

Oregon public defenders mobilize for fixing staffing shortage, payment system

By GILLIAN FLACCUS and SARAH ZIMMERMAN
Associated Press

SALEM — Facing an ever-mounting caseload, dozens of public defenders in Oregon walked out of courthouses and into the Statehouse this week to lobby for a bill that would fix a staffing shortage and an outdated contract payment system that has some attorneys representing more than 200 clients at once.

A national watchdog report deemed Oregon's fixed-fee contract system for paying its public defenders unconstitutional earlier this year, and the ACLU has threatened to sue. But sweeping legislation that would fix the problem has been stalled in a House committee since April — and now, two weeks remain before lawmakers go home for the year.

Rep. Jennifer Williamson, a Democrat who sponsored legislation to overhaul Oregon's system, described

the situation as an "absolute crisis."

"Public defenders are the linchpin to so many parts of our vulnerable communities," she said. "If you care about foster care, health care, homelessness, our public defenders are at the heart of all of these issues."

Public defenders play a vital role in U.S. democracy and are paid by the state to represent criminal defendants who can't afford a private lawyer. Yet in a mounting number of states, as in Oregon, they struggle with overwhelming caseloads, erratic funding and paltry pay compared with prosecutors and private attorneys.

That leads to "massive turnover and burnout," said Ernie Lewis, executive director of the National Association of Public Defenders, which was founded in part to address the issue.

Missouri, Louisiana and Kentucky are among other states where public defense attorneys have workloads that lead to high turnover,

he said, while cities such as Seattle and New York have placed caps on the number of cases they handle.

Under Oregon's system, the state contracts with a hodgepodge of non-profit lawyer groups, individual attorneys and private law firms to work as public defenders and then pays a flat fee for each case. There are roughly 650 attorneys who work under 63 different contracts, although the state doesn't track which attorneys work which cases once contracts are awarded, according to the report from the nonpartisan Sixth Amendment Center.

The amount paid to each contractor varies, and the amount paid varies by the type of case as well, from \$565 to \$626 for a domestic violence case, for example, to \$221 to \$255 for a probation violation.

The Sixth Amendment Center report, which was commissioned by the state and released this year, found the system involved a "com-

plex bureaucracy" with a "stunning lack of oversight."

In one instance, a public defense attorney in the Portland metropolitan area handled 1,265 misdemeanors in a year, not counting nearly 400 smaller cases such as probation violations and termination of parental rights. That kind of caseload should be assigned to four attorneys, according to national minimal standards, the report found.

The center concluded the system's complicated flat-fee payment structure threatens criminal defendants' right to due process because contractors have a financial incentive to take as many cases as they can and pick plea deals over trials to churn through cases more quickly.

States such as Idaho, Michigan, Nevada and Washington have banned fixed-fee contracting because it creates a conflict between attorneys' financial interests and defendants' rights, according to the report.

Absenteeism: 'It is super difficult to fail if you're there every day'

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Students are welcomed on their return to class from absences, and classrooms are encouraged to achieve perfect attendance, rewarded by ice cream or cake. Students with good attendance are eligible for gift cards from Del's Chevron.

Students also work with adult advocates to talk about daily stresses and create positive interactions.

Shirley Yates, the high school's attendance assistant, has met with every student whose attendance rate is below 90%. Her goal is to let them know they matter.

She described a student who was leaving school after every first period. "Somebody welcomed him and he's been here every day," Yates said.

Resources at all grade

levels are necessary, not just for the years before graduation. Kindergartners and seniors have the worst absenteeism rates, Boyd said.

The push for better attendance could improve graduation rates. According to Boyd, seven freshmen were not on track to graduate at the end of the winter trimester last year. This year, only two freshmen were not on track.

He recognizes combating absenteeism will be a long-time effort.

"How do we create a culture that says we want you in school, we need you in school?" Boyd asked. "Students with solid attendance are most likely to graduate."

"It is super difficult to fail if you're there every day — there are kids who have tried, but it's super difficult."

Oversight: Commissioners often appear frustrated with role

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Clatsop County put both the developmental disability and mental health and substance abuse contracts up for bid this year, inviting competition to Clatsop Behavioral Healthcare, the long-time provider. But no other agency stepped forward to compete.

According to the county, the state Department of Human Services prefers to contract directly for devel-

opmental disability services in counties that are not large enough to do the work through county staff. The transfer of responsibility to the state could lead to better communication and oversight, while freeing up county resources and reducing legal exposure.

County commissioners have often appeared uncomfortable and frustrated with their oversight role. The county was expected to ensure the developmen-

tally disabled received proper care, but the state sets the standard for services and provides the money, while Clatsop Behavioral Healthcare works with the providers.

County leaders were surprised last year, for example, when the state outlined a pattern of inconsistent monitoring at adult foster homes that raised significant concern.

"I hope that even though we aren't in the middle of it, that we still get good ser-

vice information by providers going forward," Commissioner Lianne Thompson said Wednesday night before the county commission voted unanimously for the shift. "I hope that's possible."

Sarah Nebeker, the commission's chairwoman, said afterward that the situation had been unworkable for the county.

"Our hope is that this will work well," she said. "And only time will tell."

Fees: 'Value's just too good to pass up'

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The fees account for about \$75,000 in revenue.

"The board started this conversation about two years ago about fees, but I had to be able to do it financially," said Craig Hoppes, the Astoria schools superintendent.

Increased state funding, steady enrollment and careful managing of pension costs all buffeted the school district's finances, allowing it to ensure students can participate in activities without cost barriers, Hoppes said.

While eliminating almost all extracurricular fees, the school district cut fees for students in band — a particularly expensive program — by half.

Nathan Hankwitz has four children in the school district, including three daughters at Astoria High School all wanting to play multiple sports. He said he would pay up to \$400 a year in fees, in addition to travel costs to go see them play.

"It's a huge, huge thing

for a family like mine that has multiple kids," he said.

Astoria looked at the Tillamook School District, which eliminated activity fees several years ago and has seen an increase in participation by demographics such as females, said Grace Laman, a school board member.

Jewell School District, a rural district sustained by timber taxes, also doesn't charge student activity fees.

The school board's support to end activity fees was unanimous.

"They're able to develop a like or interest in something, and then they don't have to worry about buying a uniform or anything else that goes with it," said Jimmy Pearson, a school board member.

David Oser, a retired chief financial officer for regional lender Craft3, was defeated in the May election by school psychologist Heidi Wintermute. Oser had pointed to the elimination of student activity fees as one of his biggest accomplish-

ments while on the school board.

Charging fees became necessary during the Great Recession to make up for a shortfall in state revenue.

"With the additional funding that we now have in the governor's budget, and hopefully the Student Success Act, this revenue source is no longer necessary," Oser said.

Randy Schild, the superintendent of Tillamook schools, said student participation in extracurricular activities jumped more than 30% since the school district eliminated fees four years ago, especially among Hispanic students and those in poverty. The students who participate show markedly better attendance and fail fewer classes because of increased accountability and time around a responsible adult, he said.

"The value's just too good to pass up," Schild said. "I commend (Astoria) for looking at this and realizing it's good for kids."

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