

# Summary of 2024 House of Delegates Actions

## November 1, 2024

### Passed

#### **Amend HOD Rules of Procedure**

BOG Resolution No. 1

#### **Amend Oregon RPC 1.16**

BOG Resolution No. 2

#### **Support for adequate funding for Legal Services to Low-Income Oregonians**

HOD Delegate Resolution No. 5

#### **Support adequate funding for the Oregon Judicial Branch**

HOD Delegate Resolution No. 6

### Failed

#### **Expand Legal Paralegal Services**

HOD Delegate Resolution No. 2

#### **Oregon State Bar Accredited Law Schools**

HOD Delegate Resolution No. 4

#### **Establish a Committee to Investigate and Propose Solutions for Reducing OSB Dues**

HOD Delegate Resolution No. 7

#### **Establish a Committee to Study Allowing OSB Members to Obtain Primary Malpractice Coverage from Private Insurance**

HOD Delegate Resolution No. 8

### Passed with Amendment

#### **Adoption of Final Meeting Agenda**

Excluded HOD Delegate Resolution No. 3 added back onto agenda.

#### **Support Adequate Funding for Public Defense Providers**

HOD Delegate Resolution No. 1

#### **Support Adequate Funding for Oregon Casa Network**

HOD Delegate Resolution No. 2

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## **Proposed Resolution for Support for Public Defense Providers**

HOD Delegate Resolution No. 1

**Whereas**, the Constitutions of both Oregon and the United States require that all people facing a possible deprivation of their physical liberty in court proceedings, such as those accused of criminal offenses, juveniles accused of conduct that would constitute crimes if committed by an adult, and those who are subjects of civil commitment proceedings, have the right to assistance by ethical and competent legal counsel;

**Whereas**, Oregon statutes guarantee a right to counsel for parents defending against a petition to terminate their parental rights, for parents in juvenile dependency proceedings in which parents may lose custody of their children whenever the nature of the proceedings and due process so require, and for children in juvenile dependency proceedings when requested.

**Whereas**, those same constitutions and statutes require that the counsel provided the person be paid for by the government, if the person is indigent and cannot afford their own legal counsel;

**Whereas**, the Sixth Amendment Center published in January 2019 a comprehensive study of Oregon's public defense system and determined that Oregon's fixed-fee contract system pits appointed counsels' financial self-interest against the due process rights of their clients and is prohibited by national public defense standards;

**Whereas**, the American Bar Association published in January 2022 its report on its calculations of the amount of time public defense providers should spend on average on the various types of public defense cases and concluded that Oregon had one-third the number of public defense attorneys needed to ensure that indigent clients receive constitutionally competent representation;

**Whereas**, there is a salary and resource disparity between most trial level legal counsel for the person and legal counsel for the State;

**Whereas**, most trial level legal counsel for the person are government contractors and legal counsel for the State are government employees funded through direct appropriations;

**Whereas**, legal counsel for the person has an ethical and professional obligation pursuant to the state and federal constitutions, as well as Oregon Rules of Professional Conduct 1.1 ("A lawyer shall provide competent representation to a client"), 1.3 ("A lawyer shall not neglect a legal matter entrusted to the lawyer") and 1.7 ("A lawyer shall not represent a client if the representation involves a current conflict of interest") to provide adequate and conflict-free representation;

**Whereas**, the American Bar Association has acknowledged for over a decade that resource parity, salary parity, and ~~caseload~~ workload standards are essential to its “Ten Principles of Public Defense”;

**Whereas**, the House of Delegates has long supported a strong public defense system and increased financial resources for public defense providers; now, therefore, be it

**Resolved**, that the Oregon State Bar, through its Board of Governors and staff, continue to participate ~~actively with~~ in efforts by courts, prosecutors, the Oregon Department of Justice, the Legislative Assembly, ~~the Public Defense Services Commission, the Office of Public Defense Services,~~ Oregon Public Defense Commission, the Oregon Criminal Defense Lawyers Association, and other public safety and child welfare stakeholders, to obtain equal resources and commensurate compensation for public defense providers, and work toward developing ~~caseload~~ workload standards that ensure those public defense providers can meet their constitutional and ethical obligations.

#### **Financial Impact**

None stated.

## **Support of Adequate Funding for Oregon CASA Network**

HOD Delegate Resolution No. 3

Excluded from preliminary agenda—

November 1, 2024, by unanimous vote, resolution added back onto the HOD Final Agenda.

**Whereas**, Oregon children have statutory rights to: (A) Permanency with a safe family; (B) Freedom from physical, sexual or emotional abuse or exploitation; and (C) Freedom from substantial neglect of basic needs. ORS 419B.090(2)(a).

**Whereas**, “In every case under ORS chapter 419B, the court shall appoint a court appointed special advocate.” ORS 419B.112(1). This means that Court Appointed Special Advocates (CASAs) must be appointed to every foster care case statewide.

**Whereas**, ORS 419B.112(2) identifies the duties of the CASA to:

- “(a) Investigate all relevant information about the case;
- (b) Advocate for the child or ward, ensuring that all relevant facts are brought before the court;
- (c) Facilitate and negotiate to ensure that the court, the Department of Human Services, if applicable, and the child or ward’s attorney, if any, fulfill their obligations to the child or ward in a timely fashion; and
- (d) Monitor all court orders to ensure compliance and to bring to the court’s attention any change in circumstances that may require a modification of an order of the court.”

**Whereas**, CASAs are supervised by CASA programs statewide. There is a CASA program in every Oregon County; together, these CASA programs comprise the Oregon CASA Network. Each CASA program is responsible for the recruitment, training, and supervision of CASAs for the county or counties they serve. CASAs advocate for the best interests of children in foster care, including their physical safety, health, emotional well-being, education, and culturally-specific needs.

**Whereas**, despite establishing a statewide CASA Fund under ORS 184.498, the State of Oregon never appropriated the \$20 million dollars per biennium needed to fulfill the statutory mandate of providing a CASA to the thousands of Oregon children living in foster care. Oregon has over 5,000 children and young adults in foster care according to the Oregon Department of Human Services Data Book.

**Whereas**, foster youth are a marginalized and vulnerable community, having undergone the

traumatic experience of removal from home and being disproportionately comprised of Black and Indigenous youth. Inadequate funding for CASA undermines access to justice for abused and neglected foster youth.

**Whereas**, foster youth face heightened risks of homelessness and incarceration. Less than half of all Oregon foster youth have graduated from high school or earned a GED by age 21, according to the Annie E. Casey Foundation (2023). Failure to earn a diploma or GED results in a lifetime of lost earning potential.

**Resolved**, that the Oregon State Bar;

(1) Make a commitment to raise awareness of the value of ~~of and advocate for state funding~~ the Oregon CASA Network.

~~(2) Request that Congress and the President of the United States make a genuine commitment to foster children by bringing back lost federal funding to the Oregon CASA Network and the local CASA programs that make up OCN.~~

~~(3) Work with Oregon's juvenile judges and the Oregon CASA Network to appropriate additional funds to the CASA Fund under ORS 184.498.~~

~~(4)~~ **(2)** Actively participate in the efforts of the Oregon CASA Network to encourage the participation of OSB members in their local CASA program, either by becoming a CASA or by offering pro bono services and support of local CASA programmatic needs.

~~(5)~~ **(3)** Raise awareness of local CASA programs within every HOD region by each region's members of the House of Delegates.

~~(6)~~ **(4)** Support the Oregon CASA Network in efforts to educate lawyers and the community about the legal needs of foster youth.

~~(8) Support the fundraising efforts of Oregon CASA Network and local CASA programs.~~