



DEPARTMENT OF JUSTICE
CIVIL ENFORCEMENT DIVISION

MEMORANDUM

DATE: April 12, 2013

TO: Honorable Jeff Barker, Chair
House Judiciary Committee, Members

FROM: Aaron Knott, Legislative Director

SUBJECT: HB 3478

RECOMMENDED ACTION

This testimony is presented to provide technical information about the scope and effect of HB 3478. The Department of Justice is not taking a position on the bill.

Summary:

-HB 3478 amends 30.275 to make ORS 12.117 applicable to claims under the Oregon Tort Claims Act and allows revival of past claims dismissed on that basis. The amendment exempts claims based on conduct that constitutes child abuse, or conduct that constitutes knowingly allowing, permitting or encouraging child abuse, from notice requirement of OTCA.

-HB 3478 also revives certain causes of action barred because of notice requirement or statute of limitations or repose. Requires revived claim to be filed within two years after effective date of Act.

Concerns/Impact on DOJ/Trial Division/our ability to defend the State:

- The current statute of limitations for claims against government agencies is 2 years.
- The proposed changes would open the State of Oregon up to claims dating as far back as 70 plus years, making it almost impossible to defend the claims, and increase the likelihood of false claims being brought against the State of Oregon.
- The proposed changes would eliminate the notice provision and extend the statute of limitations to effectively never, thus making it impossible to properly plan for sufficient RISK fund reserves.
- The proposed changes would open the flood gates for possibly hundreds of old cases previously litigated to be re-filed based upon proposed section 2.

Fiscal Impact:

- Passage of SB 829 would increase cost of defense and require the hiring of an additional two to three Assistant Attorney Generals, one to two paralegals and one legal assistant to permit DOJ Trial sufficient resources to defend the influx of new cases.
- Estimated that passage would lead to an additional 20 child abuse cases being filed against the State of Oregon per year. **That calculation would result in a possibility of an additional claims pay-out figure of \$16.96 million dollars over the next biennium for just child abuse cases.**

DOJ CONTACT

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