



To: Oregon Circuit Court Presiding Judges

From: Office of Public Defense Services

Date: November 7, 2023

RE: Case Assignments under the Temporary Hourly Increase Program and Guideline
Hourly Rates

The Public Defense Services Commission (PDSC) approved increased hourly rates for attorneys who agree to provide legal representation for persons who appear on the Oregon Judicial Department (OJD) Unrepresented Persons Dashboard. A case only qualifies for the increased rate if it appears on the OJD Unrepresented Persons Dashboard, and the person is **in-custody** on a pending criminal or juvenile delinquency matter.

Effective October 1, 2023, an attorney who accepts an in-custody case from the OJD Unrepresented Persons Dashboard is eligible for compensation according to case type. The hourly rates are as follows:

- \$164 per hour for misdemeanor, contempt, and probation violation cases; Class C felony and felony drug possession cases; Class A and B felony, juvenile delinquency (non-Murder or BM 11); extradition or fugitive; material witness; habeas corpus; post-conviction relief; civil commitment, and Psychiatric Security Review Board cases.
- \$175 per hour for Ballot Measure 11 and felony sex offense cases; and
- \$200 per hour for murder and Jessica's Law cases (including cases subject to enhanced penalty under ORS 137.690, 137.719 and 137.725).
- \$75 per hour for investigators on cases approved at the enhanced rate.

These rates are available *only* for cases that OPDS staff have confirmed appear on the OJD Unrepresented Persons Dashboard and approved at the applicable increased hourly rate according to the PDSC's Temporary Hourly Increase Policy. An attorney who accepts multiple cases for the same individual will be paid at the highest rate among those cases.

If, at any appearance, an individual is entitled to court-appointed counsel and there is not a public defense attorney available for appointment under their contract with PDSC:

- The court should appoint OPDS as a placeholder to cause the case to appear on the OJD Unrepresented Persons Dashboard. The Dashboard is updated by OJD every morning at 8:30.
- Once appointed as a placeholder in a particular case, OPDS will work to confirm the increased hourly rate for unrepresented persons applicable to the case and to identify



qualified counsel who is ethically able and willing to accept assignment to the case. If the attorney provides public defense representation pursuant to a contract with PDSC, OPDS will verify that the attorney has reached their contract caseload limit or is on track to do so on a monthly pro-rated basis and is therefore eligible for the increased hourly rate. OPDS is unable to honor increased hourly rates that are not approved prior to the attorney's appointment to the case.

- If an attorney provides public defense services pursuant to a contract, they will need to confirm that they have reached their caseload limits under the contract prior to any case being assigned to them at the increased hourly rates for unrepresented persons.
- Prior to assignment in any case at the temporary increased hourly rates for unrepresented persons, the attorney must:
 - Submit an Attorney Qualification Form if they have not done so and been approved to provide public defense representation within the previous two years;
 - If they have not previously done so, submit a signed attorney agreement to provide public defense representation at hourly rates that, if they are contracted for 1.0 MAC, includes a statement that they have reached their contract caseload limit and they believe they have ethical capacity to accept assignment to additional cases; and
 - For each case, a certification, using the form designated by OPDS, that the attorney has sufficient time and ability to accept appointment to the client and case and continue to fulfill their specific responsibilities to all their clients.
- Once an available attorney is approved to accept assignment to a case appearing on the OJD Unrepresented Persons Dashboard, OPDS will inform the court which attorney to appoint and will approve the payment rate as set out above. OPDS will not honor increased attorney rates without approval.

OPDS reviews the OJD Unrepresented Persons Dashboard every morning and is committed to making every effort to quickly identify qualified counsel who is able and willing to accept appointment in the case and to expedite the approval process. To that end, OPDS has dedicated a Program Analyst, Cathy C. Hoffman, to the Unrepresented Persons Crisis. Should you have questions or concerns regarding OPDS's process related to unrepresented persons or a particular case, you can reach Ms. Hoffman at OPDS.Unrepresented.Persons@opds.state.or.us.

If an unrepresented person is eligible for court-appointed counsel but is not eligible for the increased hourly rate, any qualified non-contract hourly attorney will be compensated at the guideline rates. These rates are:



Tier 1 – Murder, JLaw, Measure 11, A FEL, BFEL, and all Juvenile cases	\$145/hr
Tier 2 – all other case types	\$130/hr

Thank you for your continued support of public defense during these challenging times.

Jessica Kampfe (she/her)

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