

House Bill 2353

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Judiciary)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Permits juvenile court to exercise jurisdiction over pregnant women who intend to carry pregnancies to term and who use alcohol or controlled substances in manner that creates substantial risk of medical impairment to fetus.

A BILL FOR AN ACT

1
2 Relating to juvenile court jurisdiction over pregnant women; creating new provisions; and amending
3 ORS 419B.090.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1. Section 2 of this 2007 Act is added to and made a part of ORS chapter 419B.**

6 **SECTION 2. (1) The juvenile court may exercise jurisdiction over a pregnant woman, re-**
7 **gardless of the age of the pregnant woman, when:**

8 (a) **The pregnant woman has expressed an intent to give birth; and**

9 (b) **There is a substantially increased risk that the pregnant woman may give birth to a**
10 **child with a medically foreseeable impairment due to the pregnant woman's consumption of**
11 **alcohol or controlled substances.**

12 (2) **The juvenile court may exercise concurrent jurisdiction over a pregnant woman under**
13 **subsection (1) of this section when the pregnant woman is charged with or convicted of a**
14 **crime resulting from the use of alcohol or controlled substances.**

15 (3) **Notwithstanding any other provision of law, the juvenile court may exercise any**
16 **power or authority authorized by ORS chapter 419B over the pregnant woman that the court**
17 **deems appropriate.**

18 (4) **If a pregnant woman requests counsel but is without sufficient financial means to**
19 **employ suitable counsel possessing skills and experience commensurate with the nature and**
20 **complexity of the case, the juvenile court may appoint suitable counsel to represent the**
21 **pregnant woman at state expense if the pregnant woman is determined by the juvenile court**
22 **to be financially eligible under the policies, procedures, standards and guidelines of the Public**
23 **Defense Services Commission. The juvenile court may not substitute one appointed counsel**
24 **for another except pursuant to the policies, procedures, standards and guidelines of the**
25 **commission.**

26 **SECTION 3. ORS 419B.090 is amended to read:**

27 419B.090. (1) **The juvenile court is a court of record and exercises jurisdiction as a court of**
28 **general and equitable jurisdiction and not as a court of limited or inferior jurisdiction. The juvenile**
29 **court is called "The _____ Court of _____ County, Juvenile Department."**

30 (2)(a) **It is the policy of the State of Oregon to recognize that children are individuals who have**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 legal rights. Among those rights are the right to:

- 2 (A) Permanency with a safe family;
- 3 (B) Freedom from physical, sexual or emotional abuse or exploitation; and
- 4 (C) Freedom from substantial neglect of basic needs.

5 (b) Parents and guardians have a duty to afford their children the rights listed in paragraph (a)
 6 of this subsection. Parents and guardians have a duty to remove any impediment to their ability to
 7 perform parental duties that afford these rights to their children. When a parent or guardian fails
 8 to fulfill these duties, the juvenile court may determine that it is in the best interests of the child
 9 to remove the child from the parent or guardian either temporarily or permanently.

10 **(c) A pregnant woman who has expressed an intention to give birth has a duty to refrain**
 11 **from significantly increasing the risk that the fetus carried by the pregnant woman is born**
 12 **with a medically foreseeable impairment due to the pregnant woman’s consumption of alco-**
 13 **holic beverages or controlled substances.**

14 [(c)] (d) The provisions of this chapter shall be liberally construed to the end that a child **or**
 15 **pregnant woman** coming within the jurisdiction of the court may receive such care, guidance,
 16 treatment and control as will lead to the child’s **or pregnant woman’s** welfare and the protection
 17 of the community.

18 (3) It is the policy of the State of Oregon to guard the liberty interest of parents protected by
 19 the Fourteenth Amendment to the United States Constitution and to protect the rights and interests
 20 of children, as provided in subsection (2) of this section. The provisions of this chapter shall be
 21 construed and applied in compliance with federal constitutional limitations on state action estab-
 22 lished by the United States Supreme Court with respect to interference with the rights of parents
 23 to direct the upbringing of their children, including, but not limited to:

- 24 (a) Guide the secular and religious education of their children;
- 25 (b) Make health care decisions for their children; and
- 26 (c) Discipline their children.

27 (4) It is the policy of the State of Oregon, in those cases not described as extreme conduct under
 28 ORS 419B.502, to offer appropriate reunification services to parents and guardians to allow them the
 29 opportunity to adjust their circumstances, conduct or conditions to make it possible for the child to
 30 safely return home within a reasonable time. Although there is a strong preference that children live
 31 in their own homes with their own families, the state recognizes that it is not always possible or in
 32 the best interests of the child or the public for children who have been abused or neglected to be
 33 reunited with their parents or guardians. In those cases, the State of Oregon has the obligation to
 34 create or provide an alternative, safe and permanent home for the child.

35 (5) The State of Oregon recognizes the value of the Indian Child Welfare Act, 25 U.S.C. 1901 to
 36 1923, and hereby incorporates the policies of that Act.

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