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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 §1; 1973 c.836 §311; 1985 c.502 §11]

Note: The amendments to 151.010 by section 32, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

151.010. (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 financially eligible persons in proceedings in which a court or magistrate has the power to appoint counsel to represent a financially eligible person and the county is required to pay compensation for that representation.

(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 a financially eligible person in any proceeding in which the court or magistrate has the power to appoint counsel to represent a financially eligible person and the county is required to pay compensation for that representation.

151.020 [1971 c.432 §2; repealed by 1985 c.502 §13]

151.030 [1971 c.432 §3; repealed by 1985 c.502 §13]

151.040 [1971 c.432 §4; 1983 c.740 §22; repealed by 1985 c.502 §13]

151.050 [1971 c.432 §5; repealed by 1985 c.502 §13]

151.060 [1971 c.432 §6; repealed by 1985 c.502 §13]

151.070 [1971 c.432 §7; repealed by 1985 c.502 §13]

151.080 [1971 c.432 §8; repealed by 1985 c.502 §13]

151.090 [1971 c.432 §9; repealed by 1985 c.502 §13]

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

151.210 [Formerly 138.710; repealed by 2001 c.962 §114]

PUBLIC DEFENSE SERVICES COMMISSION

151.211 Definitions. For purposes of ORS 151.211 to 151.219:

- (1) "Bar member" means an individual who is an active member of the Oregon State Bar.
- (2) "Chief Justice" means the Chief Justice of the Oregon Supreme Court.
- (3) "Commission" means the Public Defense Services 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. [2001 c.962 §1]

Note: 151.211 to 151.225 were enacted into law by the Legislative Assembly but were 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.

151.213 Public Defense Services Commission; membership; terms. (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) The commission consists of seven members appointed by order of the Chief Justice. In addition to the seven appointed members, the Chief Justice serves as a nonvoting, ex officio member. The Chief Justice shall appoint at least two persons who are not bar members, at least one person who is a bar member and who is engaged in criminal defense representation but is not primarily engaged in representing persons at state expense and at least one person who is a former Oregon state prosecutor. Except for the Chief Justice, a member may not serve concurrently as a judge, a prosecuting attorney or an employee of a law enforcement agency.

(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. A member may be removed from the commission by order of the Chief Justice. If a vacancy occurs for any cause before the expiration of the term of a member, the Chief Justice shall make an appointment to become immediately effective for the unexpired term.

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

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

(6) A member of the commission is not entitled to compensation for services as a member, but is entitled to expenses as provided in ORS 292.495 (2). [2001 c.962 §2]

Note: See note under 151.211.

151.216 Duties; rules. (1) The Public Defense Services Commission shall:

(a) Plan for the establishment of a public defense system that ensures the provision of public defense services in the most cost-efficient manner consistent with the Oregon Constitution, the United States Constitution and Oregon and national standards of justice.

(b) Establish and maintain a public defense system for criminal and probation violation appeals, the responsibility for which is transferred by section 7, chapter 962, Oregon Laws 2001.

(c) Establish an office of public defense services and appoint a public defense services executive director who serves at the pleasure of the commission.

(d) 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 director and approved by the commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall present the budget to the Legislative Assembly.

(e) Review and approve any public defense services contract negotiated by the director before the contract can become effective.

(f) Adopt a compensation plan for the office of public defense services that is commensurate with other state agencies.

(g) Adopt rules regarding:

(A) Procedures for the contracting of public defense services; and

(B) Any other matters necessary to carry out the duties of the commission.

(2) Rules 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) 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 created in 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. [2001 c.962 §3]

Note: The amendments to 151.216 by section 106, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

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

(a) Establish and maintain a public defense system that ensures the provision of public defense services in the most cost-efficient manner 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) 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 director and approved by the commission. The Chief Justice of the Supreme Court and the chairperson of the commission shall present the budget to the Legislative Assembly.

(d) Review and approve any public defense services contract negotiated by the director before the contract can become effective.

(e) Adopt a compensation plan for the office of public defense services that is commensurate with other state agencies.

(f) Adopt rules regarding:

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

(B) The appointment of counsel;

(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 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, 161.365, 419A.211, 419B.201, 419B.208, 419B.518, 419B.908, 419C.206, 419C.209, 419C.408, 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;

(F) Professional qualification standards for counsel appointed to represent public defense clients;

(G) Performance standards for legal representation;

(H) Procedures for the contracting of public defense services; and

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

(g) Reimburse the State Court Administrator from funds deposited in the subaccount established under 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.

(2) Rules 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) 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 created in 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.

Note: See note under 151.211.

151.219 Public defense services executive director; duties. (1) The public defense services executive director shall:

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

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

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

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

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

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

(g) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the Public Defense Services Commission.

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

(i) Prepare and submit to the commission and the Legislative Assembly an annual report of the activities of the office of public defense services.

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

(2) The director may designate persons as representatives of the director for the purposes of determining and paying bills submitted to the office of public defense services. [2001 c.962 §4]

Note: The amendments to 151.219 by section 106a, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

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

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

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

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

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

(e) Employ personnel or contract for services as necessary to carry out the responsibilities of the director and the

office of public defense services.

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

(g) Provide services, facilities and materials necessary for the performance of the duties, functions and powers of the Public Defense Services Commission.

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

(i) Prepare and submit to the commission and the Legislative Assembly an annual report of the activities of the office of public defense services.

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

(2) The director may designate persons as representatives of the director for the purposes of determining and paying bills submitted to the office of public defense services and determining preauthorization of expenses under ORS 135.055.

Note: See note under 151.211.

151.220 [Formerly 138.740; repealed by 2001 c.962 §114]

151.225 Public Defense Services Account. (1) There is created a Public Defense Services Account in the General Fund. The Public Defense Services Account is continuously appropriated to the Public Defense Services Commission to pay compensation of counsel and other expenses in connection with the legal representation of persons for which the commission is responsible by law.

(2) All moneys appropriated to the commission to pay compensation of counsel and other expenses in connection with the legal representation of persons for which the commission is responsible by law shall be deposited in the Public Defense Services Account.

(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.

(4) As used in this section, "other expenses in connection with the legal representation of persons for which the commission is responsible by law" includes expenses incurred in the administration of the public defense system. [2001 c.962 §5]

Note: The amendments to 151.225 by section 106b, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

151.225. (1) There is created a Public Defense Services Account in the General Fund. The Public Defense Services Account is continuously appropriated to the Public Defense Services Commission to pay compensation of counsel and other expenses in connection with the legal representation of persons for which the commission is responsible by law.

(2) All moneys appropriated to the commission to pay compensation of counsel and other expenses in connection with the legal representation of persons for which the commission is responsible by law shall be deposited in the Public Defense Services Account.

(3) All moneys received by the Judicial Department under ORS 135.050 (8), 151.487 (1), 151.505 (3), 419A.211, 419B.198 (1) or 419C.203 (1) shall be deposited in a separate subaccount created in the Public Defense Services Account to be used by the public defense services executive director to reimburse the actual costs and expenses, including personnel expenses, incurred in administration and support of the public defense system.

(4) 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.

(5) As used in this section, "other expenses in connection with the legal representation of persons for which the commission is responsible by law" includes expenses incurred in the administration of the public defense system.

Note: See note under 151.211.

151.230 [Formerly 138.750; 1983 c.740 §23; repealed by 2001 c.962 §114]

151.240 [Formerly 138.760; repealed by 2001 c.962 §114]

151.250 [Formerly 138.770; 1973 c.694 §19; 1987 c.320 §84; 1991 c.724 §26; 1993 c.33 §303; 1995 c.117 §3; repealed by 2001 c.962 §114]

151.260 [Formerly 138.780; repealed by 2001 c.962 §114]

151.270 [Formerly 138.720; repealed by 2001 c.962 §114]

151.280 [Formerly 138.730; 1983 c.740 §24; repealed by 2001 c.962 §114]

151.290 [Formerly 138.790; repealed by 2001 c.962 §114]

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

151.420 [1985 c.502 §3; repealed by 1987 c.803 §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. Notwithstanding ORS 135.055, the State Court Administrator may authorize payment for fees and expenses pursuant to established policies and procedures.

(7) Subsections (2), (3) and (5) of this section do not apply to appointed counsel employed or compensated by the Public Defense Services Commission.

(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 §5; 1987 c.803 §10; 1995 c.677 §2; 2001 c.962 §109]

Note: 151.430 is repealed October 1, 2003. See sections 15 and 115, chapter 962, Oregon Laws 2001.

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

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

(1) Pay the compensation for counsel, other than counsel employed or compensated by the Public Defense Services Commission, appointed to represent indigents in the state courts, including in cases seeking judicial review under ORS 144.335 when appointed counsel employed or compensated by the Public Defense Services Commission cannot provide representation due to a conflict of interest, 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, 138.500, 138.590, 161.327, 161.365, 161.385, 419A.211, 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 §7; 1987 c.803 §11; 1991 c.724 §27; 1991 c.750 §9; 1993 c.33 §304; 2001 c.480 §13; 2001 c.962 §110]

Note: 151.450 is repealed October 1, 2003. See sections 15 and 115, chapter 962, Oregon Laws 2001.

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 counsel employed or compensated by the Public Defense Services Commission is authorized, able and appointed to provide services as counsel for indigents. [Formerly 151.150; 1987 c.803 §12; 1989 c.1053 §8; 1995 c.677 §3; 2001 c.962 §111]

Note: 151.460 is repealed October 1, 2003. See sections 15 and 115, chapter 962, Oregon Laws 2001.

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.211, 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 151.497. [1987 c.803 §9; 1997 c.761 §13; 2001 c.480 §14]

Note: 151.465 is repealed October 1, 2003. See sections 15 and 115, chapter 962, Oregon Laws 2001.

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 §15; repealed by 1987 c.803 §27]

151.480 Appointment of counsel other than counsel employed or compensated by Public Defense Services Commission. 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 counsel employed or compensated by the Public Defense Services Commission 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 §18; 2001 c.962 §112]

Note: 151.480 is repealed October 1, 2003. See sections 15 and 115, chapter 962, Oregon Laws 2001.

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 §13; 1991 c.825 §6]

Note: The amendments to 151.485 by section 33, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

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, 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 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. 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.

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 c.1053 §14; 1993 c.33 §305; 1997 c.761 §3]

Note: The amendments to 151.487 by section 34, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

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 order the person to pay to the Public Defense Services 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 is subject to the guidelines and procedures issued by the Public Defense Services Commission as provided in subsection (4) of this section.

(2) Failure to obey an order under this section is not 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 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.

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 §15]

Note: The amendments to 151.489 by section 35, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

151.489. For the purpose of aiding courts in making determinations of financial eligibility for appointed counsel at state expense under ORS 151.485 and 151.487, the State Court Administrator may locate eligibility verification and screening personnel or otherwise arrange for such services in the state trial and appellate courts or other locations and shall prescribe the policies and procedures for their use.

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 §16]

Note: The amendments to 151.491 by section 36, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

151.491. (1) State courts or authorized designees who conduct the verification of the financial statement submitted by a person seeking or having appointed counsel payable at state expense under ORS 151.216 and 151.219 may require the person to execute and deliver any written requests or authorizations as may be necessary under applicable law to provide the state court 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 courts are 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.

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 151.497 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 §4]

Note: The amendments to 151.493 by section 37, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

151.493. (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 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, 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.

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 151.497 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 §5; 1997 c.761 §4]

Note: The amendments to 151.495 by section 38, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

151.495. (1) All information supplied by a person seeking appointed counsel and all information collected by the state courts for purposes of determining financial eligibility for appointed counsel under ORS 151.485 to 151.497 is confidential and shall not be used for any purpose other than determining financial eligibility.

(2) Notwithstanding subsection (1) of this section, information supplied by a person seeking appointed counsel and information collected by the state courts for purposes of determining financial eligibility may be:

(a) Introduced in a proceeding, criminal or civil, arising out of a determination that a person is not financially eligible for 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 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.

151.497 "Counsel" defined. As used in ORS 151.430 to 151.497 unless the context requires otherwise, "counsel" includes a legal advisor appointed under ORS 135.045. [2001 c.472 §10]

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 §2]

Note: The amendments to 151.505 by section 39, chapter 962, Oregon Laws 2001, become operative October 1, 2003. See section 15, chapter 962, Oregon Laws 2001. The text that is operative on and after October 1, 2003, is set forth for the user's convenience.

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 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 Public Defense Services Commission under ORS 151.216. For purposes of this subsection, compensation of counsel shall be determined by reference to a schedule of compensation established by the commission.

(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 commission 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.

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]