

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: SB 222 - A

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office*Only Impacts on Original or Engrossed
Versions are Considered Official*Prepared by: Kim To
Reviewed by: Steve Bender, John Borden, Laurie Byerly
Date: 3/25/2015**Measure Description:**

Extends sunset on provision authorizing Department of Human Services to appear as party in juvenile court proceeding without appearance of Attorney General.

Government Unit(s) Affected:

Department of Human Services (DHS), Department of Justice, Judicial Department, Public Defense Service Commission (PDSC)

Summary of Expenditure Impact – Department of Human Services (DHS):

	2015-17 Biennium	2017-19 Biennium
Personal Services	\$90,603	\$120,804
Services & Supplies	21,317	18,565
AG Fees	5,020,084	13,156,980
Total General Fund	\$5,132,004	\$13,296,349
Personal Services	\$38,829	\$51,773
Services & Supplies	8,982	7,957
AG Fees	2,151,465	5,638,705
Total Federal Funds	\$2,199,276	\$5,698,435
Personal Services	\$129,432	\$172,577
Services & Supplies	30,299	26,522
AG Fees	7,171,549	18,795,685
TOTAL FUNDS	\$7,331,280	\$18,994,784
Positions	1	1
FTE	0.75	1.00

Summary of Expenditure Impact – Department of Justice (DOJ):

	2015-17 Biennium	2017-19 Biennium
Personal Services	\$5,423,341	\$14,379,345
Services & Supplies	1,478,762	3,107,623
TOTAL OTHER FUNDS	\$6,902,103	\$17,486,968
Positions	57	77
FTE	28.35	65.63

Summary of Revenue Impact – Department of Justice (DOJ):

	2015-17 Biennium	2017-19 Biennium
AG Charges	\$7,171,549	\$18,795,685
Total Other Funds	\$7,171,549	\$18,795,685

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:

Senate bill 222 extends the sunset from June 30, 2015 to June 30, 2018 on statutes that temporarily codify current practice by authorizing the Department of Human Services child welfare case workers to appear in juvenile court dependency proceedings without counsel at (1) hearings required by ORS 419B.305; and (2) proceedings where the district attorney appears on behalf of the state, and the state and DHS are in alignment. The bill contains an emergency clause, and takes effect on passage.

Although ORS 9.320 requires state agencies to appear in court proceedings with attorney general counsel, in practice, due to resource constraints, DHS child welfare case workers appear in court without counsel in post-judicial, uncontested hearings. If and when a hearing becomes contested, the proceeding is set over to allow DHS to appear with counsel. Pre-judicially, case workers appear without counsel when the state is represented by the district attorney, except in those cases where the position of DHS and the district attorney are not in alignment. During the 2014 session this practice was codified until June 30, 2015 allowing for stakeholders and policy makers to formulate a plan to achieve full Oregon Department of Justice representation for DHS case workers so that courts can enforce ORS 9.320.

This bill extends the sunset date to allow for a four-stage county rollout plan to achieve full Oregon Department of Justice representation for DHS case workers in juvenile court dependency proceedings. The bill requires full attorney general representation for proceedings that began after:

1. January 1, 2016, in Jackson, Josephine, Lane, Lin, Polk and Yamhill counties.
2. July 1, 2016, in Douglas, Klamath, Lake, Lincoln, Morro and Umatilla counties.
3. July 1, 2017 in Benton, Clackamas, Clatsop, Columbia, Coos, Crook, Curry, Deschutes, Jefferson, Marion, Tillamook and Washington counties.
4. June 30, 2018, in all remaining counties.

Oregon Department of Justice (ODJ)

Based on the current number of children in state care by county and DHS Service District Area, and using Lane County staffing model, the Department of Justice estimates the cost of providing DHS with full representation to be \$6,902,103; 57 positions; and 28.35 FTE for the 2015-17 biennium. Assuming an additional workload of 3,109 jurisdictional trials, and 5,535 permanency hearings with passage of this bill, the Department of Justice anticipates phasing in these positions with each stage of the rollout to build capacity for representing DHS in juvenile court dependency proceedings:

15 Assistant Attorney General positions	6.81 FTE
4 Sr. Assistant Attorney General positions	2.18 FTE
11 Paralegal positions	5.22 FTE
13 Legal Secretary positions	6.04 FTE
5 Office Specialist position	2.41 FTE
2 Investigator position	0.88 FTE
2 Support Services Supervisor position	0.67 FTE
2 Principal Executive Manager H	1.26 FTE
1 Information System Specialist position	0.96 FTE
1 Human Resources Analyst position	0.96 FTE and
1 Project Manager position	0.96 FTE.

Using the 2015-17 estimated current service level AG rate of \$181.00 per hour, the AG charge for the Department of Human Services is calculated to be \$7,171,549 for the 2015-17 biennium.

Department of Human Services (DHS)

The fiscal impact of this bill on OHA is anticipated to be \$7,331,280 Total Funds [\$5,132,004 General Fund and \$2,199,276 Federal Funds]; 1 position; and 0.75 FTE for the 2015-17 biennium. In addition to the Attorney General Service Charge of \$7,171,549 Total Funds, DHS anticipates establishing one Operations Policy Analyst 3 position to assist with analysis and processing DOJ billings.

Public Defense Service Commission (PDSC)

The fiscal impact of this bill on PDSC is indeterminate. This bill could result in an increase in litigation for PDSC brought about by additional issues presented in court by counsel representing DHS. The majority of public defense cases are handled under contracts that establish a fixed rate for representation regardless of the outcome of the case or the amount of time required for representation. If changes in court procedures as a result of this bill make cases more time consuming, contract providers might demand higher contract rates due to increased time and effort required to resolve the case.

Oregon Judicial Department (OJD)

This bill is anticipated to have minimal impact on OJD.

This bill requires budgetary action for the allocation of General Fund and position authority for the Department of Human Services and the Oregon Department of Justice.