

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 187

Seventy-Sixth Oregon Legislative Assembly – 2011 Regular Session
Legislative Fiscal Office

Prepared by: Kim To
Reviewed by: Sheila Baker
Date: 2/14/2011

Measure Description:

Requires Department of Human Services to release and disclose reports and records of child abuse investigations upon request of member of Legislative Assembly for purposes of responding to constituent's complaint or grievance or for the conduct of legislative business.

Government Unit(s) Affected:

Department of Human Services (DHS)

Impact on Expenditures:

See Analysis

Local Government Mandate:

This bill does not affect local governments' service levels or shared revenues sufficient to trigger Section 15, Article XI of the Oregon Constitution.

Analysis:

SB187 expands the list of entities that the Department of Human Services (DHS) is required to disclose reports and records of child abuse investigations to include members of the Legislative Assembly. The bill also requires DHS to implement additional training and continuing education curriculum for department staff, employees and personnel conducting child abuse investigations. DHS is required to adopt rules for complying with this bill.

The bill permits a member of the Legislative Assembly to request information about an open or closed investigation of child abuse for the purposes of conducting legislative business, and for responding to a constituent's complaint or grievance. The bill specifies that within 15 days of a written request from a member of the Legislative Assembly, DHS is required to consult with the member in order to provide the member with all reports and records that are necessary to enable the member to conduct legislative business, or respond to the constituent's complaint or grievance. DHS is permitted to redact identifying information about persons named in the report or record, if the department determines, in written findings, that the safety or well-being of the person named in the report or record may be in jeopardy by the disclosure. A member is permitted to share the information disclosed by DHS with legislative staff, other members of the Legislative Assembly, and others as necessary for the conduct of legislative business.

The department anticipates the cost of implementing the training and continuing education component required by the bill for 4,000 employees to be approximately \$14,880 one-time cost to purchase training materials. The cost would be split between General Fund and federal funds.

The fiscal impact of complying with the disclosure provisions of the bill is indeterminate, depending on the number of requests the department receives from the Legislative Assembly. The employee(s) assigned to process, gather, copy, redact and prepare the information to comply with the provisions of this bill will need familiarity with case material and knowledge of confidentiality regulations such as the federal Health Insurance Portability and Accountability Act (HIPPA), and the Child Abuse Prevention and Treatment Act (CAPTA). In addition, the department will incur costs associated with consultation reviews by the Department of Justice. Although the cost per case would vary depending on the complexity of the case, DHS estimates the administrative and legal costs of responding to disclosure

requests would average approximately \$400 per request. It is unknown how many new or existing cases would be subject to the disclosure requests. If the department receives a significant number of requests, the department may need to also add staffing to handle these requests.

In addition, DHS is awaiting interpretation and clarification from the federal government regarding the department's concerns that this bill may be a violation of the Child Abuse Prevention and Treatment Act (CAPTA), Title IV-E of the Social Security Act and federal laws related to the disclosure of drug and alcohol treatment records (42 CFR Part 2). Violation of these federal laws could result in loss of federal funding. This fiscal impact statement does not include any potential loss of federal funds to Oregon's child welfare program.

Note that the disclosure provisions of this bill are similar to SB 288 which relates to the disclosure of child welfare records to elected officials and other specified entities for the purpose of determining if DHS acted within the scope of the department's authority. This bill (SB 187) focuses on child abuse investigations, a subset of child welfare records.