

Chapter 151

1999 EDITION

Public Defenders; Counsel for Indigents

PUBLIC DEFENSE SERVICES COMMISSION

(Temporary provisions relating to the Public Defense Services Commission are compiled as notes preceding ORS 151.010)

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PUBLIC DEFENSE SERVICES COMMISSION

Note: Sections 1, 2, 3 and 5, chapter 1033, Oregon Laws 1999, provide:

Sec. 1. For purposes of sections 1 to 3 of this 1999 Act:

- (1) "Bar member" means an individual who is a member of the Oregon State Bar.
- (2) "Chief Justice" means the Chief Justice of the Supreme Court.
- (3) "Commission" means the Public Defense Services Commission. [1999 c.1033 s.1]

Sec. 2. (1) The Public Defense Services 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 members appointed by order of the Chief Justice. Four members shall not be lawyers. The other five members shall be active bar members, with not more than one who is actively engaged in criminal defense or juvenile law practice as a public defense provider, not more than one who is a judge and not more than one who is a prosecuting attorney. Of the nonlawyer members, not more than one may be an employee of full-time not-for-profit public defender organizations, a person contracting to provide public defense services or an employee of such contractors.

(b) In addition to the nine members appointed under paragraph (a) of this subsection, the Speaker of the House of Representatives shall appoint one state Representative and the President of the Senate shall appoint one state Senator to serve as advisory members.

(3) The position of a member becomes vacant if the member fails to attend two consecutive meetings of the commission for any cause not approved by the chairperson. A member may be removed from the commission by order of the appointing authority. If a vacancy occurs for any cause, the appointing authority shall make an appointment to become immediately effective for the unexpired term.

(4) The chairperson and a vice chairperson shall be appointed by order of the Chief Justice with such functions as the commission may determine.

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

(6) Members of the commission who are not members of the Legislative Assembly shall not be paid compensation

for services as a member but are entitled to expenses as provided in ORS 292.495, from such funds as may be available to the commission therefor. Members who are members of the Legislative Assembly shall be paid compensation and expense reimbursement as provided in ORS 171.072, payable from funds appropriated to the Legislative Assembly. [1999 c.1033 s.2]

Sec. 3. (1) The Public Defense Services Commission shall:

(a) Study the current systems of providing representation and transcripts in appellate public defense cases and make recommendations to the State Court Administrator and the Public Defender Committee for administrative changes and intergovernmental agreements that will strengthen and improve those systems, including, but not limited to, the administration and cost-effectiveness thereof.

(b) Study the current system of review of requests made under ORS 135.055 (3) and make recommendations to the State Court Administrator for changes that will enhance the cost-efficiency and effectiveness of the system.

(c) Study the structure, organization, service delivery systems, compensation and staffing levels of public defense providers, administration, policies, standards, guidelines, workloads and expenditures of the public defense system and the breadth of cases in which public defense services are mandated.

(d) Study areas or methods of containing the costs of the public defense system.

(e) Study methods of ensuring effective representation of persons entitled to public defense services in compliance with Oregon Revised Statutes, the Oregon Constitution, the Constitution of the United States, the Oregon Code of Professional Responsibility, the Oregon State Bar's "Principles and Standards for Counsel in Criminal, Delinquency, Dependency and Civil Commitment Cases" and national standards for public defense services.

(f) Solicit and study workload, structure, staffing and compensation information from the other components of the justice systems in which public defense services are mandated.

(g) Consider in its studies the structures, service delivery systems, breadth of cases in which public defense services are mandated, compensation levels, policies, standards, guidelines, workloads, expenditures, management, cost containment efforts and practical experiences of public defense programs in other jurisdictions.

(h) Report annually on its progress to the interim judiciary committees.

(i) Submit a report to the Seventy-first Legislative Assembly containing its findings and recommendations including, but not limited to, legislative changes needed to implement its findings.

(2) Notwithstanding any other law, the Chief Justice, State Court Administrator and chairperson of the Public Defender Committee shall serve as ex officio members of the commission.

(3) Notwithstanding any other law, the commission may accept gifts, grants and contributions from any source, whether public or private. Moneys accepted under this subsection shall be deposited in the State Treasury to the credit of the Judicial Department and are continuously appropriated to the Judicial Department for the payment of expenses and costs of the commission.

(4) Notwithstanding any other law and within the limits of the funds that become available to the commission, the commission may contract for consultant and support services as may be necessary to carry out its functions.

(5) The Public Defender Committee, Public Defender, State Court Administrator, indigent defense services director, Attorney General and any state agencies involved in the justice systems in which public defense services are mandated shall cooperate with the commission in providing information reasonably necessary for the commission to execute its duties. [1999 c.1033 s.3]

Sec. 5. Sections 1 to 3 of this 1999 Act are repealed on September 1, 2001. [1999 c.1033 s.5]

**COUNTY CONTRACT FOR
COUNSEL TO INDIGENTS**

151.010 Public defender services by county. (1) The governing body of a county, on behalf of the county, may contract with an attorney, group of attorneys or full-time not-for-profit public defender organization for the provision by the attorney, group of attorneys or organization of services as counsel for indigents in proceedings in which a court or magistrate has the power to appoint counsel to represent an indigent and the county is required to pay compensation for that representation. If a contract is with an attorney or group of attorneys, each attorney who will provide services under the contract shall satisfy the standards of eligibility established under ORS 151.430 (3)(a). If a contract is with a public defender organization, the organization shall satisfy the standards of eligibility established under ORS 151.430 (3)(b).

(2) A court or magistrate may appoint an attorney who is, or an attorney member of a public defender organization that is, under a contract with a county as provided in this section to represent an indigent in any proceeding in which the court or magistrate has the power to appoint counsel to represent an indigent and the county is required to pay compensation for that representation. [1971 c.432 s.1; 1973 c.836 s.311; 1985 c.502 s.11]

151.020 [1971 c.432 s.2; repealed by 1985 c.502 s.13]

151.030 [1971 c.432 s.3; repealed by 1985 c.502 s.13]

151.040 [1971 c.432 s.4; 1983 c.740 s.22; repealed by 1985 c.502 s.13]

151.050 [1971 c.432 s.5; repealed by 1985 c.502 s.13]

151.060 [1971 c.432 s.6; repealed by 1985 c.502 s.13]

151.070 [1971 c.432 s.7; repealed by 1985 c.502 s.13]

151.080 [1971 c.432 s.8; repealed by 1985 c.502 s.13]

151.090 [1971 c.432 s.9; repealed by 1985 c.502 s.13]

151.150 [1981 s.s. c.3 s.117; 1985 c.502 s.9; renumbered 151.460]

STATE PUBLIC DEFENDER

151.210 Definitions for ORS 151.220 to 151.280. As used in ORS 151.220 to 151.280, unless the context requires otherwise:

(1) "Committee" means the Public Defender Committee appointed under ORS 151.270.

(2) "Defender" means the Public Defender appointed under ORS 151.280. [Formerly 138.710]

151.220 Public Defender; term; qualifications; deputies. (1) The Public Defender's term is four years, and the defender may be reappointed. The office of defender becomes vacant upon the conditions prescribed in ORS 236.010, upon the Public Defender Committee's finding of any of the causes enumerated in ORS 241.425 (1) to (3), or upon the defender's failure to comply with subsection (2) of this section.

(2) The defender shall be an active member of the Oregon State Bar.

(3) To qualify for office the individual appointed defender shall file with the Secretary of State a signed oath of office to the effect that the individual will support the Constitution of the United States and the Constitution of Oregon, and that the individual will faithfully and honestly perform in office.

(4) The defender and the deputies of the defender shall be members of the exempt service established by ORS 240.200. One secretary for the defender shall be a member of the unclassified service.

(5) The defender, and any of the deputies of the defender who receive a salary of \$10,000 per year or more, shall not engage in the private practice of law.

(6) The defender and the deputies of the defender shall not be employed in any capacity by a district attorney or other public prosecutor. [Formerly 138.740]

151.230 Salary and expenses. (1) The Public Defender shall receive such annual salary as is provided by law. The defender shall receive the minimum salary unless such salary is or has been altered by the Public Defender Committee.

(2) The defender shall be paid by the state in the same manner as other state officers are paid. Such salary shall be the full compensation to the defender for all services, except for the allowance of expense as a state officer. [Formerly 138.750; 1983 c.740 s.23]

151.240 Administrative powers of defender. (1) When it is necessary to enable the Public Defender to perform the duties of the defender, the defender may:

(a) Employ deputies with the power and authority of the defender.

- (b) Employ other individuals, including expert investigators, witnesses and interpreters.
 - (c) Contract for the purchase of materials or other services.
 - (d) Consult with and, in appropriate cases, join in the defense, any attorney who had previously represented the individual in a case which resulted in a conviction under consideration in the proceeding where the defender represents the individual. Any compensation paid such attorney for services rendered under this paragraph shall be paid solely as provided by ORS 138.490.
 - (e) Make or assist in making any study, survey or report upon the need for, use of and availability of legal aid to indigent persons in the State of Oregon, and accept payment therefor.
- (2) Subject to the express approval of the Public Defender Committee, the defender may accept gifts, grants or services from, or contract with nonprofit organizations, educational institutions and other state or federal agencies; in rendering legal aid to persons without means to retain an attorney and in studying, surveying and reporting on the need, use and availability of such aid in the State of Oregon.
- (3) Payment for materials and services procured under this section shall be made in the same manner as other state expenses are paid. [Formerly 138.760]

151.250 When defender may render services. (1) In accordance with subsections (2) to (4) of this section and the determinations of the Public Defender Committee under ORS 151.280 (2) or (7), the Public Defender may act as attorney at any stage of a proceeding before any court, including the Supreme Court, for an individual who is committed to the legal and physical custody of the Department of Corrections pursuant to ORS 137.124, and the proceeding is other than:

- (a) A habeas corpus proceeding;
 - (b) A proceeding for which counsel is appointed under ORS 135.045, 135.050, 419B.195, 419B.205, 419C.200, 426.100; or
 - (c) A proceeding of contempt of court.
- (2) The defender may act only at the request of the individual described in subsection (1) of this section, or, if no such request is made, at the request of the court or magistrate.
- (3) The individual on whose behalf the defender is requested to act shall submit to the defender, in the form prescribed by the committee, an affidavit of the financial circumstances of the individual unless the trial court in the case already determined the individual to be indigent for purposes of the specific case or the individual appeared in the case through court appointed counsel. If so, the request or individual need only so indicate and provide the defender information necessary to substantiate. However, if the request relies on the trial court's previous determination that the individual is indigent, the trial court, in its discretion, may require the individual to submit a new statement of assets, liabilities and income. When the trial court so requires, the individual shall submit the affidavit in the form required by this subsection.
- (4) At the request of the defender or an individual who seeks the defender's aid, the court or magistrate before whom a proceeding is pending or to whom an application for relief has been made, shall finally determine whether the individual is eligible under this section for the defender's aid. [Formerly 138.770; 1973 c.694 s.19; 1987 c.320 s.84; 1991 c.724 s.26; 1993 c.33 s.303; 1995 c.117 s.3]

151.260 Register of proceedings. The Public Defender shall keep a register in which the defender shall make a note of each proceeding in which the defender serves in an official capacity. The right to custody of the register passes to the defender's successor in office, and the defender shall deliver the register to a successor in office. [Formerly 138.780]

151.270 Public Defender Committee; appointment; expenses; term. (1) The Supreme Court shall appoint a Public Defender Committee of not fewer than five individuals, who, in the opinion of the court, are qualified by training or experience to perform the functions of the committee. A majority of the committee is a quorum for the transaction of business.

- (2) Each member is entitled to compensation and expenses as provided in ORS 292.495.
- (3) Each member's term is four years and the member may be reappointed. [Formerly 138.720]

151.280 Duties of committee. The Public Defender Committee shall:

- (1) Appoint a Public Defender;
- (2) Determine policies and procedures for the performance of the defender's functions;

- (3) Determine standards of eligibility for the defender and deputies;
- (4) Approve the original estimate sheet in connection with the budget for the defender's office and generally be responsible for supervision of the expenditures made for the defender's office;
- (5) Prescribe a form of oath of financial circumstances for use under ORS 151.250 (3);
- (6) Prescribe a formula of apportionment of expenses; and
- (7) Where the defender is unable to perform fully authorized functions, determine the nature and extent of the services the defender shall render. [Formerly 138.730; 1983 c.740 s.24]

151.290 Public Defender's Account. There hereby is established in the General Fund of the State Treasury an account to be known as the Public Defender's Account. All moneys received by the Public Defender shall be paid into the State Treasury and credited to the Public Defender's Account. All moneys in the Public Defender's Account hereby are appropriated continuously for and, subject to approval by the Public Defender Committee, shall be used by the Public Defender in carrying out the purposes of ORS 138.480 to 138.500, 138.590 and 151.210 to 151.290. [Formerly 138.790]

151.410 [1985 c.502 s.2; repealed by 1987 c.803 s.27]

151.420 [1985 c.502 s.3; repealed by 1987 c.803 s.27]

STATE INDIGENT DEFENSE PROGRAM

151.430 Duties of State Court Administrator. (1) The State Court Administrator shall conduct a continuing study and evaluation of various methods for the provision of appointed counsel compensated at state expense to represent persons in the state courts.

(2) The State Court Administrator shall develop, evaluate and modify as appropriate for each judicial district a plan for the provision of appointed counsel compensated by the state to represent persons in proceedings in the circuit court in the judicial district and in appeals therefrom. A plan may apply to one judicial district or two or more adjoining judicial districts.

(3) The State Court Administrator shall establish professional qualification standards for:

(a) Appointed counsel compensated at public expense to represent persons in the state courts; and

(b) Full-time not-for-profit public defender organizations whose attorney members serve as appointed counsel compensated at public expense to represent persons in the state courts.

(4) The State Court Administrator shall provide copies of professional qualification standards established under subsection (3) of this section to all judges or other entities who have the power to appoint counsel referred to in subsection (3) of this section.

(5) The State Court Administrator shall establish a schedule of fair compensation payable to appointed counsel compensated by the state to represent persons in the state courts. No compensation set forth in the schedule shall be less than \$30 per hour if the compensation is paid on an hourly basis.

(6) The State Court Administrator shall establish policies and procedures including, but not limited to, cost guidelines and standards for the approval and payment of compensation and expenses incurred in the defense of persons whose legal counsel is required to be paid by the State Court Administrator pursuant to ORS 151.450.

(7) Subsections (2), (3) and (5) of this section do not apply to the Public Defender established by ORS 151.280 or deputies of the defender.

(8) The State Court Administrator shall establish standards and procedures for contracting for services of counsel under ORS 151.460.

(9) The State Court Administrator may delegate the administration of services required under ORS 135.055 to court employees and may contract for performance of the services when the administrator determines it is efficient and effective to do so. Any delegation or contract under this subsection must be in accordance with established written policies and procedures. Funds from the State Court Indigent Defense Account may be expended for purposes of contracts entered into under this subsection. [1985 c.502 s.5; 1987 c.803 s.10; 1995 c.677 s.2]

151.440 [1985 c.502 s.6; repealed by 1987 c.803 s.27]

151.450 Additional duties and powers of administrator. The State Court Administrator shall:

(1) Pay the compensation for counsel, other than the Public Defender established by ORS 151.280, appointed to represent indigents in the state courts, and other costs and expenses of that representation that are required to be paid by the state under ORS 33.015 to 33.155, 34.355, 135.055, 138.490, 138.500, 138.590, 161.327, 161.365, 161.385, 419A.200, 419B.195, 419B.201, 419B.205, 419B.518, 419C.200, 419C.206, 426.100, 426.135, 426.275, 426.307, 427.265, 427.295, 436.265 or 436.315 or any other provisions of law that expressly provide for payment of such compensation costs or expenses by the State Court Administrator.

(2) Develop a system for conducting financial and performance audits of indigent defense contracts. [1985 c.502 s.7; 1987 c.803 s.11; 1991 c.724 s.27; 1991 c.750 s.9; 1993 c.33 s.304]

151.460 Authority of administrator to provide counsel to indigents. (1) The State Court Administrator, on behalf of the state, may contract with an attorney, group of attorneys or full-time not-for-profit public defender organization for the provision by the attorney, group of attorneys or organization of services as counsel for indigents in proceedings in which a court or magistrate has the power to appoint counsel to represent an indigent and the state is required to pay compensation for that representation. If a contract is with an attorney or group of attorneys, each attorney who will provide services under the contract shall satisfy the professional qualification standards established under ORS 151.430 (3)(a). If a contract is with a public defender organization, the organization shall satisfy the professional qualification standards established under ORS 151.430 (3)(b). A contract entered into under this subsection may be for the provision of services to indigents in appellate proceedings.

(2) A court or magistrate may appoint an attorney who is, or an attorney member of a public defender organization that is, under a contract with the state as provided in this section to represent an indigent in any proceeding in which the court or magistrate has the power to appoint counsel to represent an indigent and the state is required to pay compensation for that representation.

(3) This section does not apply to proceedings in which the Public Defender established by ORS 151.280 is authorized, able and appointed to provide services as counsel for indigents. [Formerly 151.150; 1987 c.803 s.12; 1989 c.1053 s.8; 1995 c.677 s.3]

151.465 State Court Indigent Defense Account. (1) There is created a State Court Indigent Defense Account in the General Fund which is continuously appropriated to the State Court Administrator to pay compensation of counsel and other expenses in connection with the legal representation of indigent persons, for which the State Court Administrator is responsible by law. Such expenses shall be paid only from funds specifically appropriated therefor, and no other moneys appropriated to the Judicial Department or State Court Administrator shall be used for these purposes.

(2) All moneys appropriated to the Judicial Department or State Court Administrator to pay compensation of counsel and other expenses in connection with the legal representation of indigent persons for which the State Court Administrator is responsible by law shall be deposited in the State Court Indigent Defense Account.

(3) All money received by the Judicial Department under ORS 151.505 (3) or ORS 135.050 (7), 151.487 (1), 419A.200 (10), 419B.198 (1) and 419C.203 (1) shall be deposited in a separate subaccount created in the State Court Indigent Defense Account to be used by the State Court Administrator to reimburse the actual costs and expenses, including personnel expenses, incurred in administration and support of the indigent defense program under ORS 151.430 to 151.495. [1987 c.803 s.9; 1997 c.761 s.13]

Note: 151.465 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 151 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

151.470 [1985 c.502 s.15; repealed by 1987 c.803 s.27]

151.480 Appointment of counsel other than Public Defender. When a court or magistrate has the power to appoint counsel to represent an indigent in a proceeding in a circuit, county, justice or municipal court or in an appeal therefrom and the state, a county or a city is required to pay compensation for that representation, and the court or magistrate does not appoint the Public Defender established by ORS 151.280 or counsel who is under contract to provide services for the proceeding or appeal pursuant to ORS 151.010 or 151.460, the court or magistrate shall appoint as counsel:

(1) An attorney who, in the opinion of the court or magistrate, satisfies the standards of eligibility established under

ORS 151.430 (3)(a); or

(2) An attorney member of a full-time not-for-profit public defender organization that, in the opinion of the court or magistrate, satisfies the standards of eligibility established under ORS 151.430 (3)(b). [1985 c.502 s.18]

DETERMINATION OF INDIGENCY

151.485 Indigency; determination; financial statement; termination of appointed counsel. (1) For purposes of determining the financial eligibility for court-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 State Court Administrator under ORS 151.450, a person is indigent 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.

(2) A determination of indigence 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 State Court Administrator and approved by the Supreme Court. The form shall contain a full disclosure of all assets, liabilities, current income, dependents and other information required by ORS 135.050 (3) and, in addition, any information required by the State Court Administrator as necessary to determine eligibility. The State Court Administrator shall promulgate and issue uniform statewide guidelines and procedures that have been approved by the Supreme Court and that prescribe how the form will be used in the state courts and how the eligibility for court-appointed counsel will be determined.

(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 an indigent person at state expense under ORS 151.450.

(5) The civil proceeding shall be subject to the exemptions from execution as provided for by law. [1989 c.1053 s.13; 1991 c.825 s.6]

151.487 Ability to pay; effect. (1) If in determining that a person is eligible for court-appointed counsel after applying the guidelines and standards issued by the State Court Administrator 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 order the person to pay to the State Court Indigent Defense Account in the General Fund, 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 order the person to pay shall be subject to the guidelines and procedures issued by the State Court Administrator as provided in subsection (4) of this section.

(2) Failure to obey an order under this section shall not be grounds for contempt or grounds for withdrawal by the appointed attorney, but any part of the amount ordered under this section and not paid may be:

(a) Enforced against the person as if the order is a civil judgment; or

(b) Enforced as otherwise permitted by law.

(3) Except as authorized in this section, no person, organization or governmental agency may request or accept a payment or promise of payment for assisting in the representation of a person by court appointment.

(4) The State Court Administrator shall promulgate and issue guidelines and procedures that have been approved by the Supreme Court:

(a) For the determination of persons provided with court-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, shall be subject to review at any time by the court. [1989

151.489 Personnel to verify indigency. For the purpose of aiding courts in implementing indigency eligibility determinations under ORS 151.485 and 151.487, the State Court Administrator may locate indigency verification and screening positions in the state trial and appellate courts and may prescribe the policies and procedures for their use. [1989 c.1053 s.15]

151.491 Authority of person verifying indigency. (1) The State Court Administrator or authorized designee who conducts the verification of the financial statement submitted by a person seeking or having appointed counsel payable at state expense under ORS 151.450 shall have the authority to require the person to execute and deliver any written requests or authorizations as may be necessary under applicable law to provide the State Court Administrator or authorized designee with access to records of public or private source, otherwise confidential, as may be needed to evaluate eligibility.

(2) In performing the verification duties under subsection (1) of this section, the State Court Administrator or authorized designee is authorized to obtain information from any public record office of the state or of any subdivision or agency of the state upon request and without payment of any fees ordinarily required by law. [1989 c.1053 s.16]

151.493 Release of information by state agency to State Court Administrator. (1) Notwithstanding any other provision of law, any state agency as defined in ORS 192.410 that receives a request for release of information from the State Court Administrator for the purpose of verifying the indigency of a person under ORS 151.430 to 151.495 shall release all requested information to the State Court Administrator. The administrator 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 motion of the State Court Administrator, a court that has appointed counsel for a person by reason of indigency may order the release of any information relating to the person's financial situation held by any other person. [1991 c.825 s.4]

151.495 Confidentiality of information obtained by State Court Administrator; exceptions. (1) All information supplied by a person seeking court-appointed counsel and all information collected by the State Court Administrator for purposes of determining eligibility for court-appointed counsel under ORS 151.430 to 151.495 is confidential and shall not be used for any purpose other than determining eligibility.

(2) Notwithstanding subsection (1) of this section, information supplied by a person seeking court-appointed counsel and information collected by the State Court Administrator for purposes of determining eligibility may be:

(a) Introduced in a proceeding, criminal or civil, arising out of a determination that a person is not eligible for court-appointed counsel;

(b) Introduced in a proceeding, criminal or civil, arising as a result of an allegation that a person has supplied false information in seeking court-appointed counsel;

(c) Used by the court in a sentencing proceeding resulting from the defendant's conviction on the matter for which the information was provided or collected; and

(d) Used by the court, the Department of Revenue, or the assignees of the court or the Department of Revenue, for the purpose of collecting delinquent amounts owed to this state by the person. [1991 c.825 s.5; 1997 c.761 s.4]

MISCELLANEOUS

151.505 Authority of court to order repayment of costs related to provision of appointed counsel. (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 or appellate court may include in its judgment an order 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.

(2) Costs repayable 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 State Court Administrator under ORS 151.430.

(3) Costs repayable under this section do not include costs imposed and paid under a previous order under ORS

151.487, but may include costs imposed under an order under ORS 151.487 that are unpaid at the time the judgment is filed.

(4) The court may not order 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. The determination of the ability of a person to pay costs and the amount of costs to be paid shall be subject to the guidelines and procedures issued by the State Court Administrator under ORS 151.487.

(5) A person who has been ordered 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, the court may remit all or part of the amount due or modify the method of payment.

(6) Except for moneys payable under subsection (1) of this section pursuant to an order under ORS 151.487, all moneys collected or paid under this section shall be paid into the General Fund and credited to the Criminal Fine and Assessment Account.

(7) Any part of the costs ordered to be paid under this section that is not paid may be enforced against the person as provided in ORS 137.450 if the judgment is a judgment in a criminal action or in the same manner as unpaid costs may be enforced under ORS 151.487. [1997 c.761 s.2]

Note: 151.505 was enacted into law by the Legislative Assembly but was not added to or made a part of ORS chapter 151 or any series therein by legislative action. See Preface to Oregon Revised Statutes for further explanation.

CHAPTER 152

[Reserved for expansion]