
MEMORANDUM

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

From: Kim To, Legislative Fiscal Office, 503-986-1830

Date: Wednesday, June 17, 2015

Subject: HB 3391 Relating to safety for employees of the Department of Human Services Work Session Recommendation

House Bill 3391 authorizes the Attorney General to bring action in a circuit court for a citation or a stalking protective order on behalf of an employee of the Department of Human Services (DHS). In addition the bill establishes the eight-member Task Force on Safety for Child Welfare Employees charged with studying and developing recommendations for best practices and protocols for keeping child welfare employees and their families safe. The task force is required to report to an interim legislative committee by September 15, 2016. The task force also sunsets on December 31, 2016. The bill contains an emergency clause and is effective on passage.

The measure previously had hearings in the House Committee on Human Services and Housing on 4/8/2015 and 4/20/2015.

The – A3 Amendment, the original staff measure summary and the fiscal impact statement are attached to this memo, and available on the Oregon Legislative Information System (OLIS).

Fiscal impact

Passage of this bill is anticipated to have minimal fiscal impact on the Department of Human Services (DHS), the Department of Justice (DOJ), and the Oregon Judicial Department (OJD).

The –A3 amendment

The –A3 amendment:

- Removes language establishing the Task Force on Safety for Child Welfare Employees.
- The amendment does not change the minimal fiscal impact.

Recommendation

LFO recommends moving the – A3 amendment into the bill.

Motion

Motion: Senator/Representative _____:

I move the dash A3 amendment into HB 3391.

Motion

Motion: Senator/Representative _____:

I move HB 3391 to the Full Committee with a “do pass” recommendation as amended.

Assignment of Carriers

Full: _____

Senate: _____

House: _____

HB 3391-A3
(LC 3406)
6/8/15 (BLS/ps)

**PROPOSED AMENDMENTS TO
A-ENGROSSED HOUSE BILL 3391**

1 On page 2 of the printed A-engrossed bill, delete lines 8 through 45.

2 On page 3, delete lines 1 through 7.

3 In line 8, delete "4" and insert "2".

4

FISCAL IMPACT OF PROPOSED LEGISLATION

Measure: HB 3391 - A3

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: 6/12/2015

Measure Description:

Authorizes Attorney General to file action on behalf of Department of Human Services employee for stalking citation or stalking protective order upon request that has been approved in writing by Director of Human Services or designee and sets forth sufficient facts and evidence, and that in opinion of Attorney General is likely to succeed.

Government Unit(s) Affected:

Department of Human Services (DHS), Department of Justice (DOJ), Oregon Judicial Department (OJD)

Analysis:

The proposed legislation has been determined to have
MINIMAL EXPENDITURE IMPACT
on state or local government.

While this individual measure has a “Minimal” fiscal impact, an agency may incur a net fiscal impact greater than minimal depending on the cumulative impact of all measures enacted into law that affect the agency.

STAFF MEASURE SUMMARY

House Committee On Human Services and Housing

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 04/20/15

Action: Do Pass As Amended, Be Printed Engrossed, And Rescind Subsequent Referral To Judiciary.

Meeting Dates: 04/08, 04/20

Vote:

Yeas: 9 - Buehler, Evans, Gallegos, Hayden, Keny-Guyer, Parrish, Piluso, Stark, Taylor

Prepared By: Robyn Johnson, Committee Administrator

WHAT THE MEASURE DOES:

Directs Attorney General to file suit in circuit court on behalf of employees of Department of Human Services (DHS) in certain internally-substantiated cases. Directs DHS to convene and staff "The Task Force on Safety for Child Welfare Employees." Outlines membership, objectives and process. Compels written report and presentation to legislature by September 15, 2016. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Incidence of stalking involving DHS employees
- Protection and stalking orders
- Attorney and court fees relating to stalking and protective orders

EFFECT OF COMMITTEE AMENDMENT:

Adds DHS Director's permission to requirements for Attorney General to file suit in circuit court.

BACKGROUND:

The number and severity of threats made against frontline employees of the Department of Human Services (DHS) has increased in recent years, particularly for child welfare workers. There are ways that DHS can and does support employees threatened by clients; however, there are cases where further legal action is necessary to protect these workers, and in some cases, their families. Currently, a DHS worker experiencing threats in their private life as a result of their work, is personally responsible for retaining legal counsel, and paying their fees and court costs relating to necessary protective and stalking orders.

House Bill 3391-A allows the Department of Justice to intervene on behalf of DHS employees to receive legal help relating to personal safety, if necessary, as a result of their work duties. The measure also creates a task force to give further consideration to the safety of all other DHS employees and make recommendations.

STAFF MEASURE SUMMARY

Senate Committee On Human Services and Early Childhood

Fiscal: Fiscal impact issued

Revenue: No Revenue Impact

Action Date: 05/21/15

Action: Do Pass The A-Eng Bill And Refer To Ways And Means By Prior Reference.

Meeting Dates: 05/21

Vote:

Yeas: 4 - Gelser, Kruse, Monnes Anderson, Olsen

Exc: 1 - Dembrow

Prepared By: Cheyenne Ross, Committee Administrator

WHAT THE MEASURE DOES:

Directs Attorney General to file suit in circuit court on behalf of employees of Department of Human Services (DHS) in certain cases of threat to personal safety. Creates Task Force on Safety for Child Welfare Employees staffed by DHS. Outlines membership, objectives and process. Requires report to legislature by September 15, 2016. Declares emergency, effective on passage.

ISSUES DISCUSSED:

- Personal experiences of DHS case workers

EFFECT OF COMMITTEE AMENDMENT:

No amendment.

BACKGROUND:

The number and severity of threats made against front-line employees of the Department of Human Services (DHS) has reportedly increased in recent years, particularly for child welfare workers. There are ways that DHS can and does support threatened employees; however, there are situations that call for further legal action. To proceed with further legal action, a DHS case worker is currently personally responsible for retaining legal counsel if they wish, and for paying associated costs.

House Bill 3391-A allows the Department of Justice to provide legal assistance to DHS employees when their personal safety is threatened as a result of their work. The measure also creates a task force to give further consideration to worker safety issues.

A-Engrossed
House Bill 3391

Ordered by the House April 27
Including House Amendments dated April 27

Sponsored by Representative EVANS; Representatives BARNHART, NATHANSON, NOSSE, PARRISH, STARK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Requires Attorney General to file action on behalf of Department of Human Services employee for stalking citation or stalking protective order upon request and upon substantiation of facts and evidence of repeated and unwanted contact causing alarm or coercion to employee.]

Authorizes Attorney General to file action on behalf of Department of Human Services employee for stalking citation or stalking protective order upon request that has been approved in writing by Director of Human Services or designee and sets forth sufficient facts and evidence, and that in opinion of Attorney General is likely to succeed.

Prohibits action from including request for certain damages, attorney fees and costs.

Establishes Task Force on Safety for Child Welfare Employees. Requires report to Legislative Assembly and interim committees before September 15, 2016.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to safety for employees of the Department of Human Services; and declaring an emergency.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) The Attorney General may bring an action in a circuit court for a cita-**
5 **tion or a stalking protective order under ORS 30.866 or 163.730 to 163.750 on behalf of an**
6 **employee of the Department of Human Services who, because of being involved in the con-**
7 **duct described in subsection (3) of this section, is the subject of repeated and unwanted**
8 **contact by another person that causes alarm or coercion to the employee. The Attorney**
9 **General's responsibility under this subsection is limited to circumstances in which an em-**
10 **ployee of the department submits a written request to the Attorney General that:**

11 (a) **Has been approved in writing by the Director of Human Services or the director's**
12 **designee;**

13 (b) **Sets forth sufficient facts and evidence, the truth of which has been affirmed by the**
14 **employee; and**

15 (c) **Based solely upon the opinion of the Attorney General, is an action that is likely to**
16 **succeed.**

17 (2) **The action brought under this section may not include a request for:**

18 (a) **Special and general damages, including damages for emotional distress;**

19 (b) **Economic or noneconomic damages;**

20 (c) **Punitive damages; or**

21 (d) **Attorney fees and costs.**

22 (3) **Departmental employees on whose behalf the citation or stalking protective order**
23 **may be obtained under subsection (1) of this section include employees who:**

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 (a) Conduct a child abuse investigation under ORS 419B.020;

2 (b) Make a determination that a child must be taken into protective custody under ORS
3 419B.150;

4 (c) Make a determination that a child should not be released to the child's parent or
5 other responsible person under ORS 419B.165 (2); and

6 (d) Are involved in developing a case plan or making a placement decision for a child in
7 the legal custody of the department.

8 **SECTION 2.** (1) The Task Force on Safety for Child Welfare Employees is established,
9 consisting of eight members appointed as follows:

10 (a) The President of the Senate shall appoint one member from among members of the
11 Senate.

12 (b) The Speaker of the House of Representatives shall appoint one member from among
13 members of the House of Representatives.

14 (c) The Director of Human Services shall appoint two members to represent the De-
15 partment of Human Services.

16 (d) The Attorney General shall appoint one member to represent the Department of
17 Justice.

18 (e) The Governor shall appoint three members, two of whom shall be members of an
19 employee union representing employees of the Department of Human Services.

20 (2) The task force shall study best practices and protocols for keeping child welfare em-
21 ployees and their families safe from unwanted and harmful threats and conduct of third
22 parties, and shall study and make recommendations regarding the need and feasibility of
23 expanding the practices and protocols to employees in other offices or divisions within the
24 Department of Human Services.

25 (3) A majority of the members of the task force constitutes a quorum for the transaction
26 of business.

27 (4) Official action by the task force requires the approval of a majority of the members
28 of the task force.

29 (5) The task force shall elect one of its members to serve as chairperson.

30 (6) If there is a vacancy for any cause, the appointing authority shall make an appoint-
31 ment to become immediately effective.

32 (7) The task force shall meet at times and places specified by the call of the chairperson
33 or of a majority of the members of the task force.

34 (8) The task force may adopt rules necessary for the operation of the task force.

35 (9) The task force shall:

36 (a) Submit a report no later than September 15, 2016, to the Legislative Assembly in the
37 manner provided by ORS 192.245, and may include recommendations for legislation in the
38 report.

39 (b) Submit a copy of the report to an interim committee of the Legislative Assembly re-
40 lated to child welfare and stalking no later than September 15, 2016.

41 (10) The Department of Human Services shall provide staff support to the task force.

42 (11) Members of the task force who are not members of the Legislative Assembly are not
43 entitled to compensation, but may be reimbursed for actual and necessary travel and other
44 expenses incurred by them in the performance of their official duties in the manner and
45 amounts provided for in ORS 292.495. Claims for expenses incurred in performing functions

1 of the task force shall be paid out of funds appropriated to the Department of Human Ser-
2 vices for purposes of the task force.

3 (12) All agencies of state government, as defined in ORS 174.111, are directed to assist
4 the task force in the performance of its duties and, to the extent permitted by laws relating
5 to confidentiality, to furnish such information and advice as the members of the task force
6 consider necessary to perform their duties.

7 **SECTION 3.** Section 2 of this 2015 Act is repealed on December 31, 2016.

8 **SECTION 4.** This 2015 Act being necessary for the immediate preservation of the public
9 peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect
10 on its passage.

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