

REVENUE: No revenue impact

FISCAL: May have fiscal impact, statement not yet issued

Action:	Do Pass as Amended and Be Printed Engrossed and Be Referred to the Committee on Ways and Means by prior reference
Vote:	5 - 0 - 0
Yeas:	Beyer, Kruse, Prozanski, Walker, Burdick
Nays:	0
Exc.:	0
Prepared By:	Bill Taylor, Counsel
Meeting Dates:	2/20, 3/15

WHAT THE MEASURE DOES: Appropriates an additional \$23 million to the Public Services Commission for the biennium beginning July 1, 2007, out of the General Fund for the purpose of improving legal representation for parents and children in dependency cases. Clarifies that the Commission can use additional funding for improving training and other things that will improve the quality of legal representation.

ISSUES DISCUSSED:

- Washington State study showing that increased legal resources for parents resulted in children spending fewer days in foster care and less likely to have parental rights terminated resulting in significant financial savings to the State of Washington
- Imbalance of resources between state and family

EFFECT OF COMMITTEE AMENDMENT: Clarifies that the Public Defense Services Commission can use additional funding for improving training and other things that will improve the quality of legal representation. Inserts \$23 million in the measure for improving legal representation for parents and children in dependency matters.

BACKGROUND: When there is an allegation of child abuse or neglect, the legal rights, remedies and responsibilities of the child, of the parents, caregivers, and the state are set forth in ORS Chapter 419B. When a child is taken into protective custody, or about to be taken into custody, this triggers an evidentiary hearing more popularly known as a “shelter hearing” (ORS 419B.185). The court must make written findings concerning whether the Department of Human Services has made reasonable efforts (or in cases subject to the Indian Child Welfare Act, active efforts) to prevent removal of the child from the home and, if there is an order to remove the child, the court must make written findings why removal is in the best interest of the child (ORS 419B.185(1)(a) and (b)). This is a very complex legal process involving important fundamental legal rights.

Parents have a legal right to a fair and impartial hearing and the right to legal representation when the state moves to terminate their parental rights. If the parent cannot afford counsel, the state is legally obliged to provide counsel at state expense. Children, too, have a constitutional right to a fair and impartial hearing, and legal representation when the state moves to terminate their legal relationship with their parents.

The State of Washington created a pilot project where they provided better legal representation to parents. Washington did this by reducing the caseload for attorneys in the pilot project, increasing their training and increasing their compensation. The National Council of Juvenile and Family Court Judges evaluated the pilot project and found that better legal representation resulted in: (1) The average number of days a child spent in foster care was reduced from 290 days to 235 days; (2) Parental reunification increased from 36 percent to 56 percent; and (3) Parental terminations decreased from 41 percent to 23 percent. The cost of providing foster care and termination of parental rights is significantly greater than the additional costs associated with better legal representation. Moreover, the reduction of time spent in foster care and the reduction in parental terminations is better for children.

3/28/2007 4:03:00 PM

This summary has not been adopted or officially endorsed by action of the committee.