of the department or of any other state officer, employee or agent who has charge of, handles or has access to any money or property belonging to the state or in which the state may have an interest and who is not otherwise required by law to give a fidelity bond. The amounts of the bonds shall be fixed by the director, except as otherwise provided by law, and the sureties shall be approved by the director. The premium on the bond of any officer, employee or agent shall be paid by the state agency that employs the officer, employee or agent.

(2) The Oregon Department of Administrative Services may procure or provide and may administer a blanket bond covering any or all officers and employees of the state. The bond shall contain such coverages and shall be in such amounts as the Oregon Department of Administrative Services deems adequate to protect the interest of the state. Procurement of the bond to cover any officer or employee of the state shall constitute compliance with any statute requiring that officer or employee to be bonded up to the monetary limit of the blanket bond which the Oregon Department of Administrative Services purchases or provides. The coverage and insuring amount applicable in such bond to any officer or employee of the state shall be at least equal to that required by statute. The cost of the premium on the bond shall be charged to the various state agencies employing the state officers and employees covered by the bond.

(3) The provisions of this section are considered to satisfy any provision of law requiring individual fidelity bonds for elected officers if the level of coverage of the blanket fidelity bond is at least equal to the individual statutory requirements.

(4) As used in this section:

(a) "Officers and employees of the state" includes all elected and appointed officers and employees of the State of Oregon and all persons appointed by a state agency on a temporary or intermittent basis to act for the state in particular matters where such persons have charge of, handle or have access to any money or property belonging to the state or in which the state may have an interest.

(b) "State agency" means every state officer, board, commission, department, institution, branch or agency of the state government and includes the Legislative Assembly and any of its statutory standing, special or interim committees, the courts and their officers and committees, all constitutional state officers and the [*Public Defense Services Commission*] **Oregon Public Defense Commission**.

SECTION 52. ORS 291.030 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, the courts and their officers and committees and the constitutional state officers, at their option, and the [*Public Defense Services Commission*] **Oregon Public Defense Commission**, at the option of the commission.

SECTION 53. ORS 291.045 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 [*Public Defense Services Commission*] **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 54. ORS 291.227 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 [*Public Defense Services Commission*] **Oregon Public Defense Commission**;

- (iv) The Secretary of State and the State Treasurer;
 - (v) Semi-independent state agencies listed in ORS 182.454;
 - (vi) The Oregon Tourism Commission;
 - (vii) The Oregon Film and Video Office;
 - (viii) Public universities listed in ORS 352.002;
 - (ix) The Oregon Health and Science University;
 - (x) The Travel Information Council;
 - (xi) Oregon Corrections Enterprises;
 - (xii) The Oregon State Lottery Commission;
 - (xiii) The State Accident Insurance Fund Corporation;
 - (xiv) The Oregon Utility Notification Center;
 - (xv) Oregon Community Power;
 - (xvi) The Citizens' Utility Board;
 - (xvii) A special government body as defined in ORS 174.117;
 - (xviii) Any other public corporation created under a statute of this state and specifically designated as a public corporation; and
 - (xix) 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 55. ORS 293.300 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, the Secretary of State and State Treasurer in the performance of the functions of their constitutional offices and the [*Public Defense Services Commission*] **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 Administrative 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 56. ORS 293.590 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, the Secretary of State and State Treasurer in the per-

formance of the functions of their constitutional offices and the [Public Defense Services Commission] **Oregon Public Defense Commission** only at their option.

SECTION 57. ORS 293.875 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, the [Public Defense Services Commission] **Oregon Public Defense Commission** 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, the [Public Defense Services Commission] **Oregon Public 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.

SECTION 58. ORS 419A.200 is amended to read:

419A.200. (1) Except as provided in ORS 419A.190, any person or entity, including, but not limited to, a party to a juvenile court proceeding under ORS 419B.875 (1) or 419C.285 (1), whose rights or duties are adversely affected by a judgment of the juvenile court may appeal therefrom. An appeal from a circuit court must be taken to the Court of Appeals, and an appeal from a county court must be taken to the circuit court.

(2) If the proceeding is in the circuit court and no record of the proceedings was kept, the court, on motion made not later than 15 days after the entry of the court's judgment, shall grant a rehearing and shall direct that a record of the proceedings be kept. However, the court may not grant a rehearing in a case barred by ORS 419A.190 without the consent of the child, ward, youth or adjudicated youth affected by such case. If a rehearing is held, the time for taking an appeal runs from the date of entry of the court's judgment after the rehearing.

(3)(a) The appeal may be taken by causing a notice of appeal, in the form prescribed by ORS 19.250, to be served:

- (A) On all parties who have appeared in the proceeding;
- (B) On the trial court administrator or other person serving as clerk of the juvenile court; and
- (C) On the juvenile court transcript coordinator, if a transcript is designated in connection with the appeal.

(b) The original of the notice with proof of service must be filed with:

- (A) The Court of Appeals if the appeal is from a circuit court; or

(B) The circuit court if the appeal is from a county court.

(c) The notice must be filed not later than 30 days after the entry of the court's judgment. On appeal from the county court, the circuit court shall hear the matter de novo and its judgment is appealable to the Court of Appeals in the same manner as if the proceeding had been commenced in the circuit court.

(4) The counsel in the proceeding from which the appeal is being taken shall file and serve those documents necessary to commence an appeal if the counsel is requested to do so by the party the counsel represents. If the party requesting an appeal is represented by court-appointed counsel, court-appointed counsel may discharge the duty to commence an appeal under this subsection by complying with policies and procedures established by the [*office of public defense services*] **Oregon Public Defense Commission** for appeals of juvenile court judgments.

(5)(a) Upon motion of a person, other than the state, entitled to appeal under subsection (1) of this section, the appellate court shall grant the person leave to file a notice of appeal after the time limits described in subsection (3) of this section if:

(A) The person shows a colorable claim of error in the proceeding from which the appeal is taken; and

(B) The person shows that the failure to file a timely notice of appeal is not personally attributable to the person.

(b) A person other than the state is not entitled to relief under this subsection for failure to file timely notice of cross-appeal when the state appeals pursuant to ORS 419A.208.

(c) The request for leave to file a notice of appeal after the time limits prescribed in subsection (3) of this section must be filed no later than 90 days after entry of the judgment being appealed and must be accompanied by the notice of appeal sought to be filed. A request for leave under this subsection may be filed by mail and is deemed filed on the date of mailing if the request is mailed as provided in ORS 19.260.

(d) The court may not grant relief under this subsection unless the state has notice and opportunity to respond to the person's request for relief.

(6) An appeal to the Court of Appeals must be conducted in the same manner as an appeal under ORS chapter 19 except that the court shall advance the appeal on the court's docket in the same manner as appeals in criminal cases.

(7)(a) Except as provided in ORS 419A.208 (2), or when otherwise ordered by the appellate court, the filing of an appeal does not suspend an order or judgment of the juvenile court nor discharge the ward or adjudicated youth from the custody of the person, institution or agency in whose custody the ward or adjudicated youth may have been placed nor preclude the juvenile court after notice and hearing from entering such further orders relating to the ward or adjudicated youth's custody pending final disposition of the appeal as it finds necessary by reason only of matters transpiring subsequent to the order or judgment appealed from. The trial court administrator shall immediately file certified copies of any such order or judgment with the Court of Appeals.

(b) Notwithstanding the filing of an appeal from a jurisdictional or dispositional judgment or an order entered pursuant to ORS 419B.449 or 419B.476, the juvenile court may proceed with the adjudication of a petition seeking termination of the parental rights of a parent of the ward who is subject to the judgment from which the appeal is taken.

(c) The appeal of any judgment entered in a termination of parental rights proceeding under paragraph (b) of this subsection must be consolidated, if appropriate, with any pending appeal of an order or judgment entered under ORS 419B.325, 419B.449 or 419B.476. The consolidated appeal must be conducted and advanced on the court's docket in the same manner as termination of parental rights cases.

(8) On appeal of a judgment or final order, the appellate court may review any interlocutory order that:

(a) Involves the merits or necessarily affects the judgment or final order appealed from; and

(b) Was made after entry of the last appealable judgment or final order preceding entry of the judgment or final order being appealed.

(9) The district attorney or Attorney General shall represent the state in the appeal.

(10)(a) The court from which an appeal is taken shall prepare and transmit a record on appeal in the manner provided in ORS 19.365, except that, when the appeal is to the circuit court from a county court, the record on appeal shall be prepared and transmitted by the county court to the circuit court.

(b) The court to which an appeal is taken under this section shall keep a record of the case on appeal that includes but is not limited to notices of appeal, briefs, motions, orders of the court and other papers filed with the court on appeal.

(c) The record on appeal prepared and transmitted under paragraph (a) of this subsection, when it is in the custody of the court to which the appeal is taken, and the record of the case on appeal kept under paragraph (b) of this subsection are subject to the same limitations on inspection, copying and disclosure of records, reports and materials as those set forth under ORS 419A.255.

(d) The court on appeal may consent to disclosure of:

(A) Records described in paragraph (a) of this subsection, while in the custody of the court to which the appeal is taken, in the same manner and under the same circumstances as the juvenile court consents to disclosure under ORS 419A.255;

(B) Records described in paragraph (b) of this subsection; or

(C) An audio or video recording prepared of an oral proceeding on appeal, in the same manner as permitted under ORS 419A.256 (1)(b), (3) and (4).

(e) Notwithstanding any other provision of law, any decision, as that term is defined in ORS 19.450, issued by the Court of Appeals or the Supreme Court, on appeal or review of a juvenile court decision, is not confidential and is not exempt from disclosure.

SECTION 59. ORS 419A.211 is amended to read:

419A.211. (1) If the child, ward, youth, adjudicated youth, parent or guardian is determined to be entitled to, and, except as provided in subsection (4) of this section, financially eligible for, appointment of counsel at state expense in an appeal as provided in ORS 419A.200 and 419A.208, the court, upon request of the person or upon its own motion, shall appoint suitable counsel to represent the person. Counsel appointed by the court shall be paid compensation determined by the [*public defense services*] executive director **of the Oregon Public Defense Commission** as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the [*Public Defense Services Commission*] **commission**.

(2)(a) When the court appoints counsel to represent the child or ward, it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services Account established by ORS 151.225, through the clerk of the court, in full or in part the administrative costs of determining the ability of the parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(b) The test of the parent's or estate's ability to pay costs under paragraph (a) of this subsection is the same test as applied to appointment of counsel for defendants under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the [*Public Defense Services Commission*] **Oregon Public Defense Commission** under ORS 151.485.

(c) If counsel is provided at state expense, the court shall determine the amount the parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(d) The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

(3) When the court appoints counsel under this section at state expense, the compensation for counsel and costs and expenses necessary to the appeal shall be determined and paid as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or the Supreme Court is the appellate court.

(4) Notwithstanding subsection (1) of this section, a youth or adjudicated youth, or the parent or guardian of the youth or adjudicated youth, is entitled to court-appointed counsel at state expense under this section regardless of the financial circumstances of the youth or adjudicated youth or the parent or guardian of the youth or adjudicated youth. In addition, the court may not order the youth's or adjudicated youth's parent or guardian to pay any part of the administrative costs of determining the entitlement of the youth, adjudicated youth, parent or guardian to court-appointed counsel at state expense nor any of the costs of the legal and other services that are related to the provision of appointed counsel.

SECTION 60. ORS 419A.252 is amended to read:

419A.252. As used in this section and ORS 419A.253, 419A.255 and 419A.256:

(1) "Person" means an individual, a public body as defined in ORS 174.109 or a tribe that is a party to a juvenile court proceeding pursuant to ORS 419B.875.

(2) "Prospective appellate attorney" means an attorney designated by the [office of public defense services established under ORS 151.216] **Oregon Public Defense Commission** to potentially represent a child, ward, youth, adjudicated youth or a parent or guardian of a child, ward, youth or adjudicated youth, in a juvenile case when the case has been referred to the [office of public defense services] **commission** for appeal.

(3) "Public defense provider" means an attorney or a law firm designated by the [office of public defense services established under ORS 151.216] **Oregon Public Defense Commission** to potentially represent a child, ward, youth, adjudicated youth or the parent or guardian of a child, ward, youth or adjudicated youth in a juvenile court proceeding.

(4) "Record of the case" or "record of each case," whether maintained in paper or electronic form, includes but is not limited to the following and includes records filed in juvenile court proceedings commenced before January 1, 2014, when the records are substantially similar to the following:

- (a) The summons and other process;
- (b) Petitions;
- (c) Papers in the nature of pleadings, answers, motions, affidavits and other papers that are filed with the court, including supporting documentation;
- (d) Local citizen review board findings and recommendations submitted under ORS 419A.118 or 419B.367;
- (e) Guardianship report summaries filed with the court under ORS 419B.367;
- (f) Orders and judgments of the court, including supporting documentation;
- (g) Transcripts under ORS 419A.256;
- (h) Exhibits and materials offered as exhibits whether or not received in evidence; and
- (i) Other documents that become part of the record of the case by operation of law.

(5) "Supplemental confidential file," whether maintained in paper or electronic form, includes reports and other material relating to the child, ward, youth or adjudicated youth's history and prognosis, including but not limited to reports filed under ORS 419B.440, and includes similar reports and other materials filed in juvenile court proceedings commenced before January 1, 2014, that:

- (a) Are not or do not become part of the record of the case; and
- (b) Are not offered or received as evidence in the case.

SECTION 61. ORS 419A.255 is amended to read:

419A.255. (1)(a) The clerk of the court shall maintain a record of each case and a supplemental confidential file for each case, except as otherwise provided in ORS 7.120.

(b) The record of the case shall be withheld from public inspection but is open to inspection by the following:

- (A) The judge of the juvenile court and those acting under the judge's direction;
- (B) The child;
- (C) The ward;
- (D) The youth;

- (E) The adjudicated youth;
 - (F) The parent or guardian of the child, ward, youth or adjudicated youth;
 - (G) The guardian ad litem for the parent;
 - (H) A person allowed to intervene in a proceeding involving the child, ward, youth or adjudicated youth;
 - (I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 184.489, when reasonably necessary for the appointment or supervision of court appointed special advocates;
 - (J) The attorneys or prospective appellate attorneys for any of the persons listed in subparagraphs (B) to (I) of this paragraph;
 - (K) The surrogate;
 - (L) Service providers in the case;
 - (M) The district attorney or assistant attorney general representing a party in the case;
 - (N) The juvenile department;
 - (O) The Department of Human Services;
 - (P) The Oregon Youth Authority; and
 - (Q) Any other person or entity allowed by the court pursuant to ORS 419A.258.
- (c) The following are entitled to copies of the record of the case:
- (A) The judge of the juvenile court and those acting under the judge's direction;
 - (B) A party to the extent permitted under ORS 419B.875 (2) or 419C.285 (2);
 - (C) A guardian ad litem for a parent to the same extent the parent is permitted to copies under ORS 419B.875 (2) or 419C.285 (2);
 - (D) Persons listed in paragraph (b)(J) to (P) of this subsection; and
 - (E) Any other person or entity allowed by the court pursuant to ORS 419A.258.
- (2)(a) Reports and other material relating to the child, ward, youth or adjudicated youth's history and prognosis in the record of the case or the supplemental confidential file are privileged and, except at the request of the child, ward, youth or adjudicated youth, shall be withheld from public inspection except that inspection is permitted as set forth in subsection (1)(b) of this section and paragraph (b) of this subsection. The offer or admission of reports and other material in the record of the case or the supplemental confidential file as exhibits in a hearing or trial does not waive or otherwise change the privileged status of the reports and other material, except for purposes of the hearing or trial in which the reports and other material are offered or admitted. Once offered as an exhibit, reports and other material relating to the child, ward, youth or adjudicated youth's history and prognosis that were maintained in the supplemental confidential file become part of the record of the case but are subject to paragraph (e) of this subsection.
- (b) A supplemental confidential file is open to inspection by the following:
- (A) The judge of the juvenile court and those acting under the judge's direction;
 - (B) The parent or guardian of the child or ward in a dependency case;
 - (C) The guardian ad litem for the parent of a child or ward in a dependency case;
 - (D) The parent or guardian of the youth or adjudicated youth in a delinquency case if the youth or adjudicated youth consents to, or the court authorizes, inspection;
 - (E) The guardian ad litem for the parent of a youth or adjudicated youth in a delinquency case if the youth or adjudicated youth consents to, or the court authorizes, inspection;
 - (F) A person allowed to intervene in a proceeding involving the child, ward, youth or adjudicated youth;
 - (G) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 184.489, when reasonably necessary for the appointment or supervision of court appointed special advocates;
 - (H) The surrogate;
 - (I) Service providers in the case;
 - (J) The attorneys or prospective appellate attorneys for:
 - (i) The child;

- (ii) The ward;
 - (iii) The youth;
 - (iv) The adjudicated youth;
 - (v) The parent or guardian of the child, ward, youth or adjudicated youth;
 - (vi) The guardian ad litem for the parent;
 - (vii) A person allowed to intervene in a proceeding involving the child or ward in a dependency case; or
 - (viii) The court appointed special advocate and a representative of a CASA Volunteer Program as defined in ORS 184.489;
 - (K) The district attorney or assistant attorney general representing a party in the case;
 - (L) The juvenile department;
 - (M) The Department of Human Services;
 - (N) The Oregon Youth Authority; and
 - (O) Any other person or entity allowed by the court pursuant to ORS 419A.258.
- (c) The supplemental confidential file in cases under ORS 419C.005 may be disclosed to the superintendent of the school district in which the adjudicated youth resides or the superintendent's designee.
- (d) The following are entitled to copies of material maintained in the supplemental confidential file:
- (A) The judge of the juvenile court and those acting under the judge's direction;
 - (B) Service providers in the case;
 - (C) School superintendents and their designees in cases under ORS 419C.005;
 - (D) Attorneys designated under subsection (2)(b)(J) of this section;
 - (E) The district attorney or assistant attorney general representing a party in the case;
 - (F) The juvenile department;
 - (G) The Department of Human Services;
 - (H) The Oregon Youth Authority;
 - (I) The court appointed special advocate, and a representative of a CASA Volunteer Program as defined in ORS 184.489, when reasonably necessary for the appointment or supervision of court appointed special advocates; and
 - (J) Any other person or entity allowed by the court pursuant to ORS 419A.258.
- (e) A person that obtains copies of material in the supplemental confidential file pursuant to paragraph (d) of this subsection is responsible for preserving the confidentiality of the material in the supplemental confidential file. A service provider, school superintendent or superintendent's designee who obtains copies of such material shall destroy the copies upon the conclusion of involvement in the case.
- (3) Except as otherwise provided in subsection (5) of this section, no information appearing in the record of the case or in the supplemental confidential file may be disclosed to any person not described in subsections (1)(b) and (2)(b) of this section, respectively, without the consent of the court, except for purposes of evaluating the child, ward, youth or adjudicated youth's eligibility for special education as provided in ORS chapter 343, and no such information may be used in evidence in any proceeding to establish criminal or civil liability against the child, ward, youth or adjudicated youth, whether such proceeding occurs after the child, ward, youth or adjudicated youth has reached 18 years of age or otherwise, except for the following purposes:
- (a) In connection with a presentence investigation after guilt has been admitted or established in a criminal court.
 - (b) In connection with a proceeding in another juvenile court concerning the child, ward, youth or adjudicated youth or an appeal from the juvenile court.
- (4)(a) When a person described in subsection (1)(b)(M), (N), (O) or (P) of this section inspects or obtains copies of reports, materials or documents under this subsection or under subsection (1) or (2) of this section, the person may not use or disclose the reports, materials or documents, except:
- (A) As provided in this subsection or under subsection (1) or (2) of this section;

(B) In the juvenile court proceeding for which the reports, materials or documents were sought or disclosed;

(C) With the consent of the court; or

(D) As provided in ORS 419A.253.

(b) Nothing in this section prohibits the district attorney or assistant attorney general representing a party in a juvenile court proceeding, the juvenile department, the Department of Human Services, the Oregon Youth Authority or other parties in the proceeding or their attorneys from disclosing to each other reports, materials or documents described in subsections (1) and (2) of this section if the disclosure is reasonably necessary to perform official duties related to the involvement of the child, ward, youth or adjudicated youth with the juvenile court or the juvenile department. A person to whom reports, materials or documents are disclosed under this subsection is subject to subsection (3) of this section.

(5)(a) Information contained in the supplemental confidential file that, in the professional judgment of the juvenile counselor, caseworker, school superintendent or superintendent's designee, teacher or detention worker to whom the information in the supplemental confidential file has been provided, indicates a clear and immediate danger to another person or to society shall be disclosed to the appropriate authority and the person who is in danger from the child, ward, youth or adjudicated youth.

(b) A person that discloses information under paragraph (a) of this subsection has immunity from any liability, civil or criminal, that might otherwise be incurred or imposed for making the disclosure.

(c) Nothing in this subsection affects the provisions of ORS 146.750, 146.760, 419B.035, 419B.040 and 419B.045. The disclosure of information under this subsection does not make the information admissible in any court or administrative proceeding if it is not otherwise admissible.

(6) Notwithstanding any other provision of law, and subject to subsection (8) of this section, the following are not confidential and not exempt from disclosure:

(a) The name and date of birth of the youth or adjudicated youth;

(b) The basis for the juvenile court's jurisdiction over the youth or adjudicated youth;

(c) The date, time and place of any juvenile court proceeding in which the youth or adjudicated youth is involved;

(d) The act alleged in the petition that if committed by an adult would constitute a crime if jurisdiction is based on ORS 419C.005;

(e) That portion of the juvenile court order providing for the legal disposition of the youth or adjudicated youth when jurisdiction is based on ORS 419C.005;

(f) The names and addresses of the youth or adjudicated youth's parents or guardians; and

(g) The register described in ORS 7.020 when jurisdiction is based on ORS 419C.005.

(7) Notwithstanding any other provision of law, and subject to subsection (8) of this section, when a youth has been taken into custody under ORS 419C.080, the following information shall be disclosed unless, and only for so long as, there is a clear need to delay disclosure in the course of a specific investigation, including the need to protect the complaining party or the victim:

(a) The youth's name and age and whether the youth is employed or in school;

(b) The youth offense for which the youth was taken into custody;

(c) The name and age of the adult complaining party and the adult victim, unless the disclosure of such information is otherwise prohibited or restricted;

(d) The identity of the investigating and arresting agency; and

(e) The time and place that the youth was taken into custody and whether there was resistance, pursuit or a weapon used in taking the youth into custody.

(8) Except as provided in ORS 419A.300 and unless otherwise directed by the court, only the juvenile court, the county juvenile department and the Oregon Youth Authority may disclose the information under subsections (6) and (7) of this section if the information is subject to disclosure. The youth authority may disclose only information relating to adjudicated youths committed to the

youth authority by order of the juvenile court if the information is subject to disclosure under subsection (6) or (7) of this section.

(9) Nothing in this section limits access to any juvenile court records by an appellate court reviewing a juvenile court order or judgment. Appellate court rules may establish procedures for appellate court access to juvenile records.

(10) Nothing in this section prohibits the court from providing to the administrator as defined in ORS 25.010 the date of entry of a judgment terminating parental rights or the date of entry of a judgment terminating wardship following entry of a judgment of adoption together with the names and dates of birth of the parents and children subject to the judgment.

(11) In addition to any other provision in this section, the Judicial Department may permit county or statewide access to juvenile court records or information by county juvenile departments, the Department of Human Services, the Oregon Youth Authority, district attorney offices, the office of the Attorney General, the [office of public defense services] **Oregon Public Defense Commission**, prospective appellate attorneys or public defense providers subject to the following restrictions:

(a) A prospective appellate attorney or public defense provider granted access under this subsection must agree, pursuant to a written agreement with the Judicial Department, to access:

(A) Party information only for purposes of conflicts screening procedures; and

(B) Other records or information about a client only as reasonably necessary for the representation of that client in any juvenile case in which the client is a party, subject to applicable state and federal confidentiality laws.

(b) Any other person or entity granted access under this subsection must agree, pursuant to a written agreement with the department, to access records or information only as authorized and allowed by this section, subject to applicable state and federal confidentiality laws.

(c) The State Court Administrator shall prescribe standards and procedures to implement the provisions of this subsection.

(d) Any person or entity granted access to juvenile court records or information under this subsection must preserve the confidentiality of that information as required under this section.

(12) A petition filed under ORS 419B.851 alleging that a child who is a foreign national is within the jurisdiction of the court, or a motion requesting an implementation plan other than return of a ward to the ward's parent, is subject to disclosure to the consulate for the child or ward's country as provided under ORS 419B.851 (3).

(13) Nothing in this section prohibits a guardian appointed under ORS 419B.365 or 419B.366 from disclosing or providing copies of letters of guardianship when so required to fulfill the duties of a guardian.

(14) The court shall cooperate in the sharing of information with a court in another state to facilitate an interstate placement of a child or ward.

(15) Nothing in this section prohibits the Chief Justice of the Supreme Court, the Chief Judge of the Court of Appeals or a presiding judge from permitting access to juvenile court records, including the record of the case and the supplemental confidential file in a juvenile court proceeding, or audio or video recordings of a juvenile court proceeding, by researchers or evaluators for the purposes of developing statistics and performing analyses or audits on the effectiveness, cost and other areas of public interest regarding juvenile court programs and activities in accordance with child welfare and juvenile justice state plans and programs related to Title IV-B and IV-E of the Social Security Act and to the Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq). The Chief Justice shall, by rule or order, establish standards and guidelines for the release of juvenile court information for research and evaluation purposes to ensure confidentiality consistent with state and federal law and to promote consistent statewide application of this subsection. Statistics and analyses released by researchers and evaluators under this subsection may not contain any information that identifies any individual person involved in a juvenile court proceeding.

(16) Subject to subsection (11) of this section, the [office of public defense services] **Oregon Public Defense Commission** shall be permitted access to juvenile court records for the purposes

of performing the office's duties as set forth in ORS 151.219 to audit or investigate attorney appointment or representation of a party in a juvenile court proceeding in order to ensure adequate representation of parties in juvenile court proceedings consistent with the child welfare state plan related to Title IV-E of the Social Security Act.

(17) Subject to subsection (11) of this section, the Oregon State Bar shall be permitted access to juvenile court records maintained in the record of the case for the purpose of performing the bar's duties as set forth in ORS 9.005 to 9.757 to investigate attorney representation of a party in a juvenile court proceeding and in order to ensure adequate representation of parties in juvenile court proceedings consistent with the child welfare state plan related to Title IV-E of the Social Security Act.

(18)(a) A child, ward, youth or adjudicated youth, or the parent or guardian of a child, ward, youth or adjudicated youth who is a party to the juvenile court proceeding, who is entitled to inspect or copy the record of the case under subsection (1)(b) and (c) of this section maintains the right to inspect or copy the record of the case after jurisdiction of the court over the child, ward, youth or adjudicated youth terminates and after the child, ward, youth or adjudicated youth has reached the age of majority.

(b) Notwithstanding ORS 419B.524, a parent of a child, ward, youth or adjudicated youth whose parental rights have been terminated maintains the right that existed under subsection (1)(b) and (c) of this section to inspect or copy the record of the case as the record of the case existed up until the time of entry of the judgment terminating the parent's parental rights and may obtain a copy of the judgment terminating the parent's parental rights.

(19) When inspection or copying of the record of the case or of the supplemental confidential file is allowed pursuant to this section, and unless otherwise required by law, the court that maintains the record of the case or the supplemental confidential file is not required to redact the names of, or information about, siblings or other persons contained in the record of the case or the supplemental confidential file.

(20) Nothing in this section prohibits the court, acting as a certifying agency or official as defined in ORS 147.620, from certifying a request under ORS 147.620 and including in the certification document any information obtained from the record of the case or the confidential supplemental file that is necessary to complete the certification.

(21) Nothing in this section prohibits a court from providing to the Department of State Police, pursuant to ORS 163A.030 (11), a copy of an order requiring a youth or adjudicated youth to report as a sex offender or a copy of a form that documents the youth's or adjudicated youth's obligation to report as a sex offender.

SECTION 62. ORS 419B.112 is amended to read:

419B.112. (1) In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate. The court appointed special advocate is deemed a party in these proceedings and may be represented by counsel, file pleadings and request hearings and may subpoena, examine and cross-examine witnesses. If the court appointed special advocate is represented by counsel, counsel shall be paid from funds in the Court Appointed Special Advocate Fund established under ORS 184.498. Counsel representing a court appointed special advocate may not be paid from moneys in the Public Defense Services Account established by ORS 151.225, from moneys appropriated to the [*Public Defense Services Commission*] **Oregon Public Defense Commission** or from Judicial Department operating funds.

(2) Subject to the direction of the court, the duties of the court appointed special advocate are to:

- (a) Investigate all relevant information about the case;
- (b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court;
- (c) Facilitate and negotiate to ensure that the court, the Department of Human Services, if applicable, and the child or ward's attorney, if any, fulfill their obligations to the child or ward in a timely fashion; and

(d) Monitor all court orders to ensure compliance and to bring to the court's attention any change in circumstances that may require a modification of an order of the court.

(3) If a juvenile court does not have a sufficient number of qualified court appointed special advocates available to it, the court may, in fulfillment of the requirements of this section, appoint a juvenile department employee or other suitable person to represent the child or ward's interest in court pursuant to ORS 419A.012 or 419B.195.

(4) Any person appointed as a court appointed special advocate in any judicial proceeding on behalf of the child or ward is immune from any liability for defamation or statements made in good faith by that person, orally or in writing, in the course of the case review or judicial proceeding.

(5) Any person appointed as a court appointed special advocate, CASA Volunteer Program director, CASA Volunteer Program employee or member of the board of directors or trustees of any CASA Volunteer Program is immune from any liability for acts or omissions or errors in judgment made in good faith in the course or scope of that person's duties or employment as part of a CASA Volunteer Program.

(6) Whenever the court appoints a court appointed special advocate or other person under subsections (1) to (3) of this section to represent the child or ward, the court may require a parent, if able, or guardian of the estate, if the estate is able, to pay, in whole or in part, the reasonable costs of court appointed special advocate services, including reasonable attorney fees. The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

(7) Upon presentation of the order of appointment by the court appointed special advocate, any agency, hospital, school organization, division, office or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the court appointed special advocate to inspect and copy, and may consult with the court appointed special advocate regarding, any records relating to the child or ward involved in the case, without the consent of the child, ward or parents.

(8) All records and information acquired or reviewed by a court appointed special advocate during the course of official duties are deemed confidential under ORS 419A.255.

(9) For the purposes of a Child Abuse Prevention and Treatment Act (42 U.S.C. 5101 et seq.) grant to this state under P.L. 93-247, or any related state or federal legislation, a court appointed special advocate or other person appointed pursuant to subsections (1) to (3) of this section is deemed a guardian ad litem to represent the interests of the child or ward in proceedings before the court.

SECTION 63. ORS 419B.195 is amended to read:

419B.195. (1) If the child, ward, parent or guardian requests counsel for the child or ward but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court may appoint suitable counsel to represent the child or ward at state expense if the child or ward is determined to be financially eligible under the policies, procedures, standards and guidelines of the [*Public Defense Services Commission*] **Oregon Public Defense Commission**. Whenever requested to do so, the court shall appoint counsel to represent the child or ward in a case filed pursuant to ORS 419B.100. The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the [*Public Defense Services Commission*] **Oregon Public Defense Commission**.

(2) Upon presentation of the order of appointment under this section by the attorney for the child or ward, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney to inspect and copy any records of the child or ward involved in the case, without the consent of the child or ward or parents. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to charging.

SECTION 64. ORS 419B.198 is amended to read:

419B.198. (1) When the court appoints counsel to represent a child or ward, it may order the parent, if able, or guardian of the estate, if the estate is able, to pay to the Public Defense Services

Account established by ORS 151.225, through the clerk of the court, in full or in part the administrative costs of determining the ability of the parents or estate to pay for legal services and the costs of the legal and other services that are related to the provision of appointed counsel.

(2) The test of the parent's or estate's ability to pay costs under subsection (1) of this section is the same test as applied to appointment of counsel for defendants under ORS 135.050 or under the policies, procedures, standards and guidelines adopted under ORS 151.216. If counsel is provided at state expense, the court shall apply this test in accordance with the guidelines adopted by the [Public Defense Services Commission] **Oregon Public Defense Commission** under ORS 151.485.

(3) If counsel is provided at state expense, the court shall determine the amount the parents or estate is required to pay for the costs of administrative, legal and other services related to the provision of appointed counsel in the same manner as this amount is determined under ORS 151.487.

(4) The court's order of payment is enforceable in the same manner as an order of support under ORS 419B.408.

SECTION 65. ORS 419B.237 is amended to read:

419B.237. (1) The appointment of a guardian ad litem under ORS 419B.231 continues until:

- (a) The court terminates the appointment;
- (b) The juvenile court proceeding is dismissed; or
- (c) The parent's parental rights are terminated, unless the court continues the appointment.

(2) A party to the proceeding or the attorney for the parent for whom a guardian ad litem has been appointed may request removal of the guardian ad litem. The court:

(a) Shall remove the guardian ad litem if the court determines that the parent no longer lacks substantial capacity either to understand the nature and consequences of the proceeding or to give direction and assistance to the parent's attorney on decisions the parent must make in the proceeding; or

(b) May remove the guardian ad litem on other grounds as the court determines appropriate.

(3) The [Public Defense Services Commission] **Oregon Public Defense Commission** shall compensate a guardian ad litem for duties the guardian ad litem performs in the proceeding from funds appropriated to the commission.

SECTION 66. ORS 419B.532 is amended to read:

419B.532. (1) As used in this section, "former parent" means a person who was previously the legal parent of a ward and whose parental rights to the ward have been terminated.

(2)(a) In a proceeding under ORS 419B.500, the Department of Human Services or a ward may file a motion to reinstate the parental rights of a former parent if:

- (A)(i) The ward has not been adopted; or
- (ii) The ward was previously adopted but no longer has a legal parent;

(B) No legal action to achieve the adoption of the ward has been initiated under ORS 109.276 or 419B.529;

(C) At least 18 months have passed since entry of the judgment terminating the former parent's parental rights to the ward or, in the event of an appeal, at least six months have passed since issuance of an appellate judgment affirming the termination judgment, whichever is later; and

(D) Except as provided in paragraph (b) of this subsection, the ward is at least 12 years of age at the time the motion to reinstate parental rights is filed.

(b) If the ward is under 12 years of age at the time the motion to reinstate parental rights is filed, the court may allow the motion upon a showing of good cause.

(3) A motion to reinstate parental rights under this section must be in writing and state with particularity the factual and legal grounds for the motion.

(4) The moving party shall provide a copy of the motion to reinstate parental rights to the former parent and shall notify the court, the parties and, if there is reason to know that the ward is an Indian child, the tribe that a copy of the motion has been provided.

(5) If a motion to reinstate parental rights does not state a prima facie case as to the facts that must be proved under subsection (6) of this section, the court may deny the motion without a hearing.

(6)(a) If a motion to reinstate parental rights states a prima facie case as to the facts that must be proved under this subsection, the court shall hold a hearing on the merits of the motion. The court shall grant the motion if the moving party proves by clear and convincing evidence that:

(A) The former parent's conduct and conditions that led to the termination of parental rights have been ameliorated and the former parent is presently fit;

(B) The former parent wishes to have parental rights reinstated;

(C) The ward consents to the reinstatement of parental rights; and

(D) Reinstatement of parental rights is in the ward's best interests.

(b) In determining whether reinstatement of parental rights is in the ward's best interests under paragraph (a) of this subsection, the court shall consider:

(A) The ward's health, safety, permanency, age, maturity and ability to express the ward's preferences;

(B) The reasons that the former parent's parental rights were terminated;

(C) The former parent's stated reasons for wishing to have parental rights reinstated; and

(D) The likely impact on the ward of the former parent's past abuse or neglect.

(c) The moving party shall provide notice to the former parent of a hearing on the merits under paragraph (a) of this subsection.

(d) The department shall establish by rule procedures for investigating the present fitness of the former parent and for providing appropriate reunification services.

(7) If the court grants the motion to reinstate parental rights under subsection (6) of this section:

(a) The court shall enter an order reinstating parental rights that shall restore all parental rights and duties of the former parent as to the ward;

(b) The ward shall continue as a ward of the court for at least six months after entry of the order reinstating parental rights; and

(c) The court shall conduct a permanency hearing as provided in ORS 419B.470 within 60 days after entering the order under paragraph (a) of this subsection.

(8) An order reinstating parental rights under this section does not vacate or otherwise affect the validity of the original judgment terminating the parental rights of the former parent except to the extent that the order reinstates parental rights.

(9) In any proceeding under this section, the ward is entitled to have counsel appointed at state expense if the ward is determined to be financially eligible under the policies, procedures, standards and guidelines of the [*Public Defense Services Commission*] **Oregon Public Defense Commission**.

SECTION 67. ORS 419B.647 is amended to read:

419B.647. (1) If there is reason to know that a child in a proceeding under ORS chapter 419B is an Indian child:

(a) The court shall appoint counsel to represent the Indian child.

(b) If the Indian child's parent or Indian custodian requests counsel to represent the parent or Indian custodian but is without sufficient financial means to employ suitable counsel possessing skills and experience commensurate with the nature of the petition and the complexity of the case, the court shall appoint suitable counsel to represent the Indian child's parent or Indian custodian if the parent or Indian custodian is determined to be financially eligible under the policies, procedures, standards and guidelines of the [*Public Defense Services Commission*] **Oregon Public Defense Commission**.

(2) Upon presentation of the order of appointment under this section by the attorney for the Indian child, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the attorney for the Indian child to inspect and copy any records of the Indian child involved in the case, without the consent of the Indian child or the Indian child's parent or Indian custodian. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to bringing charges.

SECTION 68. ORS 419C.200 is amended to read:

419C.200. (1)(a) When a petition is filed under ORS 419C.005, the court:

(A) Shall appoint counsel to represent the youth at all stages of the proceeding if the offense alleged in the petition is classified as a crime.

(B) Shall appoint counsel for the youth at any proceeding concerning an order of probation.

(C) Notwithstanding subparagraph (A) or (B) of this paragraph, shall appoint counsel for the youth in any case in which the youth would be entitled to appointed counsel if the youth were an adult charged with the same offense.

(D) May appoint counsel for the youth in any other proceeding under ORS 419C.005.

(b) The court may not substitute one appointed counsel for another except pursuant to the policies, procedures, standards and guidelines of the [*Public Defense Services Commission*] **Oregon Public Defense Commission**.

(2)(a) A court may not accept a waiver of counsel by a youth except under the following circumstances:

(A) The youth is at least 16 years of age;

(B) The youth has met with and been advised regarding the right to counsel by counsel who has been appointed by the court or retained on behalf of the youth;

(C) A written waiver, signed by both the youth and the youth's counsel, is filed with the court; and

(D) A hearing is held on the record where the youth's counsel appears and the court, after consulting with the youth, finds the waiver was knowingly, intelligently and voluntarily made and not unduly influenced by the interests of others, including the interests of the youth's parents or guardians.

(b) This subsection does not apply to a youth entering into a formal accountability agreement under ORS 419C.230.

(3) Upon presentation of the order of appointment under this section by the counsel for the youth, any agency, hospital, school organization, division or department of the state, doctor, nurse or other health care provider, psychologist, psychiatrist, police department or mental health clinic shall permit the counsel to inspect and copy any records of the youth or youths involved in the case, without the consent of the youth or youths or parents. This subsection does not apply to records of a police agency relating to an ongoing investigation prior to charging.

SECTION 69. ORS 419C.380 is amended to read:

419C.380. (1) An evaluation ordered under ORS 419C.378 must be conducted by a psychiatrist, a licensed psychologist or a regulated social worker. If an evaluation is requested, the party at whose request the evaluation was ordered shall notify the court and other parties of the date, time and location of the evaluation and the name of the evaluator chosen by the party. A party or the court may submit written information to the evaluator for consideration. When written information that has not been provided to the court or an opposing party is submitted to the evaluator, the party submitting the written information to the evaluator shall provide the written information to the court and the opposing party.

(2)(a) A county court or justice court shall order the county to pay the fees and costs described in subsection (3) of this section from funds available for that purpose.

(b) A circuit court shall order the [*public defense services*] executive director **of the Oregon Public Defense Commission** to pay the fees and costs described in subsection (3) of this section from funds available for that purpose.

(3) Pursuant to subsection (2) of this section, the county or the [*public defense services*] executive director **of the Oregon Public Defense Commission** shall pay:

(a) A reasonable fee to a psychiatrist, licensed psychologist or regulated social worker in private practice who conducts the evaluation; and

(b) All costs, including transportation of the youth, if the evaluation is conducted by a psychiatrist, licensed psychologist or regulated social worker employed by the Department of Human Services or is conducted by a community mental health program or community developmental disabilities program established under ORS 430.610 to 430.695.

(4) If an evaluation is ordered under ORS 419C.378, the county shall pay for the expense of the evaluation.

(5) After a motion is made by the court or the youth under ORS 419C.378 (3), the state shall have the right to seek an independent evaluation at its own expense.

(6) A youth may not be removed from the youth's current placement for the purpose of an evaluation performed under this section unless the youth has been placed in a detention facility as defined in ORS 419A.004 or a youth correction facility as defined in ORS 420.005.

SECTION 70. ORS 419C.535 is amended to read:

419C.535. (1) The juvenile panel of the Psychiatric Security Review Board shall appoint suitable counsel to represent a young person about whom a hearing under ORS 419C.532 is being held. Counsel appointed must be an attorney who satisfies the [*professional qualification*] **minimum** standards established by the [*Public Defense Services Commission*] **Oregon Public Defense Commission** under ORS 151.216. The [*public defense services*] executive director **of the commission** shall determine and allow fair compensation for counsel appointed under this subsection and the reasonable expenses of the young person in respect to the hearing. Compensation payable to appointed counsel may not be less than the applicable compensation level established under ORS 151.216. The [*public defense services*] executive director shall pay compensation and expenses allowed from funds available for that purpose.

(2) The juvenile panel may not order the young person, parent or guardian of the estate to pay any part of the administrative costs of appointing counsel for the young person or to pay for the costs of legal and other services that are related to the provision of appointed counsel.

(3) The Attorney General may represent the state at contested hearings before the juvenile panel unless the district attorney of the county in which the young person was adjudicated elects to represent the state. The district attorney of the county in which the young person was adjudicated shall cooperate with the Attorney General in securing the material necessary for presenting a contested hearing before the juvenile panel. If the district attorney elects to represent the state, the district attorney shall give timely written notice to the Attorney General, the juvenile panel and the attorney representing the young person.

SECTION 71. ORS 426.135 is amended to read:

426.135. If a person determined to be a person with mental illness as provided in ORS 426.130, or determined to be an extremely dangerous person with mental illness under ORS 426.701 or 426.702, appeals the determination or the disposition, and is determined to be financially eligible for appointed counsel at state expense, upon request of the person or upon its own motion, the court shall appoint suitable legal counsel to represent the person. The compensation for legal counsel and costs and expenses necessary to the appeal shall be determined and paid by the [*public defense services*] executive director **of the Oregon Public Defense Commission** as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or Supreme Court is the appellate court. The compensation, costs and expenses shall be paid as provided in ORS 138.500.

SECTION 72. ORS 426.250 is amended to read:

426.250. The following is a nonexclusive list of responsibilities for payment of various costs related to commitment proceedings under this chapter as described:

(1) Any physician or qualified professional recommended by the Oregon Health Authority who is employed under ORS 426.110 to make an examination as to the mental condition of a person alleged to have a mental illness shall be allowed a fee as the court in its discretion determines reasonable for the examination.

(2) Witnesses subpoenaed to give testimony shall receive the same fees as are paid in criminal cases, and are subject to compulsory attendance in the same manner as provided in ORS 136.567 to 136.603. The attendance of out-of-state witnesses may be secured in the same manner as provided in ORS 136.623 to 136.637. The party who subpoenas the witness or requests the court to subpoena the witness is responsible for payment of the cost of the subpoena and payment for the attendance of the witness at a hearing. When the witness has been subpoenaed on behalf of a person alleged to

have a mental illness who is represented by appointed counsel, the fees and costs allowed for that witness shall be paid pursuant to ORS 135.055. If the costs of witnesses subpoenaed by the person are paid as provided under this subsection, the procedure for subpoenaing witnesses shall comply with ORS 136.570.

(3) If a person with a right to a counsel under ORS 426.100, 426.701 or 426.702 is determined to be financially eligible for appointed counsel at state expense, the [public defense services] executive director **of the Oregon Public Defense Commission** shall determine and pay, as provided in ORS 135.055, the reasonable expenses related to the representation of the person and compensation for legal counsel. The expenses and compensation so allowed shall be paid by the [public defense services] executive director from funds available for the purpose.

(4) The authority shall pay the costs of expenses incurred under ORS 426.100 by the Attorney General's office. Any costs for district attorneys or other counsel appointed to assume responsibility for presenting the state's case shall be paid by the county where the commitment hearing is held, subject to reimbursement under ORS 426.310.

(5) All costs incurred in connection with a proceeding under ORS 426.180, 426.701 or 426.702, including the costs of transportation, commitment and delivery of the person, shall be paid by the community mental health program in the county of which the person is a resident. If the person is not a resident of this state, then the costs incurred in connection with the proceeding shall be paid by the community mental health program in the county from which the emergency admission was made.

(6) All costs incurred in connection with a proceeding under ORS 426.180 for the commitment of a person from a reservation, including the cost of transportation, commitment and delivery of the person, shall be paid by the governing body of the reservation of which the person is a resident.

SECTION 73. ORS 427.265 is amended to read:

427.265. (1) At the time that a person who is alleged to have an intellectual disability and to be in need of commitment for residential care, treatment and training is brought before the court, the court shall advise the person of the reason for being brought before the court, the nature of the proceedings and the possible results of the proceedings. The court shall also advise the person of the right to subpoena witnesses and to suitable legal counsel possessing skills and experience commensurate with the nature of the allegations and complexity of the case during the proceedings, and that if the person does not have funds with which to retain suitable legal counsel, the court shall appoint such legal counsel to represent the person. If the person does not request legal counsel, the legal guardian, relative or friend may request the assistance of legal counsel on behalf of the person.

(2) If no request for legal counsel is made, the court shall appoint suitable legal counsel.

(3) If the person is unable to afford legal counsel, the court, if the matter is before a county or justice court, or the [public defense services] executive director **of the Oregon Public Defense Commission**, if the matter is before the circuit court, shall determine and allow, as provided in ORS 135.055, the reasonable expenses of the person and compensation for legal counsel. The expenses and compensation so allowed by a county court shall be paid by the county of residence of the person. The expenses and compensation determined by the [public defense services] executive director shall be paid by the [public defense services] executive director from funds available for the purpose. In all cases legal counsel shall be present at the hearing and may examine all witnesses offering testimony, and otherwise represent the person.

(4) The court may, for good cause, postpone the hearing for not more than 72 hours to allow preparation for the hearing and order the continuation of detention authorized under ORS 427.255 during a postponement, if requested by the person, the legal counsel, parent or guardian of the person, an examiner or on the court's own motion.

SECTION 74. ORS 427.295 is amended to read:

427.295. If a person appeals a commitment order issued under ORS 427.290, the court, upon request of the person or upon its own motion and upon finding that the person is financially eligible for appointed counsel at state expense, shall appoint suitable legal counsel to represent the person.

The compensation for legal counsel and costs and expenses necessary to the appeal shall be determined and paid by the *[public defense services]* executive director **of the Oregon Public Defense Commission** as provided in ORS 135.055 if the circuit court is the appellate court or as provided in ORS 138.500 if the Court of Appeals or Supreme Court is the appellate court. The compensation, costs and expenses so allowed shall be paid as provided in ORS 138.500.

SECTION 75. ORS 433.466 is amended to read:

433.466. (1) A person or group of persons subject to isolation or quarantine or other public health measure pursuant to ORS 433.121 or 433.123 has the right to be represented by legal counsel if the person or group of persons so elects. If the person or group of persons requests legal counsel and cannot afford counsel, the court shall appoint legal counsel. If no request for legal counsel is made, the court must appoint legal counsel unless counsel is expressly, knowingly and intelligently refused by the person or the group of persons. The person or the group of persons may request legal counsel at any time during the period of imposition of the isolation, quarantine or other public health measure.

(2) If a person is unable to afford legal counsel, the *[public defense services]* executive director **of the Oregon Public Defense Commission** shall determine and pay, as provided in ORS 135.055, the reasonable expenses of the person and compensation for legal counsel appointed to represent the person.

SECTION 76. The amendments to ORS 1.009, 8.105, 34.355, 40.225, 42.125, 45.275, 45.285, 84.064, 125.035, 125.080, 135.050, 136.603, 137.020, 138.310, 138.480, 138.500, 138.590, 144.335, 144.337, 147.537, 147.560, 151.485, 151.487, 151.493, 151.505, 161.309, 161.346, 161.348, 161.365, 161.665, 171.133, 181A.010, 190.490, 244.050, 283.110, 291.002, 291.011, 291.030, 291.045, 291.227, 293.300, 293.590, 293.875, 419A.200, 419A.211, 419A.252, 419A.255, 419B.112, 419B.195, 419B.198, 419B.237, 419B.532, 419B.647, 419C.200, 419C.380, 419C.535, 426.135, 426.250, 427.265, 427.295 and 433.466 by sections 15 to 75 of this 2023 Act become operative on January 1, 2024.

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:

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)(a) 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.

[(A)] (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.

[(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*] **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 [*Chief Justice*] **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 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*] **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,*] Governor, **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 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*] **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 commission 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, 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 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) 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)] (iii) The Secretary of State and the State Treasurer;

[(v)] (iv) Semi-independent state agencies listed in ORS 182.454;

[(vi)] (v) The Oregon Tourism Commission;

[(vii)] (vi) The Oregon Film and Video Office;

[(viii)] (vii) Public universities listed in ORS 352.002;

[(ix)] (viii) The Oregon Health and Science University;

[(x)] (ix) The Travel Information Council;

[(xi)] (x) Oregon Corrections Enterprises;

[(xii)] (xi) The Oregon State Lottery Commission;

[(xiii)] (xii) The State Accident Insurance Fund Corporation;

[(xiv)] (xiii) The Oregon Utility Notification Center;

[(xv)] (xiv) Oregon Community Power;

[(xvi)] (xv) The Citizens' Utility Board;

[(xvii)] (xvi) A special government body as defined in ORS 174.117;

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

[(xix)] (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 Administrative 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[, *the Oregon Public Defense Commission*] 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[, *the Oregon Public 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.**

[(1)] (2) **“Chief Justice” means the Chief Justice of the Supreme Court.**

[(2)] (3) **“Commission” means the Oregon Public Defense Commission.**

(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 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] **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)]~~ (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.

~~[(7)]~~ (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.

~~[(8)]~~ (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.

~~[(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 information:

(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 providers;

(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.

(Statutory Changes Operative July 1, 2027)

SECTION 100. 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 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 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 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 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 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 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 before 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 commission 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 members of the commission.

[~~(A)~~ **(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.

[~~(B)~~ **(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.

UNREPRESENTED DEFENDANT CRISIS PLANS

SECTION 103. The Legislative Assembly finds that:

(1) Oregonians accused of a crime are entitled, under the Sixth and Fourteenth Amendments of the United States Constitution, and Article I, section 11, of the Oregon Constitution, to have an attorney provided at government expense whenever the person is facing the potential loss of liberty and is unable to afford an attorney.

(2) The current unrepresented defendant crisis represents a threat to the constitutional rights of Oregonians and must be resolved.

SECTION 104. (1)(a) The presiding judge of each judicial district shall immediately develop and implement a coordinated public safety unrepresented defendant crisis plan, and submit the plan to the Oregon Criminal Justice Commission, as soon as practicable and no later than September 1, 2023.

(b) The plan described in this subsection must first prioritize the resolution of the cases of unrepresented defendants who are in custody, and then the cases of unrepresented defendants who are out of custody.

(2) The presiding judge of a judicial district with a total population of over 100,000 shall immediately convene a crisis team to assist in the development of the plan and to coordinate the implementation of the plan described in subsection (1) of this section. The team shall be composed of at least the following persons:

(a) The presiding judge of the judicial district;

(b) District attorneys within the judicial district; and

(c) The public defense services executive director, or the director's designee.

(3) The Chief Justice of the Supreme Court may issue orders related to resolving the unrepresented defendant crisis.

(4) The presiding judge of a judicial district may enter standing orders related to resolving the unrepresented defendant crisis that are consistent with the orders of the Chief Justice described in subsection (3) of this section and the plan of the judicial district described in subsection (1) of this section.

SECTION 105. The Public Defense Services Commission shall:

(1) By no later than August 15, 2023, promulgate and disseminate guidance for the judicial district coordinated public safety unrepresented defendant crisis plans described in section 104 of this 2023 Act.

(2) By no later than September 1, 2023, develop a training plan for public defense providers specific to the unrepresented defendant crisis, in consultation and cooperation with public defense provider associations and organizations.

(3) By no later than October 1, 2023, report to the Joint Interim Committee on Ways and Means and the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, on the commission's progress in carrying out the provisions described in subsections (1) and (2) of this section.

SECTION 106. The Oregon Criminal Justice Commission shall conduct a review of each judicial district's coordinated public safety unrepresented defendant crisis plan submitted to the commission under section 104 of this 2023 Act. The commission shall report the commission's findings to the Joint Interim Committee on Ways and Means and the interim committees of the Legislative Assembly related to the judiciary, in the manner provided in ORS 192.245, no later than October 1, 2023.

SECTION 107. All agencies of state government, as defined in ORS 174.111, are directed to assist the presiding judges of judicial districts, the Public Defense Services Commission and the Oregon Criminal Justice Commission in the performance of their duties under sections 104 to 106 of this 2023 Act and, to the extent permitted by laws relating to confidentiality, to furnish such information and advice to the judges and commissions necessary to perform their duties.

SECTION 108. Sections 103 to 107 of this 2023 Act are repealed on June 30, 2025.

APPROPRIATIONS
(Commission Changes)

SECTION 109. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (1), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Executive Division, is increased by \$414,792, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act.

SECTION 110. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (2), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Compliance, Audit and Performance Division, is increased by \$801,080, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act.

SECTION 111. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (4), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Adult Trial Division, is increased by \$7,406,190, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act.

SECTION 112. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (5), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Juvenile Trial Division, is increased by \$1,234,365, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act.

SECTION 113. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (7), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for Court Mandated Expenses, is increased by \$14,656,343, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act.

SECTION 114. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (8), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Parent Child Representation Program, is increased by \$1,234,365, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act.

SECTION 115. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (9), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Administrative Services Division, is increased by \$8,465,430, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act.

SECTION 116. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (10), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Special Programs, Contracts and Distributions Division, is increased by \$285,508, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and

the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act.

SECTION 117. Notwithstanding any other provision of law, the General Fund appropriation made to the Judicial Department by section 1 (2), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5512), for the biennium beginning July 1, 2023, for Operations, is increased by \$283,504, for the purpose of carrying out the provisions of sections 7a to 14, 76, 92, 96 to 99 and 102 of this 2023 Act and the amendments to statutes by sections 1 to 7, 15 to 75, 77 to 91, 93 to 95, 100 and 101 of this 2023 Act relating to the transfer of the Oregon Public Defense Commission to the executive branch.

(Unrepresented Defendant Crisis Plans)

SECTION 118. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (4), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Adult Trial Division, is increased by \$368,316, for an expedited resolution case docket in the fourth judicial district.

SECTION 119. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (4), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Adult Trial Division, is increased by \$4,588,202, for the purpose of carrying out the provisions of sections 103 to 107 of this 2023 Act.

SECTION 120. Notwithstanding any other provision of law, the General Fund appropriation made to the Public Defense Services Commission by section 1 (10), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5532), for the biennium beginning July 1, 2023, for the Special Programs, Contracts and Distributions Division, is increased by \$545,000, for the purpose of carrying out the provisions of sections 103 to 107 of this 2023 Act.

SECTION 121. Notwithstanding any other provision of law, the General Fund appropriation made to the Judicial Department by section 1 (2), chapter __, Oregon Laws 2023 (Enrolled Senate Bill 5512), for the biennium beginning July 1, 2023, for Operations, is increased by \$1,852,566, for the purpose of carrying out the provisions of sections 104 and 105 of this 2023 Act.

CAPTIONS

SECTION 122. 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 123. 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.

Passed by Senate June 20, 2023

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Lori L. Brocker, Secretary of Senate

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Rob Wagner, President of Senate

Passed by House June 21, 2023

.....
Dan Rayfield, Speaker of House

Received by Governor:

.....M,....., 2023

Approved:

.....M,....., 2023

.....
Tina Kotek, Governor

Filed in Office of Secretary of State:

.....M,....., 2023

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Secretary of State