

REVENUE: No revenue impact

FISCAL: No fiscal impact

Action:	Do Pass
Vote:	5 - 0 - 0
Yeas:	Beyer, Kruse, Prozanski, Walker, Burdick
Nays:	0
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	2/19, 2/21

WHAT THE MEASURE DOES: Allows an attorney for a parent or guardian to move to withdraw from a dependency matter involving jurisdiction, establishing permanent guardianship or terminating parental rights if the parent or guardian fails to appear at the hearing without reasonable explanation. Requires a person ordered to appear in court in a dependency matter to personally appear. Prohibits the person from having his or her attorney appear instead, unless the person ordered to appear is the child who is the subject of the dependency matter. Allows courts to grant exceptions. Requires the appropriate forms to contain a statement that person must appear personally and cannot appear through an attorney.

ISSUES DISCUSSED:

- Intended to clarify the need for parents to personally appear in a juvenile court proceeding involving their children

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: When a person under the age of 18 is living in conditions that endanger the welfare of the child or, among other reasons, the child has been abandoned, is being subjected to cruelty, depravity or unexplained physical injuries or is not being provided with the care and education the law requires, the State of Oregon will assume responsibility for protecting the child. The child comes under the jurisdiction of a juvenile court. If the child is removed from the home, the court usually awards custody to the Children, Adults and Families Division of the Department of Human Services.

The absence of any explicit statutory provision regarding appearance through counsel has led to some confusion for both courts and juvenile court practitioners about how to proceed when a person or parent fails to appear at a jurisdictional or termination of parental rights trial, or related mandatory court appearance. Such confusion has led to inconsistency in practice from county-to-county.

Finally, there is currently no provision in dependency code that expressly authorizes an attorney to move to withdraw, when appropriate or ethically required. A specific concern for attorneys has been when the attorney's client (the parent or person) fails to appear, without reasonable explanation, for a mandatory court appearance and the attorney does not have enough direction to ethically represent the client.