

2007 Regular Legislative Session
FISCAL ANALYSIS OF PROPOSED LEGISLATION
Prepared by the Oregon Legislative Fiscal Office

MEASURE NUMBER: HB 3113 **STATUS:** A-Engrossed
SUBJECT: Investigations of allegations of child abuse
GOVERNMENT UNIT AFFECTED: Department of Human Services, Employment Department, and local government
PREPARED BY: John F. Borden
REVIEWED BY: Sheila Baker and Michelle Deister
DATE: May 15, 2007

| | <u>2007-2009</u> | <u>2009-2011</u> |
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| EXPENDITURES: See Comments | | |

EFFECTIVE DATE: January 1, 2008

GOVERNOR'S BUDGET: This bill is anticipated by the Governor's recommended budget.

LOCAL GOVERNMENT MANDATE: This bill may affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

COMMENTS: This measure directs that when the Department of Human Services (DHS) or a law enforcement agency (LEA) receives an oral report of child abuse, the Department *and* law enforcement will investigate the allegation. If the report of abuse is alleged to have occurred at a child care facility, then the Department and the LEA shall jointly determine the roles and responsibilities of the Department and the LEA in their respective investigations. The Department and LEAs shall each report the outcomes of their investigations to the Employment Department, Child Care Division.

The fiscal impact of section 1(1)(a) and (b) is indeterminate, but considered to be financially significant. Under current law, DHS or LEAs are responsible for investigating oral reports of child abuse. In federal fiscal year 2005, DHS alone investigated 55,144 such reports. It is unknown how many of these investigations were jointly conducted with LEAs or how many additional reports were investigated solely by LEAs. This measure requires that all oral reports of child abuse be investigated by both DHS and LEAs. This may require a significant increase in resources at the state and local level.

It is not certain whether this measure creates a condition that falls under the provisions of Section 15, Article XI of the Oregon Constitution (unfunded local government mandate). Although the Constitution contains explicit exceptions, including costs that result from creating a new crime or changing the definition of a crime, HB 3113-A does not fall into one of the exempt categories. If the anticipated added costs of the local law enforcement investigations were to be interpreted as an increase in the program or service levels, they would not be obligated to comply unless reimbursed by the Legislative Assembly for the anticipated increase in expenditures required to meet the bill's provisions. Further, if the Assembly appropriated funds to address the increased costs, but the amount resulted in counties having to expend amounts greater than the thresholds in 3(1) or 3(b) of Section 15, Article XI, they would not have to comply.

In addition, the constitution provides that if a measure is enacted by three-fifths vote of each house, the Assembly is relieved of the requirement to appropriate reimbursement for the local governments' additional expenditures, and the local government must comply. The Legislative Fiscal Office (LFO) is not rendering an opinion on whether Section 15, Article XI of the Oregon Constitution applies to HB 3113-A.

The fiscal impact of section 1(2) is also indeterminate. The Department notes that this subsection "reinforces and clarifies" its existing statutory authority under Oregon Revised Statute 419B.020, which authorizes the Department to conduct child abuse investigations as well as notify the Oregon Employment Department's Child Care Division of alleged child abuse in a child care facility. DHS states that it has operated under an internal policy of only conducting investigations in such facilities in cases of familial abuse or neglect or where law enforcement asks for assistance, and has generally not conducted day care facility related investigations under ORS 419B.020. The exception to this policy has been the DHS Multnomah County field office, which has conducted such investigations.

DHS is unable to quantify the number of child care facility complaints that have historically taken place in Oregon counties other than Multnomah County. DHS believes that section 1(2) could result in a minimal increase in investigations for its Child Protective Services program and has therefore categorized this subsection as having a minimal fiscal impact.

The Employment Department, Child Care Division states that this measure does not have a fiscal impact to the Department.

As noted, local government would have a significant fiscal impact based on this measure requiring local law enforcement to investigate all oral reports of child abuse, including those now conducted by DHS.

The fiscal impact statements reflects potential costs of the measure as amended by committee action. However, LFO has been advised that the intent of this measure was *not* to require both DHS and local law enforcement to investigate separately oral reports of child abuse under section 1(1)(a) and (b). If this measure is further amended, LFO will issue a fiscal impact statement based on that version of the measure.