

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 288

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

Prepared by: Kim To
Reviewed by: Sheila Baker
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Measure Description:

Requires the Department of Human Services to disclose child welfare records to elected officials, treatment providers, foster parents, adoptive parents, school administrators, and persons designated as a member of a sensitive review committee if the purpose of the disclosure is to determine if DHS acted within the scope of its authority.

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:

Existing law requires DHS to disclose child welfare records to treatment providers, foster parents, adoptive parents, school officials, other persons providing services to the child or family, and persons designated as a member of a sensitive review committee, if it is in the best interest of the child. This bill removes the "if in the best interests of the child" condition for disclosures to a person designated as a member of a sensitive review committee, and requires DHS to also disclose child welfare records to an elected official, a treatment provider, a foster parent, an adoptive parent or a school administrator if the purpose of the disclosure is to determine if DHS acted within the scope of its authority. The bill requires DHS to redact from any records disclosed the name of the child, the names of family members and references to the relationships between the child and family members involved in the case.

Although DHS does not currently track the number of disclosure requests from elected officials, treatment providers, foster parents, adoptive parents, school administrators, and persons designated as a member of a sensitive review committee; or the percentage of those requests that are declined for the best interest of the child, the department anticipates passage of this bill will increase the number of child welfare disclosure requests enough have an expenditure impact.

If passage of this bill results in more requests, DHS would need to dedicate resources to processing, gathering, copying, redacting, preparing and delivering information to comply with the provisions of this bill. The employee(s) assigned these duties will need familiarity with child welfare case material and knowledge of federal regulations such as the federal Health Insurance Portability and Accountability Act (HIPPA), and the Child Abuse Prevention and Treatment Act (CAPTA). Furthermore, 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. Assuming disclosure requests for 21 cases a month, DHS would incur costs up to about \$200,000 a biennium. Funding would be 50% General Fund, 50% federal funds.

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 this bill is similar to SB187, which expands the list of entities to whom DHS is required to disclose reports and records of child abuse investigations to include members of the Legislative Assembly. Child abuse investigations records are a subset of child welfare records.