

In the Matter of Requiring)	CHIEF JUSTICE ORDER
Development and Implementation of)	No. 23-024
Coordinated Public Safety)	
Unrepresented Defendant Crisis Plans)	ORDER REQUIRING DEVELOPMENT AND
in Each Judicial District)	IMPLEMENTATION OF COORDINATED
)	PUBLIC SAFETY UNREPRESENTED
)	DEFENDANT CRISIS PLANS IN EACH
)	JUDICIAL DISTRICT

I HEREBY FIND as follows:

1. ORS 1.002(1) provides that the Chief Justice is the administrative head of the judicial department of government of this state and, to facilitate the exercise of that administrative authority, may make rules and issue orders appropriate to that exercise.
2. The 2023 Legislative Assembly has enacted Senate Bill (SB) 337, which, among other provisions relating to Oregon’s public defense system, establishes requirements concerning a present crisis involving persons accused of crimes in state court who qualify for court-appointed counsel but are not represented (“unrepresented defendant crisis”). That bill—not yet signed by the Governor—becomes effective on passage.
3. Sections 104 through 106 of SB 337 identify important responsibilities for Oregon’s courts in helping to resolve the unrepresented defendant crisis, including the development and implementation, in each judicial district, of a coordinated public safety unrepresented defendant crisis plan (hereafter, “unrepresented defendant crisis plan” or “plan”).
 - a. Section 104 includes these components, in relation to each judicial district’s plan:
 - (1) Prioritization of the resolution of cases of unrepresented defendants who are in custody and then the cases of unrepresented defendants who are out of custody;
 - (2) For each judicial district with a total population of more than 100,000, immediate convening of a crisis team to assist in the development of the judicial district’s plan and to coordinate the implementation of the plan, composed of at least the presiding judge, the district attorneys within the judicial district; and the Office of Public Defense Services (OPDS) executive director (or designee); and
 - (3) Submission of the judicial district’s plan to the Oregon Criminal Justice Commission (CJC), as soon as practicable and no later than September 1, 2023.
 - b. Sections 105 and 106 then describe additional components—which apply to the Public Defense Services Commission (PDSC) and the CJC—in relation to the judicial districts’ plans:
 - (1) The PDSC must, by no later than August 15, 2023, promulgate and disseminate guidance for the plans; and


- (2) The CJC must review each plan and report its findings to the legislature.
 - c. Section 104 also furthered the legislature’s goal of resolving the unrepresented defendant crisis, stating:
 - (1) The Chief Justice may issue orders related to resolving the crisis; and
 - (2) Each presiding judge may issue orders related to resolving the crisis that are consistent with any Chief Justice order and the judicial district’s plan.
4. In urging support for the aspects of SB 337 just described, Senator Janeen Sollman explained that the legislature has directed the PDSC “to work in cooperation with the [Oregon] Judicial Department [(OJD)] on the development of a data-driven approach to ensuring representation for financially eligible, unrepresented persons * * * across judicial districts, including, but not limited to, an analysis of actual provider capacity in each judicial district, by case type and qualification[.]” Audio Recording, Joint Committee on Ways and Means, SB 337, June 9, 2023, at 1:39:55 (comments of member Senator Janeen Sollman), <https://olis.oregonlegislature.gov>.
5. This Chief Justice Order is intended to implement the policies and concepts described in sections 104 through 106 of SB 337, and to facilitate the timely development and implementation in each judicial district of a collaborative, effective, and data-driven unrepresented defendant crisis plan. OJD is fully committed to addressing the unrepresented defendant crisis, and this order and the resulting judicial district plans represent important steps toward resolving that crisis throughout our state.

I HEREBY ORDER as follows:

1. Each presiding judge shall immediately develop an unrepresented defendant crisis plan for that presiding judge’s judicial district, with the goal of resolving the crisis.
2. The process of developing a plan shall include the following:
 - a. The presiding judge shall use a uniform “Unrepresented Crisis Plan Template” that the State Court Administrator (SCA) shall develop, approve, and distribute to all presiding judges as soon as practicable.
 - b. As part of the plan development and implementation process, each presiding judge shall:
 - (1) Prioritize the resolution of cases of unrepresented defendants who are in custody and then the cases of unrepresented defendants who are out of custody;
 - (2) Utilize available data related to criminal cases and attorney capacity within the judicial district;
 - (3) Consider the guidance promulgated by the PDSC;
 - (4) Include the district attorneys and local public defense contract administrators within the judicial district;

- (5) Invite local public defense providers and other appropriate community partners within the judicial district to provide input;
 - (6) For any judicial district with a total population of more than 100,000, convene a crisis team composed of at least the presiding judge, the district attorneys within the judicial district, and the OPDS executive director (or designee); as contemplated by the legislature, the crisis team then will assist in the development of the judicial district's plan and coordinate implementation of the plan; and
 - (7) For any judicial district with a total population of 100,000 or fewer, but also with more than 20 unrepresented defendants as of the date of this order, convene a crisis team as described in paragraph 2.b.(6) of this order.
3. Each presiding judge shall submit a preliminary unrepresented defendant crisis plan, for that presiding judge's judicial district, to the SCA as soon as practicable, but no later than August 24, 2023.
4. The SCA shall review each preliminary plan and coordinate further with each presiding judge, as needed, regarding the final plan for the judicial district.
5. Upon the presiding judge's confirmation of a final plan, the SCA shall submit each judicial district's final plan to the CJC, on behalf of each presiding judge, no later than September 1, 2023.
6. Each presiding judge may issue a Presiding Judge Order (PJO) related to the resolution of the unrepresented defendant crisis in that presiding judge's judicial district. Any such PJO must be consistent with this order and with the unrepresented defendant crisis plan adopted for the judicial district, and also should strive to
 - a. Follow the guidelines set out in the SCA's final Unrepresented Crisis Plan Template; and
 - b. Consider the input of other public safety partners, including the guidance promulgated and disseminated by the PDSC.
7. This order is effective immediately.

Dated this 7th day of July, 2023.



Meagan A. Flynn
Chief Justice