
MEMORANDUM

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To: Human Services Subcommittee of the Joint Committee on Ways and Means

From: Laurie Byerly, Legislative Fiscal Office
503-986-1866

Date: June 16, 2015

Subject: SB 741 - Relating to placement of children
Work Session Recommendation

Senate Bill 741 directs the Department of Human Services (DHS) to revise its rules to give relatives and current caretakers (usually foster parents who have cared for a child for one year or more) equal status when considering them as prospective adoptive parents. In considering suitability for adoption, DHS must also give a child's relatives and current caretakers a greater weight as compared to other potential adoptive parents falling outside of those definitions.

The bill also allows the court to review a placement or proposed placement of the child or ward, and allows the court to direct DHS to place the child with a foster care provider who is or has been a current caretaker for the child. Some court reporting requirements and timelines are also modified.

The measure previously had hearings in the Senate Human Services and Early Childhood Committee on April 7, April 14 and 16, and in this committee on June 8. The measure, the original staff measure summary, and fiscal impact statement are available on the Oregon Legislative Information System (OLIS).

The bill has an indeterminate fiscal impact, which is driven by law and rule changes potentially triggering additional court hearings and judicial reviews. Affected agencies will monitor the workload created by the bill and seek addition staffing or resources if that workload proves to be unmanageable.

The measure is recommended to be moved to the Full Committee on Joint Ways and Means.

Motion: I move SB 741 to the Joint Committee on Ways and Means with a "do pass" recommendation.

Assignment of Carriers

Full: _____

1st Chamber: _____

2nd Chamber: _____

FISCAL IMPACT OF PROPOSED LEGISLATION

Seventy-Eighth Oregon Legislative Assembly – 2015 Regular Session
Legislative Fiscal Office

Measure: SB 741 - A

Only Impacts on Original or Engrossed Versions are Considered Official

Prepared by: Kim To
Reviewed by: Laurie Byerly, Steve Bender
Date: 5/19/2015

Measure Description:

Directs Department of Human Services to adopt administrative rules for home studies and placement reports in adoption proceedings that require that equal consideration be given to relatives and current caretakers as prospective adoptive parents, and that greater consideration be given to relatives and current caretakers as compared to other persons who are not relatives or current caretakers.

Government Unit(s) Affected:

Department of Human Services (DHS), Public Defense Services Commission (PDSC), Oregon Judicial Department (OJD)

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 741:

- Adds “current caretaker” to the definition section of the Juvenile Code, and defines the term as a foster parent who is currently caring for a ward who is in the legal custody of the Department of Human Services (DHS) and who has a permanency plan or concurrent plan of adoption and who has cared for the ward, or a sibling of the ward for the previous 12 months, or for one-half of the ward’s or sibling’s life if younger than age two.
- Requires that rules adopted by DHS for home studies and placement reports must, at minimum, require the Department to consider a child’s relatives and current caretaker as having equal status and priority as prospective adoptive parents when considering the ability to meet the child’s needs for safety, attachment and well-being.
- Allows the court to review a placement or proposed placement of the child or ward, and allows the court to direct DHS to place the child with a foster care provider who is or has been a current caretaker for the child.
- Requires the court to hold a hearing within 10 days after receiving a report from DHS required when DHS has removed, or plans to remove, a child or ward under certain specified conditions.

Department of Human Services (DHS)

DHS believes passage of this bill could result in an increase in court hearings and judicial reviews thereby potentially increasing attorney general and investigator expenses. In addition, the requirements of the bill could also affect the workload of field staff, including impacting the number of reports that would need to be filed. Because of the unique and complex nature of each case, DHS cannot quantify the impact, at this time. The agency will monitor the workload created by the requirements of this bill, and if it is determined that there is a material increase in workload and to the expenditures associated with these requirements, DHS may need to request additional staffing and resources.

Public Defense Services Commission (PDSC)

If this bill becomes law, PDSC predicts an increase in required court hearings (1) within 10 days after receiving a report from DHS required when DHS has removed, or plans to remove, a child or ward; and (2) due to the elevation of foster parents to current caretaker status at 12 months. Assuming an

additional 120 to 150 review hearings a year at an average review hearing cost of \$337, PDSC projects the fiscal impact of this bill on the agency could range between \$80,880 and \$101,100 per biennium.

Oregon Judicial Department (OJD)

The fiscal impact of this bill on OJD is minimal. Although OJD anticipates an increase of cases involving a challenge of a placement decision by DHS requiring court review, the department will handle the anticipated increase in review hearings with existing staff and resources.

PRELIMINARY STAFF MEASURE SUMMARY**Joint Committee On Ways and Means****Fiscal:** Fiscal impact issued**Revenue:** No Revenue Impact**Action Date:****Action:****Meeting Dates:****Prepared By:** Laurie Byerly, Budget Analyst**WHAT THE MEASURE DOES:**

Requires Department of Human Services (DHS) rules governing home studies and placement reports in adoption proceedings, give equal status and priority to relatives and current caretakers as is given to prospective adoptive parents with regard to child safety, attachment, and well-being. Requires relatives and current caretakers be preferred over other persons with regard to suitability. Prohibits court order removing child from, or preventing placement with, parent or legal guardian with physical custody of child for six months prior to legal custody with DHS. Requires report to court when adoption agency has removed or plans to remove child, who has been in foster home for a year or pursuant to permanent foster agreement. Creates exemption from requirement to report to court when child is: removed due to abuse or neglect; removed due to imminent threat pending investigation; placed with adoptive parent; or removed at request of foster parent. Sets staggered operative dates of September 1, 2015, and January 1, 2016. Declares emergency, effective on passage.

ISSUES DISCUSSED:**EFFECT OF COMMITTEE AMENDMENT:**

No amendment.

BACKGROUND:

In a proceeding to adopt a minor child, a home study and a placement report must generally be completed and filed with the court by the Department of Human Services (DHS) or by an adoption agency licensed by the state. DHS administrative rules govern home studies and placement reports. State statutes do not express placement preferences, but rather, articulate the general standard for court decisions on behalf of minor children (the best interests of the child). Senate Bill 741-A requires the administrative rules that govern home studies and placement reports to provide equal status and priority to relatives and current caretakers seeking to adopt, as is provided other prospective adoptive parents with regard to the child's safety, attachment, and well-being. In addition, with regard to suitability, Senate Bill 741-A requires that the rules prefer relatives and current caretakers over other persons seeking to adopt. In addition to modifying the expression of preferences in DHS administrative rules, the measure makes court orders illegal that remove a child from, or prevent the placement of a child with, a parent or legal guardian with physical custody of the child for six months prior to legal custody with DHS (persons described at ORS 419B.440(2)(c)).

Also, Senate Bill 741-A adds an additional event-based report to the court, to the list of reports that Oregon law currently requires, and creates a handful of exceptions to the reporting requirement. Current law requires those with guardianship or legal custody of a child or ward to file reports with the court when the child: is placed; remains without placement for six months; is adopted; remains without placement for six months after surrender for adoption or termination of parental rights; and when the child is in the physical custody of a parent or legal guardian for six months prior to being placed in the legal custody of DHS. Senate Bill 741-A requires an additional report to the court when an adoption agency has removed or plans to remove a child, who has been in a foster home for a year or pursuant to a permanent foster agreement. Exemptions from the reporting requirement created by the measure include: when a child is removed due to abuse or neglect; removed due to imminent threat pending investigation; placed with an adoptive parent; or removed at the request of a foster parent.