

REVENUE: No revenue impact

FISCAL: Fiscal statement issued

Action: Do Pass the A-Engrossed Measure

Vote: 4 - 0 - 1

Yeas: Burdick, Ferrioli, Starr, Rosenbaum

Nays: 0

Exc.: Beyer

Prepared By: Erin Seiler, Administrator

Meeting Dates: 2/27, 3/3

WHAT THE MEASURE DOES: Authorizes Department of Human Services (DHS) to appear as party in juvenile court proceeding without appearance of Attorney General at any hearing held after hearing required by ORS 419B.305, and in any proceeding where district attorney appears on behalf of state and positions of DHS and state are not in conflict. Sunsets June 30, 2015. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Amendment
- Requiring DHS to appear as party in juvenile court proceeding without appearance of Attorney General
- Change in practice regarding caseworkers appearing in court without counsel in post-jurisdictional, uncontested hearings
- Budgetary impact
- Sunset provision
- Unlawful practice of law
- Type of proceeding and scope of information presented at hearing

EFFECT OF COMMITTEE AMENDMENT: No amendment.

BACKGROUND: Currently and historically, Department of Human Services (DHS or the Department) caseworkers generally appear in court without counsel in post-jurisdictional, uncontested hearings. When a hearing becomes contested, the judge or caseworker notes the need for counsel and the proceeding is set over to allow the Department to appear with counsel. Pre-jurisdictionally, caseworkers appear without counsel where the state is represented by the district attorney, except in those cases where the position of the Department and the district attorney are not aligned. There are some variations around the state, depending on the judge and whether the district attorney continues to represent the state in dependency matters.

Recently, three judges informed DHS that they intend to enforce or are enforcing ORS 9.320, requiring state agencies to appear in court proceedings with counsel. This creates a budgetary issue for the Department that compounds if other judges make the same decision. House Bill 4156-A creates a temporary solution to allow DHS to appear in juvenile court without counsel in uncontested hearings, status hearings, and other hearings the court may call, and specifies that the Department may appear without counsel in pre-jurisdictional hearings when a district attorney is representing the state, so long as their interests are aligned. If a hearing becomes contested, the court is responsible for suspending proceeding to allow DHS to access counsel.

3/3/2014 10:47:00 AM

This summary has not been adopted or officially endorsed by action of the committee.